Regular Meeting Agenda
Thursday, October 8, 2020
LEO Conference Center
300 S. West Dr.
Leander, TX 78641
6:15 PM

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

Members of the public may access this meeting via live stream at https://youtu.be/zTHwFrOX3Ok. Please note, this link will not be active until approximately 5 minutes before the scheduled meeting time.

Citizens wishing to address the Board of Trustees may do so in-person at the meeting location noted on the agenda. In order to address the Board, individuals must sign up between 4:30 and 6:00 PM on the day of the meeting. Individuals are encouraged to sign up online at https://bit.ly/2HHIZKr; however, hardcopy sign up forms will be available between 5:30 and 6:00 PM at the meeting location. Due to capacity limits, individuals signed up to speak, who do not have seating in the Boardroom, will be allowed to line up in the hallway and will be admitted to the Boardroom when it is their turn to speak.

For details regarding Board meeting health and safety procedures in response to COVID-19 see the meeting EXTRAs.

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on October 2, 2020 at 3:45 PM.

The subjects to be discussed or considered or upon which any formal action may be taken are as listed below. Items do not have to be taken in the order shown on this meeting notice. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

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

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

5. **CORONAVIRUS (COVID-19) - EPIDEMIC (Tex. Gov't Code 551.045)** **3**
6. **CONSENT AGENDA**
   - A. Consider Approval of Board Meeting Minutes 42
   - B. Consider Approval of Travis County Joint Election Agreement 50

C. Consider Approval of 2020-2021 Travis County Juvenile Justice Alternative Education Program Memorandum of Understanding 68
D. Consider Approval of Leander Educational Excellence Foundation License Agreement Scoreboard Ads 89

7. **CLOSED SESSION**
A. Texas Government Code 551.071: Consultation with attorney regarding pending or contemplated litigation, and/or attorney client privileged matter
B. Texas Government Code 551.074: Personnel - deliberate the appointment, employment, evaluation, reassignment, duties of a public officer or employee
C. Texas Government Code 551.0821: deliberation regarding matters whereby personally identifiable information regarding one or more students will be disclosed

8. **ACTION PURSUANT TO CLOSED SESSION**
A. Consider Approval of Administrator and Teacher Contracts

9. **ACTION ITEMS**
A. GOVERNANCE
1. Consider Forming a Standing Policy Review Sub-Committee 93
2. Consider Approval of Texas Association of School Boards Initiated Localize Policy Update 115 with Additional District Changes to Policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL) 94
B. OPERATIONS
1. Consider Approval of School Health Advisory Committee Membership Recommendations 824
2. Consider Approval of a Resolution Nominating an Individual to the Travis Central Appraisal District (TCAD) Board of Directors 827
3. Consider Approval of Interlocal Agreement with Travis County - Allocation and Use of Funds for Crossing Guards 833

10. **REPORTS AND DISCUSSION ITEMS**
A. GOVERNANCE
1. Core Beliefs and Commitments: Vision/Mission 846
B. OPERATIONS
1. Design Process for Elementary 29 847
2. Resolution Ratifying City of Georgetown Easements 848
3. General Construction Update 865

11. **ADJOURNMENT**

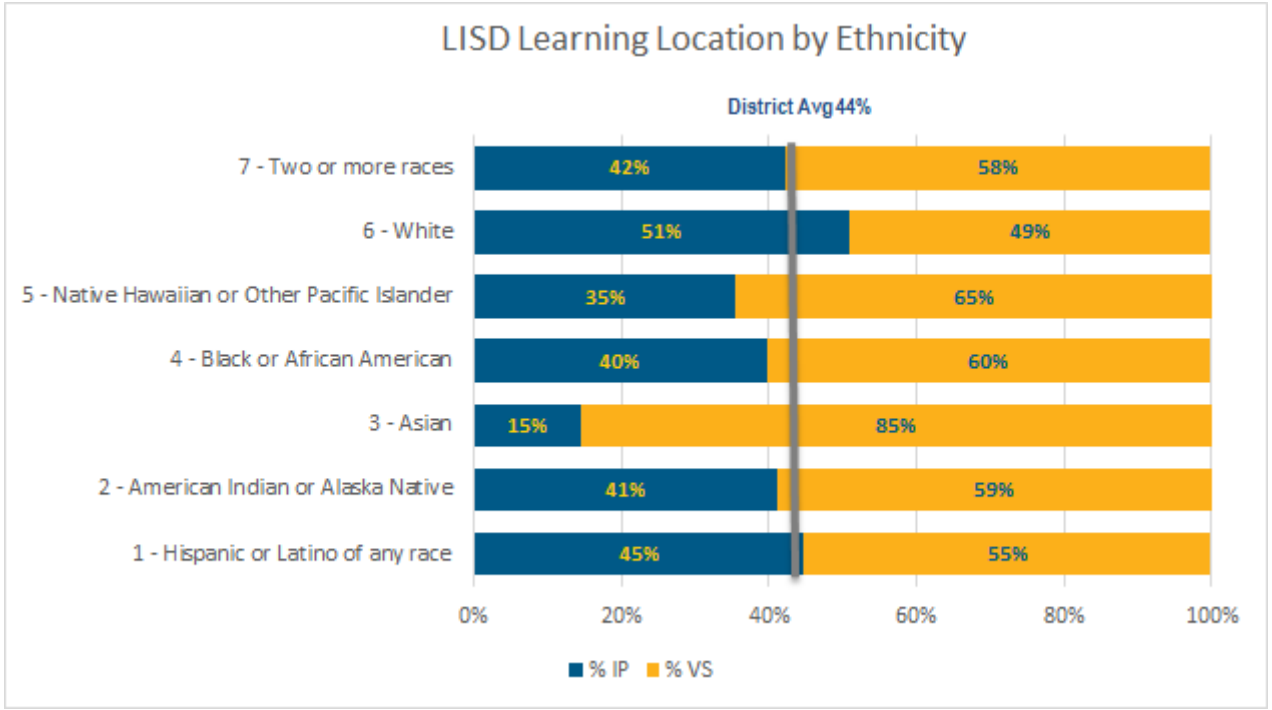
If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting. [*See* BEC(LEGAL)]

Leander ISD Enrollment Update by Learning Location

Summary of Student Enrollment for Virtual Empowered Learning and In-Person Learning with Phase-in Complete 3

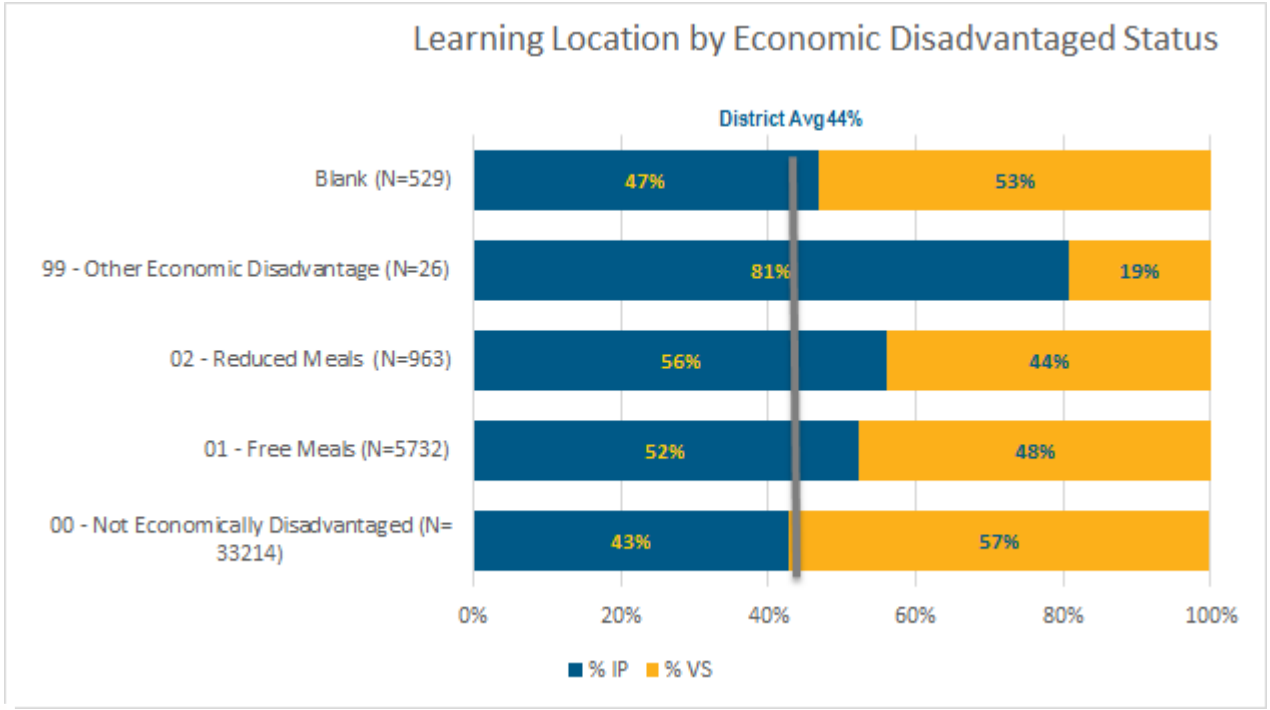
October 7, 2020

Enrollment by Ethnicity



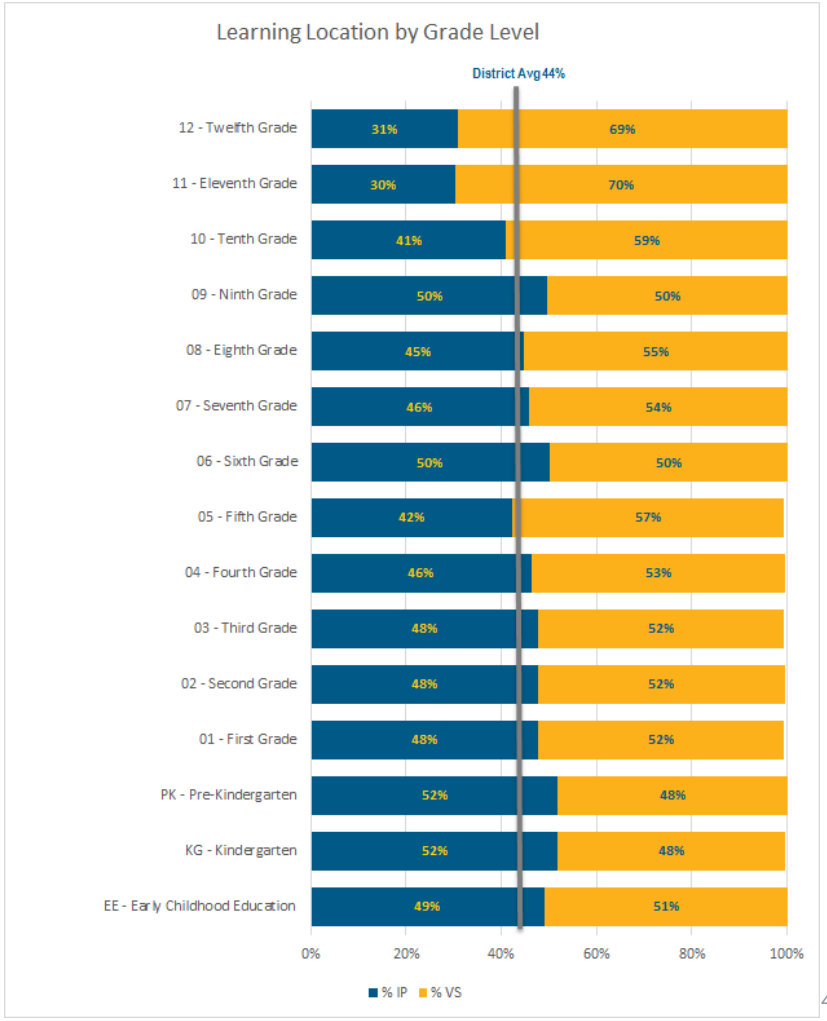
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Enrollment by Economically Disadvantaged Status

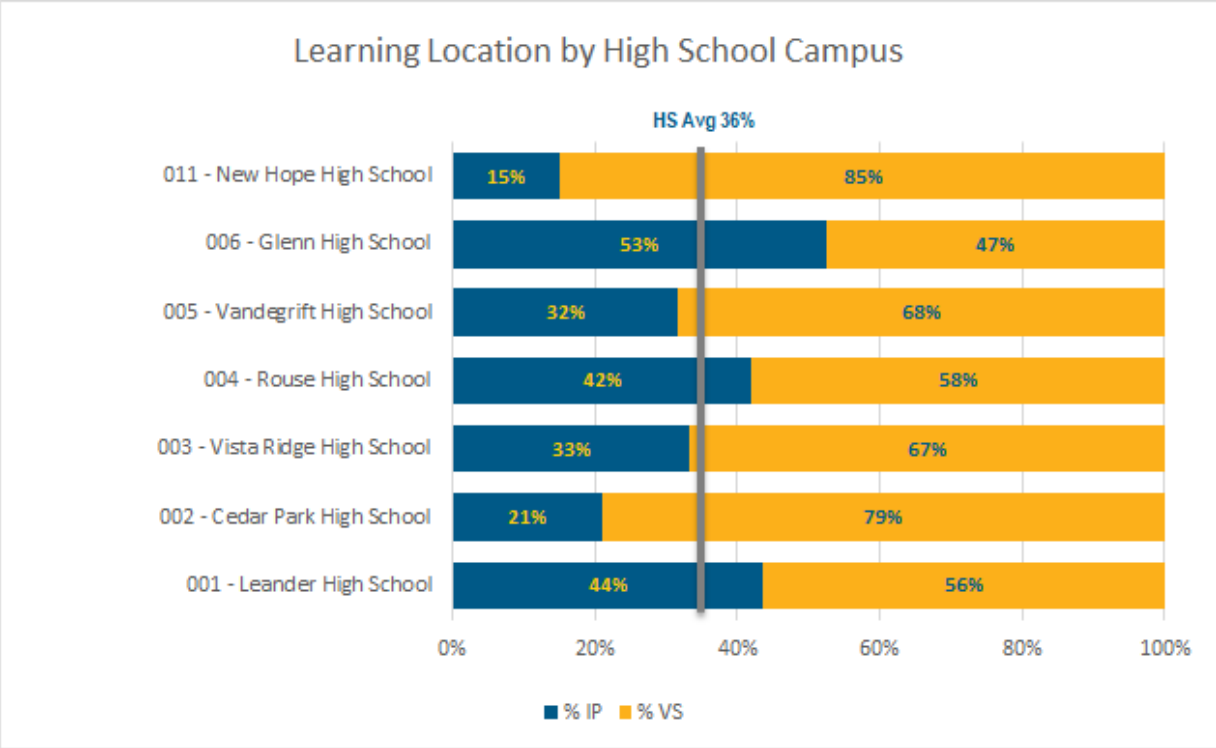


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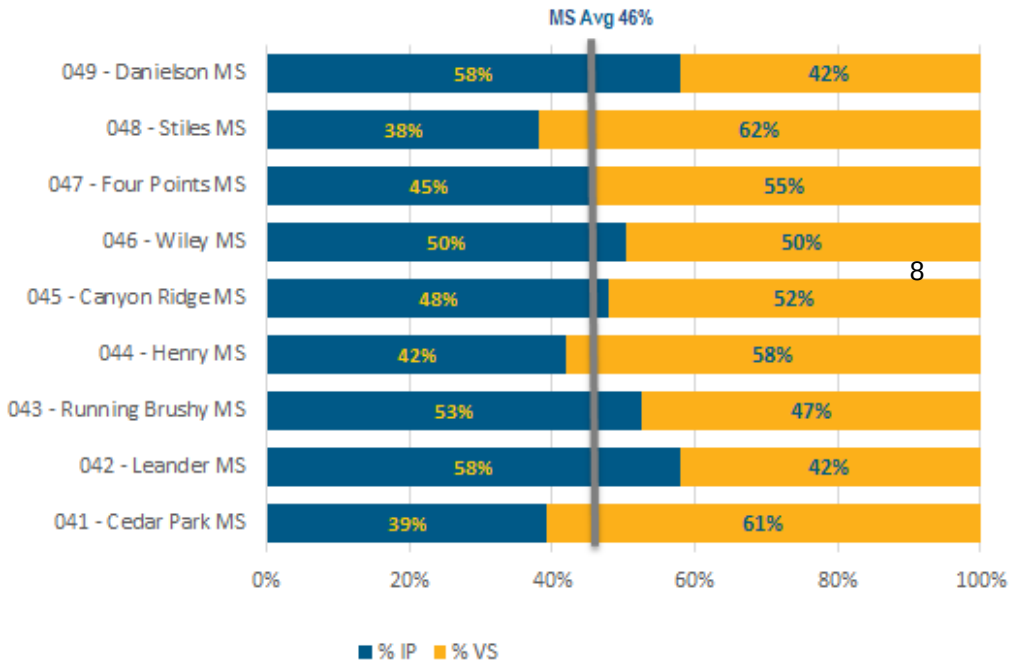
Enrollment by Grade Level



Enrollment by High School Campus

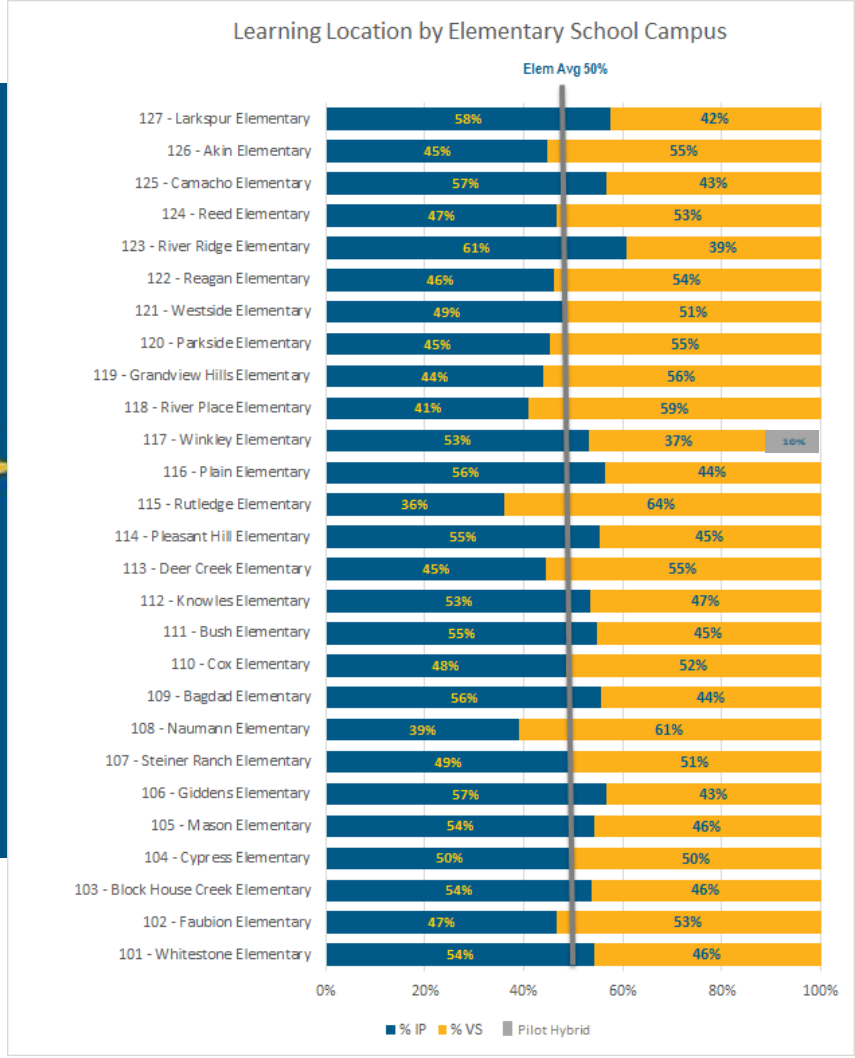


Enrollment by Middle School Campus



8

Enrollment by Elementary School Campus





CORONAVIRUS (COVID-19) - EPIDEMIC (Tex. Gov't Code 551.045)

October 8, 2020 | Board of Trustees Meeting

PHASE-IN PLAN

COMPLETED 3 PHASES ON OCT. 2

Principals, staff shared support for the phased opening and opportunity to work through protocols, procedures.

FOCUSED ON STAYING OPEN

11

REINFORCING THE HEALTH PROTOCOLS

Stay home when sick (daily symptom screener). Wash your hands. Wear a mask at all times. Maintain physical distancing when possible.

KEEPING STUDENTS CONNECTED

Social connection is critical. Keeping students engaged, both virtual and in-person students.

VIRTUAL EMPOWERED LEARNING

TEA APPROVED THE LISD ASYNCHRONOUS PLAN!



12

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HUMAN RESOURCES

ACCOMMODATIONS AND RESIGNATIONS DUE TO COVID-19

Data is from Oct. 1, 2020.

	Approved	Other Accommodation Provided	Leave Requested	Withdrew Request	Resignation Due to COVID-19
Elementary	45	13	9	26	19
Secondary	6	24	17	28	31
Total	51	37	26	54	50

13

STUDENTS

ENROLLMENT, ATTENDANCE

Enrollment data is from 10/06. Attendance averaged by school from 9/11 - 9/29.

	Projections	Enrollment	In-Person	Attendance
Elementary	19,430	17,079 (+11)	8,260	97.3% (+.4%) [14]
Secondary	23,424	23,149 (-43)	9,336	97.7 (+2.5%)
Total	42,854	40,228 (-32)	17,596	97.3% (+.9%)

**Red indicates the change between this report and the report from the Sept. 17 Board meeting.*

HEALTH SERVICES

STUDENT POSITIVES, STUDENT EXPOSURES, STAFF POSITIVES, STAFF EXPOSURES

Week Ending	Student Cases	Student Exposures	Staff Cases	Staff Exposures
Sept. 11	0	11	2	6
Sept. 18	9	100	2	8
Sept. 25	1	29	6	6
Oct. 2	2	39	3	3
Total*	12	177	13	22

POSITIVITY RATES*

Travis County 15
4.8% (-.5%)

Williamson County
2.1% (+.1%)

*Williamson County is a rolling 7-day average where Travis County provides an average of the week as of 9/19.

This is data as of Oct. 7 at 5 p.m. Dashboard is updated on Fridays by noon.
https://support.leanderisd.org/support/covid-dashboard/

STAFF FEEDBACK

COLLECTED THROUGH THOUGHTEXCHANGE FROM SEPT. 18 - OCT. 2



Now that we have completed the early phases of our return to in-person school in LISD, what celebrations, questions or concerns do you have?

(Please indicate if your thought is a celebration or concern)



16

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DISTRIBUTION OF PARTICIPANTS

– I primarily work in ...



%		
44%	(224)	Elementary School
20%	(105)	Middle School
28%	(142)	High School
2%	(9)	Campus-based Itinerant across multiple levels
5%	(25)	District Central Office/ Support Department
1%	(8)	Other

– Your Primary Role

%		
44%	(227)	General Education Grade-level or Content-Area Teacher
13%	(65)	"Specials" or Elective Teacher
9%	(45)	Special Education Teacher
8%	(42)	Campus Instructional Support (e.g; ICs, Intervention, Dyslexia, SRP, etc.)
4%	(19)	Instructional Assistant
3%	(16)	Campus Administration
4%	(18)	Campus Administrative Support
2%	(12)	Special Education Itinerant
5%	(25)	Teaching and Learning
0%	(1)	Transportation Services
1%	(3)	Child Nutrition Services (CNS)
0%	(0)	Custodial Services
1%	(3)	Information Technology Services (ITS)
0%	(2)	HR/ Finance/ Business Services
0%	(1)	Plant Services/ Warehouse/ Construction Service
6%	(31)	Other

17

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DISTRIBUTION OF PARTICIPANTS

– How comfortable are you with the back-to-school plans of LISD



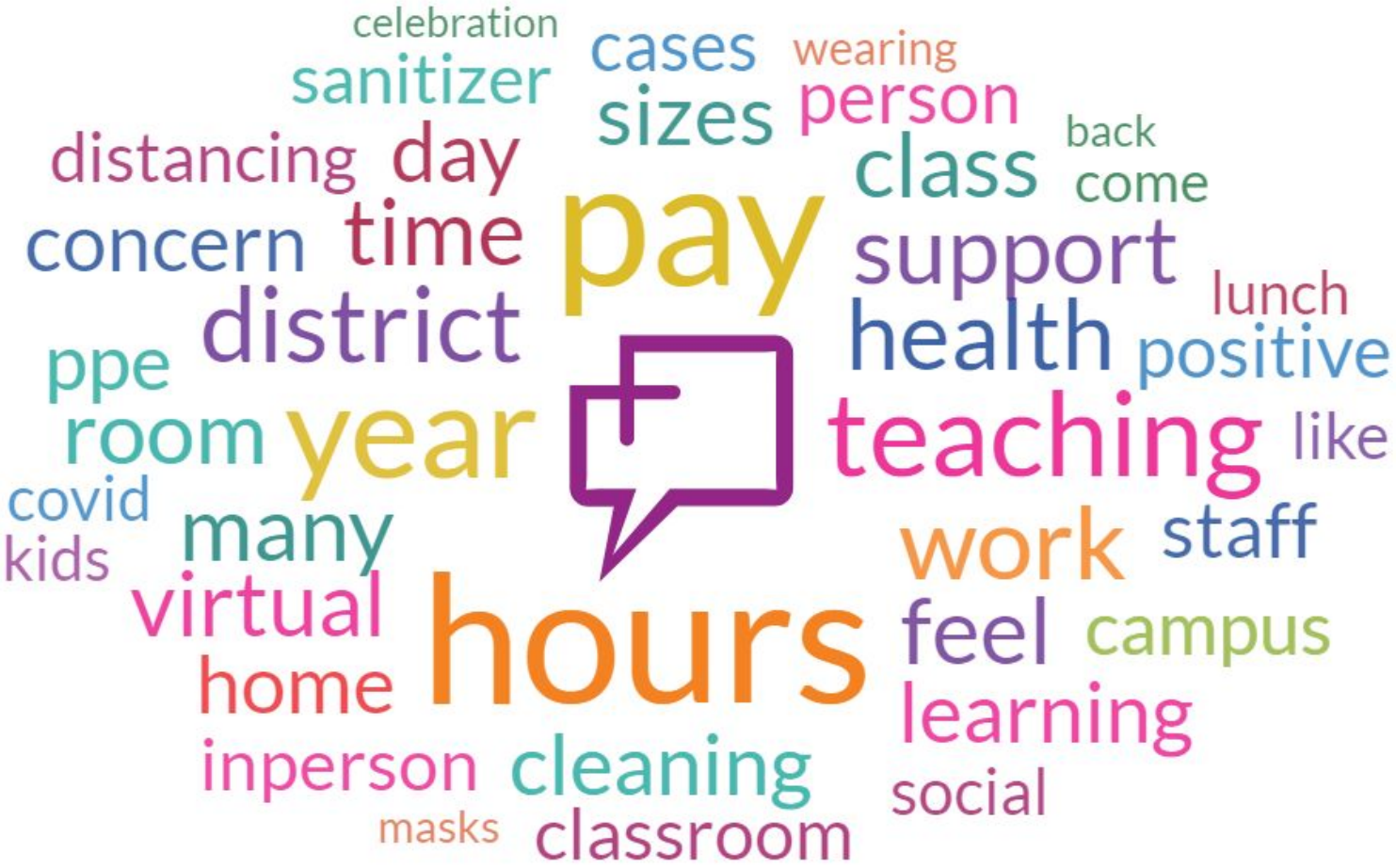
%		
21%	(104)	0 - Not comfortable at all
30%	(150)	1 - A little comfortable
26%	(133)	2 - Somewhat comforatable
14%	(70)	3 - Quite comfortable
9%	(44)	4 - Extremely comfortable

> 50% are generally uncomfortable with the Launch to Learning Plan

18

< ¼ are feeling comfortable with the plan

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celebration
cases
wearing
sanitizer
sizes
person
distancing
day
class
back
come
concern
time
pay
support
district
lunch
health
positive
ppe
room
year
teaching
like
covid
kids
many
work
staff
virtual
hours
feel
campus
home
learning
inperson
cleaning
social
masks
classroom

19

THOUGHTS

Key Thoughts

The district should do away with LEADS this year. Unofficial, informal observations and evaluations? Cool. LEADS when NO ONE will be teaching/managing their class at their peak potential? Yuck!

4.8 ★★★★★ (59)
Ranked #1 of 926

I am very concerned that so many teachers are working 60+ hours a week and do not have any work-life balance. This pace is untenable and is causing physical and psychological stress. Ultimately, this affects our ability to serve our students and families.

4.7 ★★★★★ (63)
Ranked #2 of 926

2% Raise Teachers and other staff are working harder than they ever have. Yet we are not getting our step increase or the 2%.

4.7 ★★★★★ (62)
Ranked #3 of 926

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7 THEMES & 32 SUB-THEMES IDENTIFIED

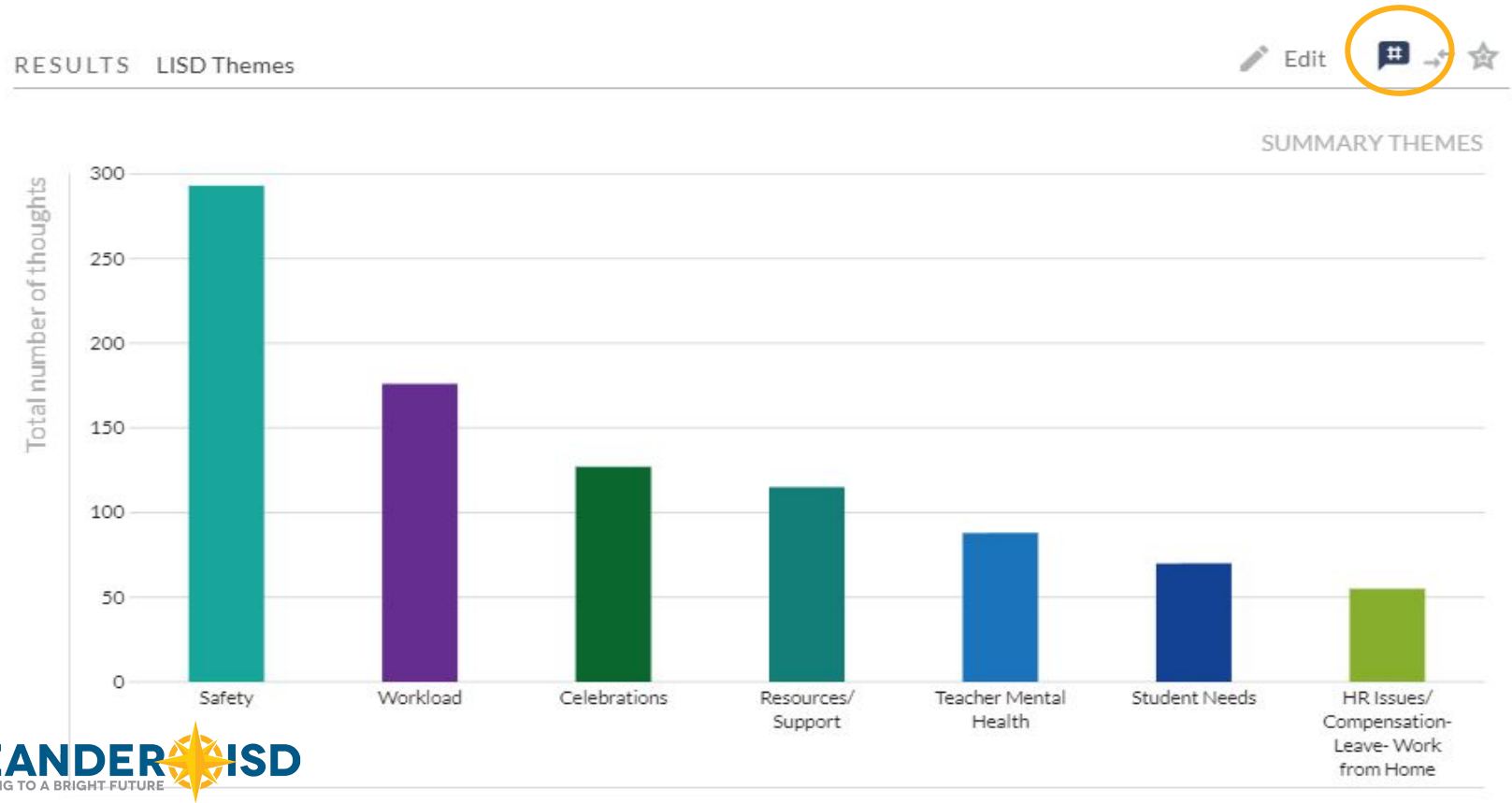
- Safety
- Workload
- HR Issues
- Teacher Mental Health
- Resources & Support
- Celebrations
- Student Needs



21

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THEMES BY FREQUENCY



22

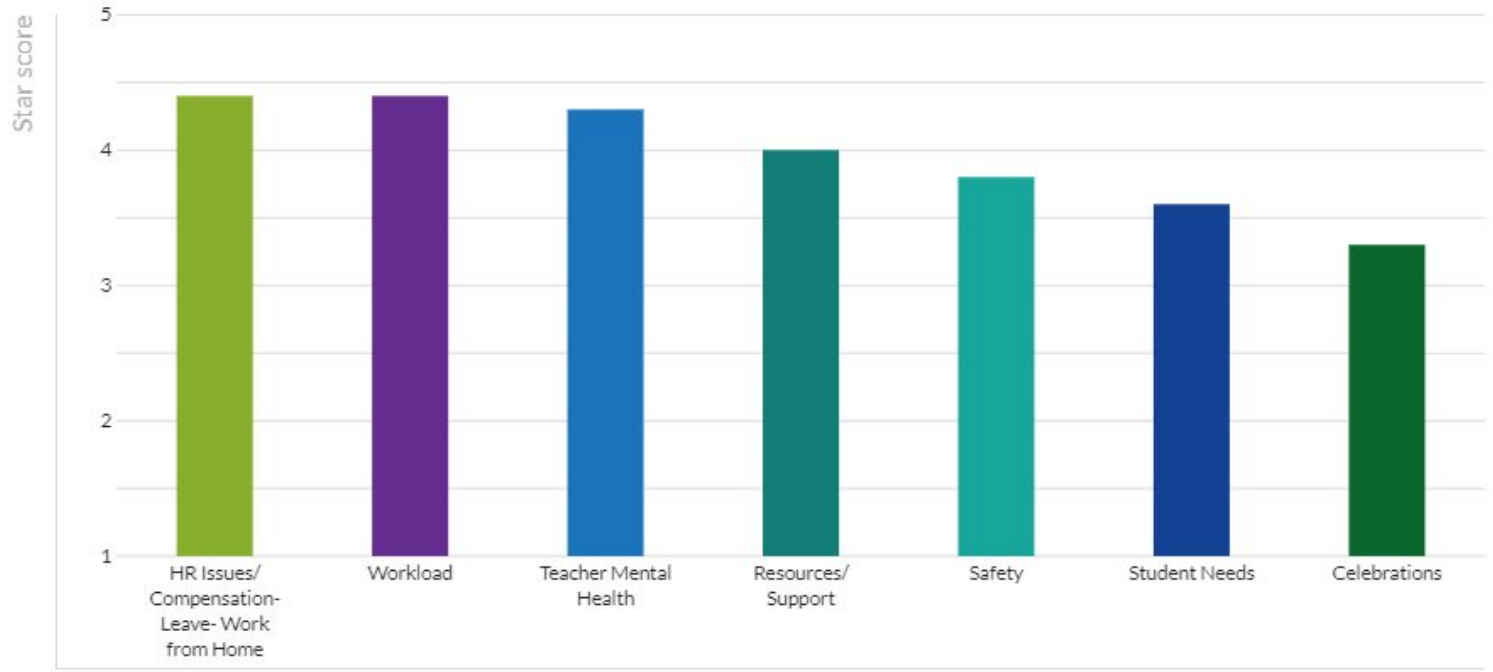
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THEMES BY RATING

RESULTS LISD Themes

Edit

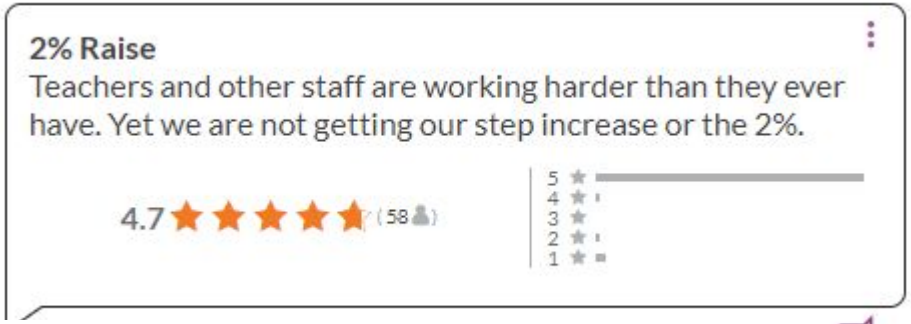
SUMMARY THEMES



23

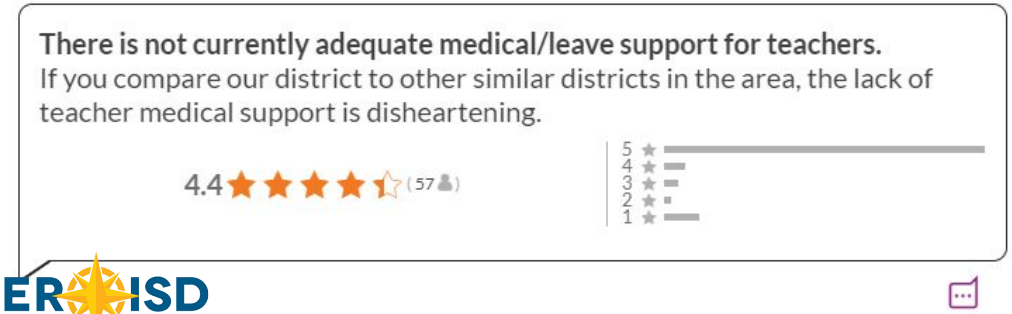
HR RELATED ISSUES

- Compensation
- Leave
- Work from home



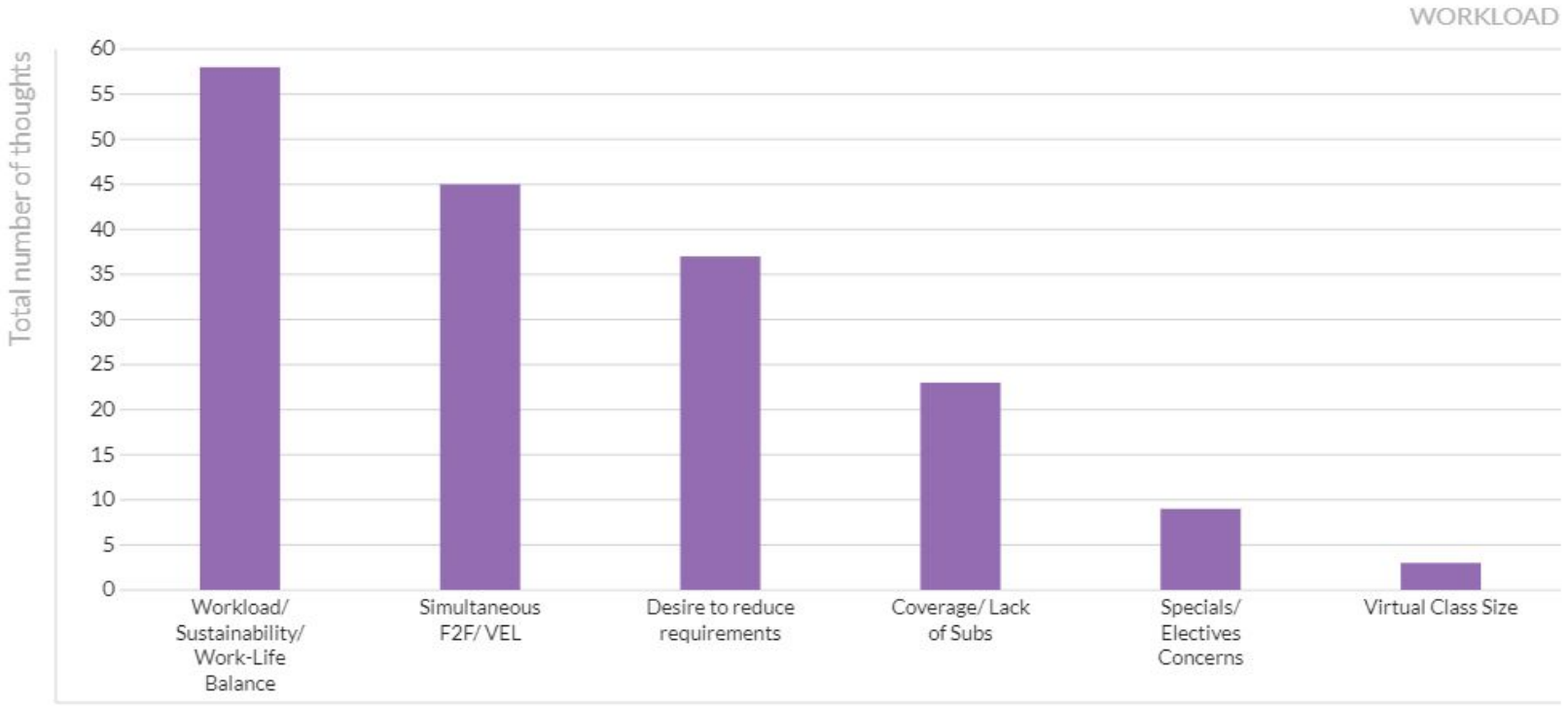


24



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WORKLOAD



25

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WORKLOAD

- Desire to reduce requirements
- Sustainability/ Work-Life Balance
- Coverage/ Lack of Substitutes
- Simultaneous F2F & VEL

The district should do away with LEADS this year.
Unofficial, informal observations and evaluations? Cool. LEADS when NO ONE will be teaching/managing their class at their peak potential? Yuck!

4.8 ★★★★★ (59)

I am very concerned that so many teachers are working 60+ hours a week and do not have any work-life balance.
This pace is untenable and is causing physical and psychological stress. Ultimately, this affects our ability to serve our students and families.

4.7 ★★★★★ (61)

26

Lack of subs is always an issue, but now it is even worse, and those teachers on that grade level are left picking up kids.
This is a safety issue and also an issue of pay. Teachers lose their day, however no one is getting paid. If we pick up kids we should be paid.

4.6 ★★★★★ (55)

Concurrent f2f/vl is going to be hard to maintain
It is very difficult to do both at the same time. I'm drained every day. Barely keeping my head above water. I know many others feel this way as well

4.6 ★★★★★ (57)

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TEACHER MENTAL HEALTH

Concern: As a teacher I have little time for lunch or bathroom breaks. The constant state of being on is wearing me out
How long can we maintain this pace?

4.6 (57)

I know you have a tough job... I am glad it is not me in your shoes. Teachers are completely stressed out... more than you know..
We love our kids. We love to teach. We do what is asked. Just please take care of us.

4.6 (57)

- Stress/ Fear
  - Losing Teachers
  - Burnout
- Lack of Support
  - Feeling Unsupported
  - Trust
  - Collaboration/ Relationships

I'm concerned about the mental health of teachers.
It's important because I can see many switching careers after a rough year of the ridiculousness.

4.6 (60)

I'm struggling with having to be isolated from teammates during lunch.
This is our time to have a few minutes of adult interaction and unwind/recharge for the rest of the day.

3.5 (56)

Teachers feel unheard, unappreciated, and overworked. We are doing 15 different jobs, spending our own time and money to create resources that the
district should have provided to us. We want to meet the needs of our students, but it's hard to pour from an empty cup. Please show us we matter.

4.6 (60)

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RESOURCES & SUPPORT

- Transparency & Communication
- Access to Resources/ Digital Content & Connectivity Issues
- Lack of Consistency/ Clear Expectations
- Curriculum & Professional Learning

Be completely transparent about confirmed cases.
I NEED to know if I may have been exposed. The lives of my family depend on it.

4.5 ★★★★½ (61)

Wifi needs to be fixed
No one can do their jobs without internet.

4.6 ★★★★½ (56)

One of the hardest things to deal with in the front office is the fact that all LISD campuses are running things a differently.
Standardizing processes such as whether or not to screen substitutes at the front office every time they come in would alleviate sub frustration.

4.1 ★★★★☆ (56)

Learning is limited when students and staff feel so unsafe.
The district should consider adjusting curriculum expectations to account for gaps in instruction and the limitations of our learning environment.

4.4 ★★★★½ (58)

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SAFETY

- **PPE/ Masks/ Health Screeners** - generally concerns with masks, access to PPE and effectiveness of Health Screeners
- **Social Distancing/ Class Size** - both positive and negative comments; many expressed concerns with ability to socially distance when more kids return
- **Guidelines and Protocols** - generally included questions or concerns about implementation of guidelines, protocols and contact tracing
- **Cleaning and Sanitation -** related to custodial shortages, cleaning requirements, ventilation, lack of sanitation
- **General Health and Safety Concerns**- general concerns about staff and student health and safety
- **Cafeteria-** included a variety of concerns related to lunch procedures

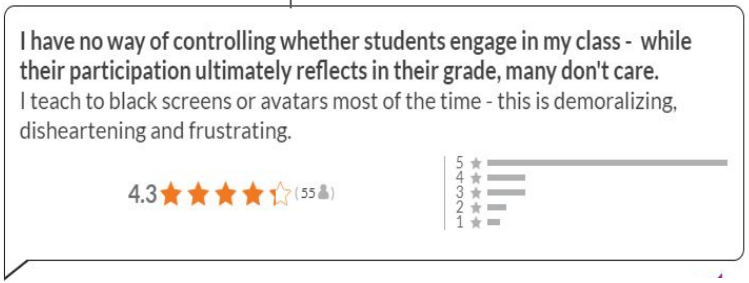
29

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STUDENT NEEDS

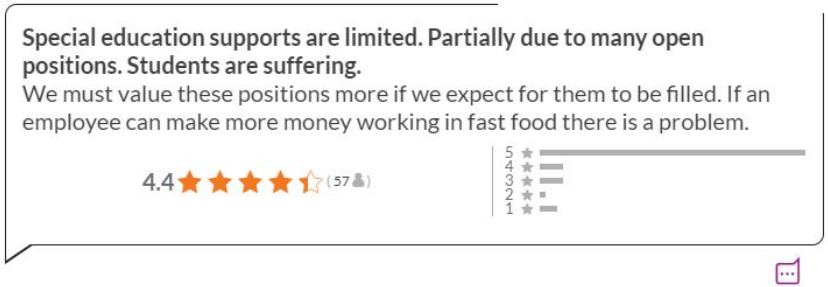
Student Engagement

I have no way of controlling whether students engage in my class - while their participation ultimately reflects in their grade, many don't care.
I teach to black screens or avatars most of the time - this is demoralizing, disheartening and frustrating.



Difficulty Meeting Student Needs

Special education supports are limited. Partially due to many open positions. Students are suffering.
We must value these positions more if we expect for them to be filled. If an employee can make more money working in fast food there is a problem.



Student Mental Health

Students mental health is at risk
Overworked teachers create stressed out students. I'm living it. Go all virtual to relieve teachers and allow staff parents to support our children!



30

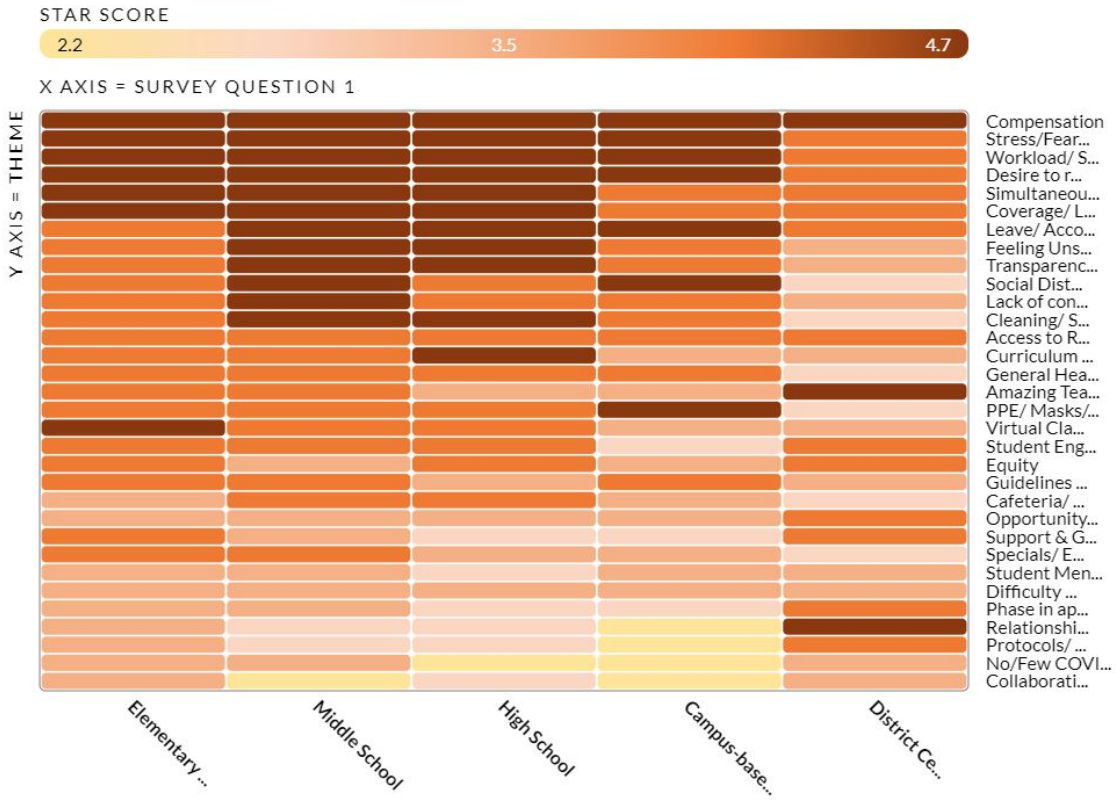
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CELEBRATIONS



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TOP THEMES BY WORK LOCATION/ LEVEL

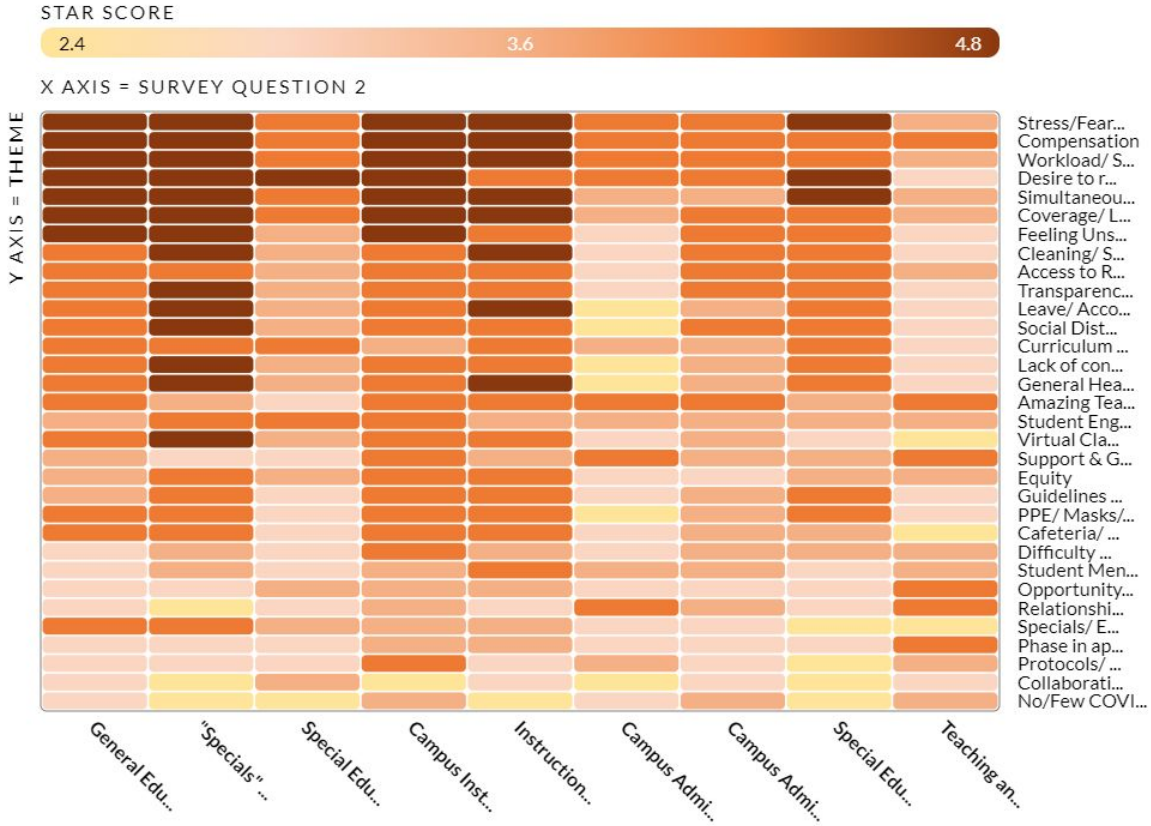


- Top themes for campus-based teachers:
  - Compensation
  - Stress/ Fear/Morale
  - Workload/ Sustainability
  - Desire to reduce requirements
  - Simultaneous F2F & VEL
  - Coverage/ Lack of Subs
  - Leave Accommodations
  - Feeling Unsupported

32

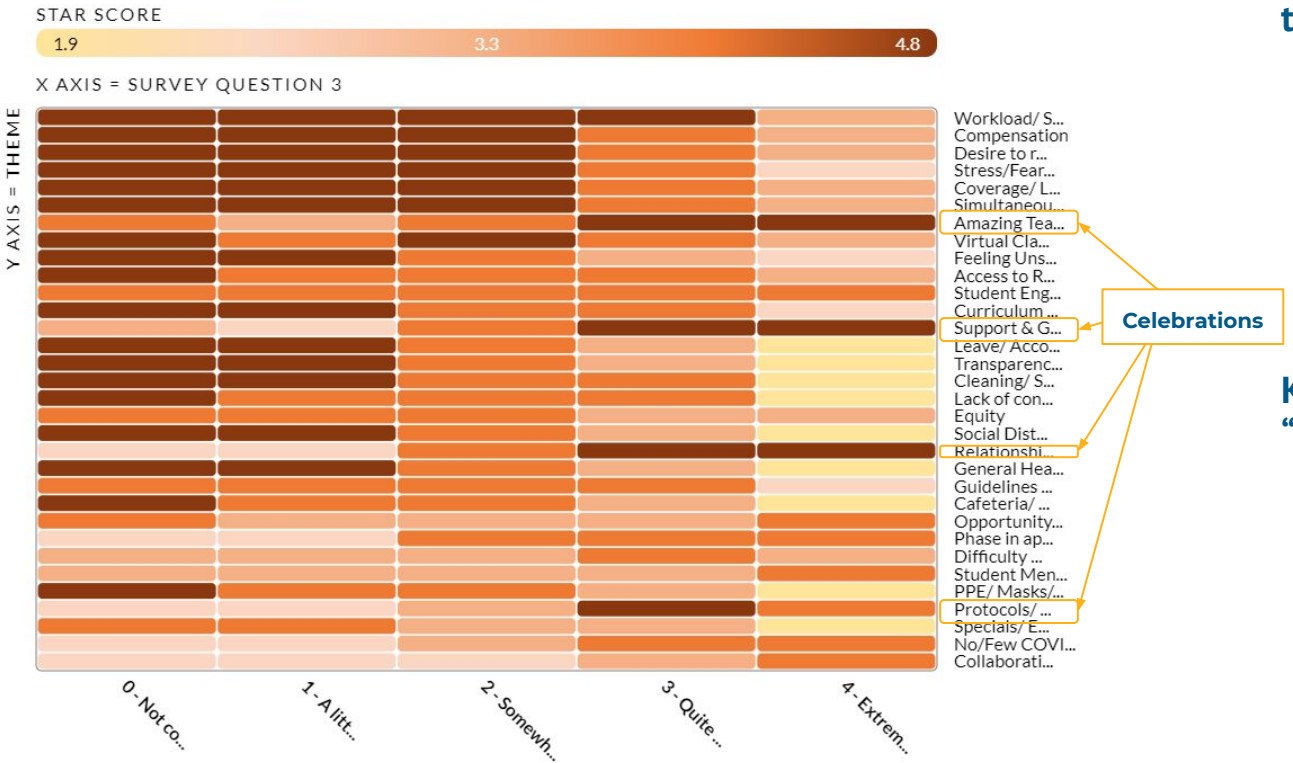
- Middle School Teachers were generally more negative
- Elementary feeling more supported, and more positive about
  - Leave/ Accommodations
  - Transparency/ Communication,
  - Social distancing,
  - Cleaning and Sanitation

TOP THEMES BY ROLE



- Specials Teachers are generally feeling less supported and were more negative
- Special Education Teachers were generally more positive
- Campus Administration/ Admin Support & Teaching and Learning tended to be more positive overall
- Top concerns for Gen Ed & Specials Teachers
  - Stress/ Fear/ Morale
  - Compensation
  - Workload/Sustainability
  - Desire to reduce requirements
  - Simultaneous F2F & VEL
  - Coverage/ Lack of Subs
  - Feeling Unsupported

TOP THEMES BY COMFORT LEVEL



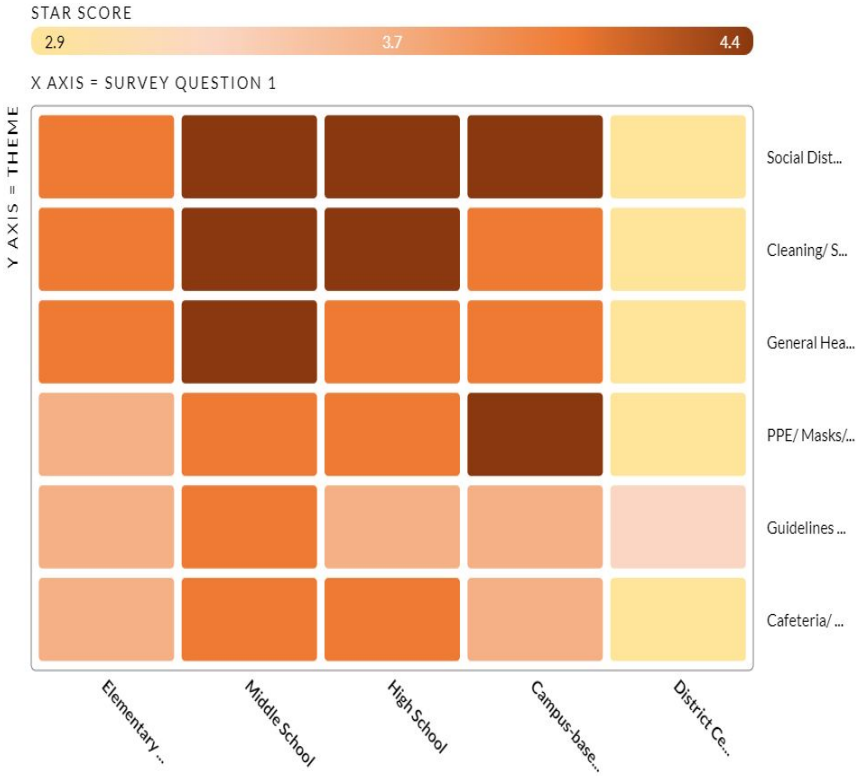
Key Difference from "Somewhat" to "Quite Comfortable":

- Compensation
- Desire for reduced responsibilities
- Stress/ Fear/ Morale
- Coverage/ Lack of Subs
- Simultaneous F2F & VEL 34

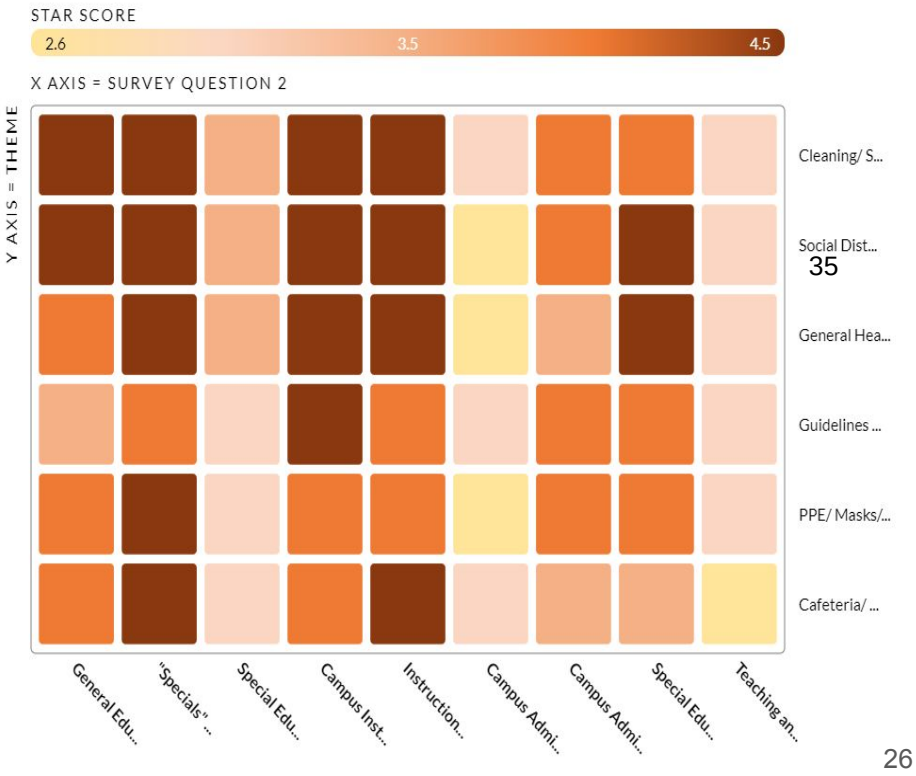
Key Differences from "A little" to "Somewhat" Comfortable:

- Feeling Unsupported
- Curriculum/ Professional Learning
- Leave/ Accommodations
- Transparency/ Communication
- Social Distancing/ Class Size

SAFETY BY LEVEL



SAFETY BY ROLE



35

ACTION STEPS

Support Teachers and Staff

WORKLOAD

- More flexible time
- Reduce non-essential tasks

RESOURCES

- Access to PPE
- Technology and devices

TRANSPARENCY

- Daily dashboard updates
- More data

LISTENING

- Staff listening sessions

WORKLOAD

CONSIDER ADJUSMTENTS TO LEADS

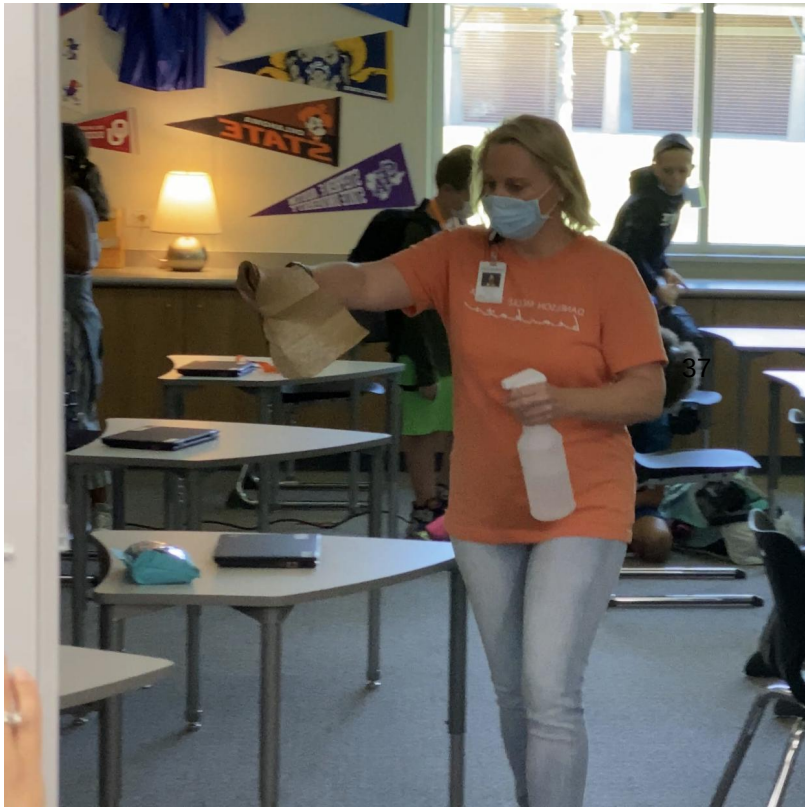
Work through state's process to adjust the staff evaluation system for one year. Requires feedback from all campus and district improvement committees and Board approval.

FLEXIBILITY

Continuous Improvement Conference, Professional Learning Days

ESSENTIAL STANDARDS

Support and empower teachers as they respond to individual student learning needs



RESOURCES

PPE IS AVAILABLE

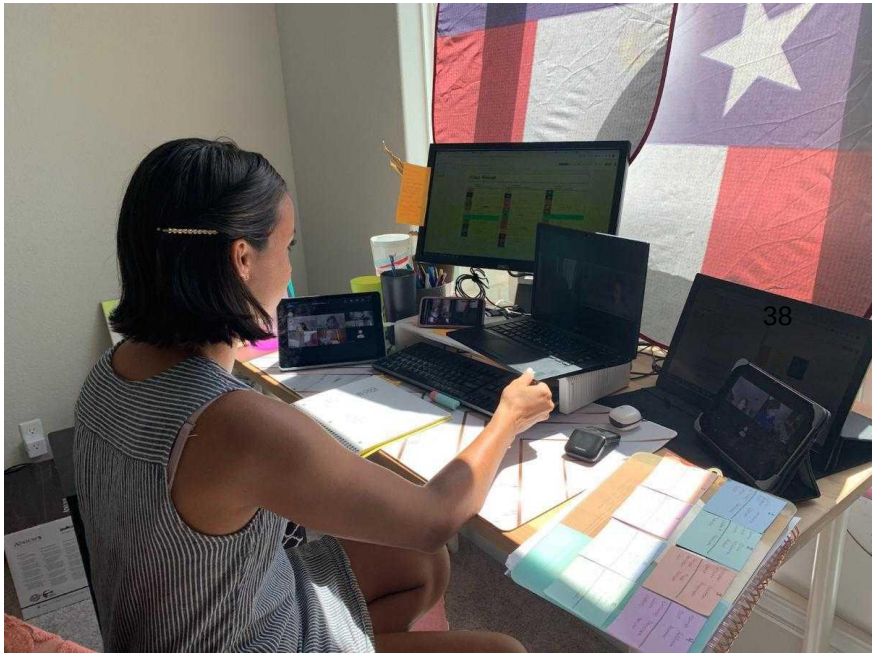
Sanitizer, paper towels, spray bottles, face masks available in warehouse. We have some clear face masks and desk shields. Water filling stations on order.

TECHNOLOGY - ACCESS

20GB installation completed this week

TECHNOLOGY - DEVICES

Dell donated extra monitors to LEEF. Request additional devices for virtual teachers.



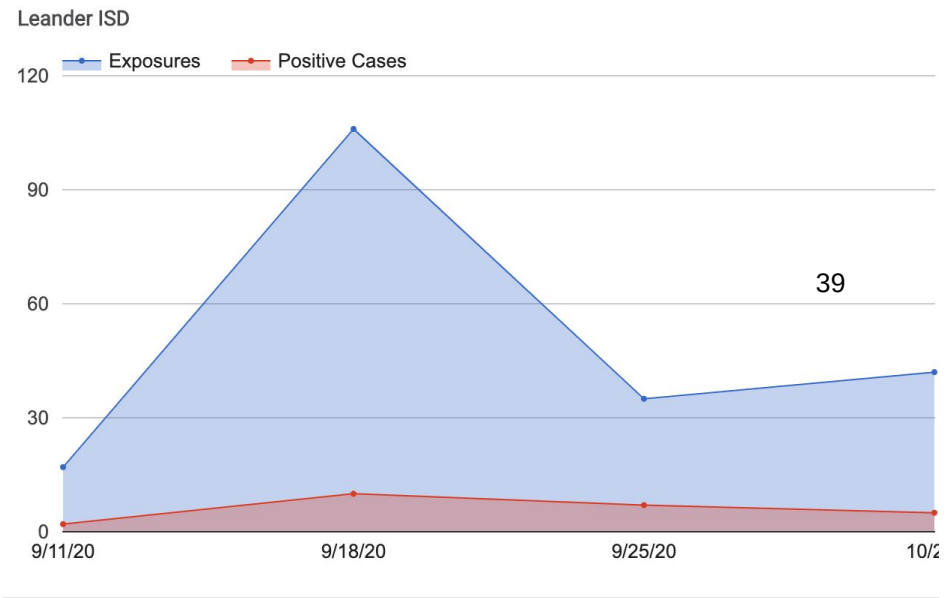
TRANSPARENCY

DAILY DASHBOARD UPDATES

Update Monday - Friday positive COVID cases and exposures

ADD DATA TO THE DASHBOARD

Adding weekly in-person enrollment by school. Linking campus notification messages to dashboard



LISTENING

HOSTING 7 LISTENING SESSIONS FOR STAFF

October 14 - October 19 hosting 3 elementary, 3 secondary, and 1 non-campus virtual staff meetings via Zoom. Will Structure with breakout rooms, small group listening, and whole group sharing. This will not be a presentation. Will document and share the results/findings.

Our goal is to identify additional action steps.





41

QUESTIONS AND ANSWERS

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Board Meeting Minutes
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Bruce Gearing
Attachments:	09/17/20 Agenda Review Meeting Minutes 09/24/20 Regular Board Meeting Minutes

Background Information:
Board meeting minutes are attached for your review.

Administrative Recommendation:
Administration recommends approval of minutes as written.

Sample Motion:
I move the Board approve the minutes of the September 17, 2020 Agenda Review meeting and the September 24, 2020 Regular Board meeting.

Minutes of Agenda Review Meeting

The Board of Trustees
Leander Independent School District

STATE OF TEXAS
COUNTY OF WILLIAMSON

A meeting of the Board of Trustees of the Leander Independent School District was held on Thursday, September 17, 2020, beginning at 6:16 PM in the LEO Conference Center, 300 S. West Drive, Leander, TX 78641. The following members were present: Trish Bode, Gloria Gonzales-Dholakia, Elexis Grimes, Aaron Johnson, Jim MacKay and Pamela Waggoner. Grace Barber-Jordan was absent.

1. **CALL TO ORDER AND DECLARATION OF QUORUM**
2. **OPENING CEREMONY** ***(to be held at the September 24 Regular Board meeting)***
   A. Pledge of Allegiance
   B. Moment of Silence
3. **RECOGNITION** ***(to be held at the September 24 meeting)***
   A. VRHS Incubator Winning National Pitch Competition
4. **COMMUNICATIONS / ANNOUNCEMENTS**
   A. Superintendent Remarks
   Superintendent Gearing highlighted some items from Governor Abbotts press conference. He also announced that several weeks ago the district updated Zoom security settings based on FBI best practices, and that the district is moving to a fully licensed version of Zoom, which will require users to login using their district credentials. Additional Zoom security training is also being provided for all LISD users.
   B. Board Member Remarks
   Jim MacKay announced that this suicide prevention month and reminded everyone of the need to reach out to those that are struggling.
   Elexis Grimes announced that anyone signing up this month to donate at least $2 a month, $24 a year, to LEEF will be entered in a drawing to win a Tocatta watch.
   Trish Bode announced that there was a lot of discussion at the recent CTSBA meeting regarding local control and charter schools. She also reminded Board members that the TASA/TASB Convention is next week.
5. **CITIZEN COMMENTS**
   Three citizens addressed the Board regarding in-person learning, mask expectations for children under 10 and safety of black students.
6. **CORONAVIRUS (COVID-19) - EPIDEMIC (Tex. Gov't Code 551.045)**
   A. Beginning of In-person Learning Update

7. **CONSENT AGENDA** ***(Items for discussion only at the Agenda Review meeting and discussion/possible action at the Regular Board meeting on September 24.)***
    A. Consider Approval of Board Meeting Minutes
    B. Consider Approval of Class Size Waivers
    C. Consider Approval of Grant Adjunct Staff Member Status - Williamson and Travis County

Agenda items taken out of order.

10. **ACTION ITEMS** ***(Items for discussion only at the Agenda Review meeting and discussion/possible action at the Regular Board meeting on September 24.)***
    A. STUDENT EXPERIENCE
        1. Consider Approval of Official Asynchronous Plan for TEA Submission
    B. GOVERNANCE TEAM
        1. Consider Approval of Williamson County Joint Election Agreement and Contract for Election Services
        2. Consider Approval of Notice of Election
        3. Consider Approval of Superintendent's Membership Fees
        4. Consider Approval of Board Meeting Schedule for October 2020 - June 2021
        5. Consider Approval of District Improvement Plan Performance Objectives

Agenda items taken out of order.

11.A.1. Legislative Update

Ms. Waggoner left the meeting at 8:49 PM

8. **CLOSED SESSION**
   The Board of Trustees went into closed session at 8:57 PM after the Board President announced the right to do so under:
    A. Texas Government Code 551.071: Consultation with attorney regarding pending or contemplated litigation, and/or attorney client privileged matter
    B. Texas Government Code 551.074: Personnel – deliberate the appointment, employment, evaluation, reassignment, duties of a public officer or employee
    C. Texas Government Code 551.0821: deliberation regarding matters whereby personally identifiable information regarding one or more students will be disclosed
    D. Texas Government Code 551.076: deliberation regarding security audit, security personnel, and security devices

The Board returned to open session at 10:30 PM.

9. **ACTION PURSUANT TO CLOSED SESSION**
    A. Consider Approval of Administrator and Teacher Contracts
    Motion by Mr. MacKay, seconded by Mr. Johnson, to accept the recommendation(s) for teacher employment contract for personnel addition(s) as presented, in accordance with the salary scale, policies and contract of Leander Independent School District for the 2020-21 school year. The motion passed unanimously with 5 in favor and 2 absent.

Agenda items taken out of order.

10.B.6. Consider Approval of Texas Association of School Boards Initiated Localize Policy Update 115 with Additional District Changes to Policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL)

10.C. OPERATIONS

1. Consider Approval of Budget Amendments
2. Consider Approval of Use of Remaining 2007 Bond Funds
3. Consider Approval of Travis County Tax Resale Deed Resolution
4. Consider Approval of a Resolution Nominating an Individual to the Travis Central Appraisal District (TCAD) Board of Directors
5. Consider Approval of School Health Advisory Committee Membership Recommendations

11. **REPORTS AND DISCUSSION ITEMS**

A. GOVERNANCE

2. Special Board Meeting Dates and Topics
3. Core Beliefs and Commitments
4. Discussion Regarding How to Handle Resolutions of Support

B. OPERATIONS

1. Business and Finance Monthly Reports
    a. Monthly Financial Report
    b. Monthly Investment Report
    c. Monthly Tax Collection Report
    d. Focus on Finance Report
2. Bond Proceeds - Construction Funds – Independent Review
3. 2021-2022 Elementary Attendance Zone Changes
4. General Construction Update

12. **ADJOURNMENT**

THE BOARD OF TRUSTEES, HAVING NO FURTHER BUSINESS, ADJOURNED THE MEETING.

Time: 11:28 PM

These minutes were read and approved by the Board of Trustees on the _____ day of _____, 2020.

_____ _____

President Secretary

Copies of Board information referred to are attached to the official minutes or filed in the office indicated.

Minutes of Regular Meeting

The Board of Trustees
Leander Independent School District

STATE OF TEXAS
COUNTY OF WILLIAMSON

A meeting of the Board of Trustees of the Leander Independent School District was held on Thursday, September 24, 2020, beginning at 6:15 PM in the LEO Conference Center, 300 S. West Dr., Leander, TX 78641. The following members were present: Trish Bode, Gloria Gonzales-Dholakia, Elexis Grimes, Grace Barber-Jordan, and Jim MacKay. Aaron Johnson was absent for the call to order but arrived at 6:19 PM. Pamela Waggoner was absent.

1. **CALL TO ORDER AND DECLARATION OF QUORUM**
2. **OPENING CEREMONY**
   A. Pledge of Allegiance

      Cadet Petty Officer Third Class Calvin Unger of the Lone Star Company Navy Junior ROTC at Vista Ridge High School led the Pledge of Allegiance and Texas Pledge.

   B. Moment of Silence
4. **COMMUNICATIONS / ANNOUNCEMENTS**
   A. Superintendent Remarks
   B. Board Member Remarks
5. **CITIZEN COMMENTS**

   Eight citizens addressed the Board of Trustees on Policy update 115, teacher salaries, racism, equity and diversity, teacher workload and the District Improvement Plan.
3. **RECOGNITION**
   A. VRHS Incubator Winning National Pitch Competition
6. **CORONAVIRUS (COVID-19) - EPIDEMIC (Tex. Gov't Code 551.045)**
   A. Beginning of In-person Learning Update
7. **CONSENT AGENDA**
   A. Consider Approval of Board Meeting Minutes
   B. Consider Approval of Grant Adjunct Staff Member Status - Williamson and Travis County
   C. Consider Approval of Notice of Election
   D. Consider Approval of Williamson County Joint Election Agreement and Contract for Election Services

E. Consider Approval of Superintendent's Membership Fees

F. Consider Approval of Travis County Tax Resale Deed Resolution

Mr. Johnson requested that item 7.E. (Consider Approval of Superintendent's Membership Fees) be removed from the consent agenda.

Motion: I move to approve the Consent Agenda as presented with the exception of item 7.E. (Consider Approval of Superintendent's Membership Fees). This motion, made by Aaron Johnson and seconded by Jim MacKay, passed unanimously with 6 in favor and 1 absent.

Motion: I move to approve the Superintendent's Texas Association of School Administrators Membership Fee ($1240). This motion, made by Aaron Johnson and seconded by Grace Barber-Jordan, passed unanimously with 6 in favor and 1 absent.

8. **ACTION ITEMS**

A. STUDENT EXPERIENCE

1. Consider Approval of Official Asynchronous Plan for TEA

Motion: I recommend that the Board approve the official Leander ISD Asynchronous Plan provided, for submission to TEA. This motion, made by Elexis Grimes and seconded by Jim MacKay, passed unanimously with 6 in favor and 1 absent.

B. GOVERNANCE

1. Consider Approval of Board Meeting Schedule for October 2020 - June 2021

Motion: I move the Board approve the Board meeting schedule for October 2020 through June 2021 as presented. This motion, made by Gloria Gonzales-Dholakia and seconded by Jim MacKay, passed unanimously with 6 in favor and 1 absent.

2. Consider Approval of District Improvement Plan Performance Objectives

Motion: I move that the District Improvement Plan performance objectives be approved as presented. This motion, made by Gloria Gonzales-Dholakia and seconded by Jim MacKay, passed unanimously with 6 in favor and 1 absent.

3. Consider Approval of Texas Association of School Boards Initiated Localize Policy Update 115 with Additional District Changes to Policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL)

Motion: I move to table the agenda item until the next Board meeting. This motion, made by Jim MacKay and seconded by Aaron Johnson, passed with 5 in favor, 1 opposed (Gloria Gonzales-Dholakia) and 1 absent.

C. OPERATIONS

1. Consider Approval of Budget Amendments

Motion: I move that the Board approve the amendments to the 2020-2021 budget reflecting: a decrease to General Fund revenues of $1,479,526, a decrease to Debt Service Fund revenues of $2,376,753 and an increase to Debt Service Fund expenditures of $1,024,714. This motion, made by Jim MacKay and seconded by Aaron Johnson, passed unanimously with 6 in favor and 1 absent.

2. Consider Approval of Use of Remaining 2007 Bond Funds

Motion: I move that the Board of Trustees approve the use of $314,087 of remaining 2007 bond proceeds as identified from project savings to cover the cost of water bottle filling stations to be installed across the district in response to COVID19. This motion, made by Jim MacKay and seconded by Aaron Johnson, passed unanimously with 6 in favor and 1 absent.

3. Consider Approval of a Resolution Nominating an Individual to the Travis Central Appraisal District (TCAD) Board of Directors

Motion: I move to table this agenda item until the next meeing. This motion, made by Jim MacKay and seconded by Aaron Johnson, passed unanimously with 6 in favor and 1 absent.

4. Consider Approval of School Health Advisory Committee Membership Recommendations

Motion: I move that the Board of Trustees approve the recommended members for the 2020-2021 Student Health Advisory Committee with the addition of Board member Aaron Johnson. This motion by Jim MacKay and seconded by Elexis Grimes, was withdrawn by Jim MacKay.

Motion: I move that the Board of Trustees approve the recommended members for the 2020-2021 Student Health Advisory Committee with the addition of Board member Aaron Johnson, and also move that each Board member be allowed to nominate one additional parent from the community. This motion, made by Jim MacKay and seconded by Elexis Grimes, passed with 4 in favor, 2 opposed (Grace Barber-Jordan and Gloria Gonzales-Dholakia) and 1 absent.

5. Consider Approval of Travis County Sheriff's Office Interlocal Agreement

Motion: I move that the Board of Trustees adopt the 2020-2021 Travis County Sheriff's Office interlocal agreement. This motion, made by Grace Barber-Jordan and seconded by Jim MacKay, passed unanimously with 6 in favor and 1 absent.

9. **REPORTS AND DISCUSSION ITEMS**

A. GOVERNANCE

1. Legislative Update
2. Special Board Meeting Dates and Topics
3. Core Beliefs and Commitments
4. Discussion Regarding How to Handle Resolutions of Support

B. OPERATIONS

1. Business and Finance Monthly Reports
    a. Monthly Financial Report
    b. Monthly Investment Report
    c. Monthly Tax Collection Report
    d. Focus on Finance Report
2. Bond Proceeds - Construction Funds - Independent Review
3. 2021-2022 Elementary Attendance Zone Changes

4. General Construction Update

10. **CLOSED SESSION**

The Board of Trustees went into Closed Session at 9:27 PM after the Board President announced the right to do so under:

A. Texas Government Code 551.071: Consultation with attorney regarding pending or contemplated litigation, and/or attorney client privileged matter

B. Texas Government Code 551.074: Personnel - deliberate the appointment, employment, evaluation, reassignment, duties of a public officer or employee

C. Texas Government Code 551.0821: deliberation regarding matters whereby personally identifiable information regarding one or more students will be disclosed

1. Superintendent Update on a Student Discipline Matter

D. Texas Government Code 551.076: deliberation regarding security audit, security personnel, and security devices

The Board returned to open session at 10:57 PM.

Grace Barber-Jordan left the meeting at 10:57 PM

11. **ACTION PURSUANT TO CLOSED SESSION**

A. Consider Approval of Administrator and Teacher Contracts

Motion: I move that the Board of Trustees accept the recommendation(s) for administrator probationary employment contract for personnel addition(s) as presented, in accordance with the salary scale, policies and contract of Leander Independent School District for the 2020-21 school year. This motion, made by Jim MacKay and seconded by Elexis Grimes, passed unanimously with 5 in favor and 2 absent.

Motion: I move that the Board of Trustees accept the recommendation(s) for teacher employment contract for personnel addition(s) as presented, in accordance with the salary scale, policies and contract of Leander Independent School District for the 2020-21 school year. This motion, made by Jim MacKay and seconded by Elexis Grimes, passed unanimously with 5 in favor and 2 absent.

12. **ADJOURNMENT**

THE BOARD OF TRUSTEES, HAVING NO FURTHER BUSINESS, ADJOURNED THE MEETING.

Time: 10:58 PM

These minutes were read and approved by the Board of Trustees on the ___ day of _____, 2020.

_____ _____

President Secretary

Copies of Board information referred to are attached to the official minutes or filed in the office indicated.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Travis County Joint Election Agreement
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Shawn Swisher
Attachments:	Travis County Joint Election Agreement

Background Information:

The Board approved an Election Services Agreement with Travis County on July 23, 2020. This Joint Election Agreement is between Travis County and all participating entities named in exhibit A. The terms of the agreement are essentially unchanged since 2018, with only a few minor wording changes (highlighted in yellow), and changes to the exhibits to reflect details for the November 3, 2020 election.

Administrative Recommendation:

The administration recommends approval of the Travis County Joint Election Agreement for the November 3, 2020 election.

Sample Motion:

I move the Board approval of the Travis County Joint Election Agreement for the November 3, 2020 election.

JOINT ELECTION AGREEMENT
FOR NOVEMBER 3, 2020 ELECTIONS

Recitals

1. Travis County (the "County") will be conducting general and special elections for the participating entities (each, a "Participating Entity," and together, the "Participating Entities") listed in Exhibit A, which is attached to and incorporated into this agreement, on November 3, 2020. The Participating Entities require elections to be held on November 3, 2020 in those portions of Travis County as shown on the maps and metes and bounds descriptions in Exhibit B, also attached to and incorporated into this agreement.

2. Under Texas Election Code Section 271.002,, political subdivisions of the State of Texas are authorized to hold elections jointly in voting precincts that can be served by common polling places if elections are ordered by the authorities of two or more political subdivisions to be held on the same day in all or part of the same territory

3. Texas Government Code Chapter 791 authorizes local governments to contract with one another and with state agencies for various governmental functions, including those in which the contracting parties are mutually interested.

4. It would benefit the County, the Participating Entities, and their respective citizens and voters to hold the elections jointly in the election precincts that common polling places can serve

Pursuant to Texas Election Code Sections 271.002 and 271.003 and Texas Government Code Chapter 791, this Joint Election Agreement is entered into by and between Travis County, a political subdivision of the State of Texas acting by and through the Travis County Commissioners Court, and the Participating Entities, each acting by and through their respective governing bodies.

I. Scope of Joint Election Agreement

This agreement covers conducting the November 3, 2020 Joint General and Special Elections for the parties to this agreement to be held on November 3, 2020. The County and the Participating Entities will hold these elections on November 3, 2020 ("Election Day") jointly for the voters in those portions of Travis County identified on the maps and descriptions in Exhibit B.

II. Election Officer

The Participating Entities hereby appoint the Travis County Clerk, the election officer for Travis County, as the election officer to perform or supervise the County's duties and responsibilities involved in conducting the joint election covered by this agreement.

III. Early Voting

Each of the Participating Entities agrees to conduct its early voting jointly. Each of the Participating Entities appoints the Travis County Clerk, the early voting clerk for Travis County,

as the early voting clerk for the joint election. Early voting for the Participating Entities will be conducted at the dates, times, and locations to be mutually agreed upon by the election officer and authorized and ordered by the governing body of each Participating Entity.

A. County Responsibilities

1. The County will provide to the governing body of each Participating Entity a list of places, times, and dates of early voting suitable for consideration and adoption by the governing body, under Texas Election Code chapter 85.

2. The Travis County Clerk, as the early voting clerk, will be responsible for conducting early voting by mail and by personal appearance for all Travis County voters voting in the joint election. The Travis County Clerk will receive from each Participating Entity's regular early voting clerk applications for early voting ballots to be voted by mail, under Texas Election Code Title 7. The Travis County Clerk will send early voting ballots by mail and receive early voting ballots for early voting by mail. And the Travis County Clerk may appoint such deputy early voting clerks as necessary to assist the Travis County Clerk with voting to take place at the early voting locations.

3. The County will determine the number of election workers to hire to conduct early voting in the joint election. The Travis County Clerk will arrange or contract for training for all election workers and will assign all election workers employed for early voting in the joint election. The training of these election workers is mandatory; these individuals will be compensated for their time in training. The County will provide a training facility for election schools to train election workers employed in conducting early voting, including early voting by personal appearance at main and temporary branch early voting polling places, early voting by mail, and other aspects of the early voting program for the joint election. The County will name early voting deputies and clerks employed to conduct early voting.

4. The County will provide and deliver all supplies and equipment necessary to conduct early voting for the joint election, including ballots, election forms, any necessary ramps, utility hook-ups, signs, registration lists and ballot boxes, to early voting polling places. The County will designate and confirm all early voting polling place locations.

5. The County will be responsible for preparing and transporting the electronic voting equipment necessary to conduct early voting. The County will perform all tests of voting equipment as required, including posting notice of equipment testing.

6. Under Election Code sections 66.058 and 271.010, the Participating Entities appoint the Travis County Clerk as the joint custodian of records for the sole purpose of preserving all voted ballots securely in a locked room in the locked ballot boxes for the preservation period that the Election Code requires.

7. The County will receive ballot language in both English and Spanish from each Participating Entity and format the ballots as needed to include these languages. The County will provide each Participating Entity with a final proof of ballot language for approval before printing

the ballots. Upon final proof approval, ballots will be printed in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the ballot mail outs for the Early Voting by Mail Program.

8. A single joint voter sign-in process consisting of a common list of registered voters, and common signature rosters will be used for early voting. A single, combined ballot and single ballot box will be used. The County will use an electronic voting system, as defined and described in Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.

9. The County will be responsible for conducting the Early Voting Ballot Board. The County will designate a person to serve as the presiding judge for the Early Voting Ballot Board and will provide that information to the governing body of each Participating Entity for entry of an order by that authority appointing this official. The presiding judge for the Early Voting Ballot Board is eligible to serve in this capacity. The presiding judge for the Early Voting Ballot Board will appoint two or more election clerks, and the judge and clerks will compose the Early Voting Ballot Board and will count and return early voting ballots, and perform other duties the Election Code requires of it.

B. Participating Entities' Responsibilities

1. Each Participating Entity will appoint a qualified person to serve as the regular early voting clerk for the Participating Entity. The regular early voting clerk for each respective Participating Entity will receive requests for applications for early voting ballots to be voted by mail and will forward in a timely manner, as prescribed by law, any and all applications for early voting ballots to be voted by mail, received in the Entity's office, to the Travis County Clerk.

2. Each Participating Entity will appoint a qualified person to act as custodian of records for the Participating Entity to perform the duties imposed by the Election Code on the custodian of records for its respective entity.

3. Each Participating Entity will provide ballot language for the respective portion of the official ballot to the County in both English and Spanish. The Participating Entity must make any additions, modifications, deletions, or other changes to such ballot contents or language before the Participating Entity's final proof approval. The County will provide the Participating Entity with a final proof of ballot language, as it is to appear on the ballot, for final proof approval. Upon final proof approval, the ballot will be programmed for the voting equipment in an expedited timeframe so as to allow ballot allocations for the Early Voting by Personal Appearance Program, and the printed ballot mail outs for the Early Voting by Mail Program.

IV. Election Day

A. County Responsibilities

1. The County will designate and confirm all Election Day polling place locations for the joint election, and will forward such information to the Participating Entities in a timely fashion to allow the governing body of the respective Participating Entities to enter orders designating such polling

places and for the Entities to submit to the U.S. Department of Justice for review before Election Day.

2. The County will designate the presiding election judge and the alternate presiding election judge to administer the election in the precinct in which a common polling place is to be used and will forward such information to the Participating Entities to allow the governing bodies of the respective Participating Entities to enter appropriate orders designating such officials before the election. The presiding election judge and alternate presiding election judge must be qualified voters of the Travis County election precinct in which the joint election is held. The presiding election judge for the precinct in which a common polling place is used may appoint election clerks as necessary to assist the judge in conducting the election at the precinct polling place. The alternate presiding election judge may be appointed as a clerk. The alternate presiding election judge may serve as the presiding election judge for the precinct in the presiding election judge's absence. Election judges and clerks will be compensated at the rate established by the County. The Texas Election Code and other applicable laws will determine compensable hours.

3. One set of election officials will preside over the election in the precinct using a common polling place. There will be a single joint voter sign-in process consisting of a common list of registered voters and common signature rosters in the precinct using a common polling place. A single, combined ballot and single ballot box will be used. The officer designated by law to be the custodian of the voted ballots for the County will be custodian of all materials used in common in the precinct using a common polling place. The County will use an electronic voting system, as defined and described by Texas Election Code Title 8, and agrees to use ballots that are compatible with such equipment.

4. The County will arrange for training and will provide the instructors, manuals and other training materials deemed necessary for training all judges and clerks. Training for election judges and alternate judges is mandatory, and these individuals will be compensated for their time in training.

5. The County will arrange for election-day voter registration precinct lists for the joint election. The County will determine the amount of election supplies needed for Election Day voting.

6. The County, by and through the County Clerk's Elections Division, and Administrative Operations, will be responsible for preparing and transporting voting equipment and election-day supplies for use on Election Day.

7. The County, by and through the County Voter Registrar, will provide the list of registered voters as needed in the overlapping jurisdictions identified in the attached exhibits, with designation of registered voters in each Participating Entity, for use at the joint election day polling place on Election Day.

8. The common polling place is designated as the polling place that the County uses. At the common polling place, a single ballot box will be used for depositing all ballots cast in the joint election. At this polling place, one voter registration list and one combination poll list and

signature roster form will be kept for the joint election. The final returns for each Participating Entity and the County will be canvassed separately by each respective Participating Entity. The Travis County Clerk will maintain a return center on Election Day for the purpose of receiving returns from the County. The Travis County Clerk will provide unofficial election results to the qualified individual appointed by each Participating Entity.

9. On Election Day, the Travis County Clerk or the clerk's Elections Division will field all questions from election judges.

10. The County will make available translators capable of speaking English and Spanish to assist Spanish-speaking voters in understanding and participating in the election process in the territory covered by this agreement.

B. Participating Entities' Responsibilities

1. Before Election Day, each Participating Entity will answer questions from the public with respect to the Participating Entity's election during regular office hours of 8:00 a.m. – 5:00 p.m.

2. The custodian of records for each Participating Entity will receive returns from the Travis County Clerk on Election Day.

V. Election Night

A. County Responsibilities

1. The County will be responsible for all activities on election night, including setting up a central counting station, coordinating and supervising the results tabulation, coordinating and supervising the physical layout of the support stations that are the joint election's receiving substations, and coordinating and managing election media coverage.

2. The County is responsible for transporting voted ballot boxes to the central counting station.

3. The County will appoint the presiding judge and alternate presiding judge of the central counting station to maintain order at the central counting station, to administer oaths as necessary, to receive sealed ballot boxes, and to perform such other duties that the Texas Election Code requires, and will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election. The presiding judge of the central counting station may appoint clerks to serve at the central counting station. In addition, the County will appoint a tabulation supervisor to be in charge of operating the automatic tabulating equipment at the central counting station; an individual to serve as central counting station manager; and an assistant counting station manager to be in charge of administering the central counting station and generally supervising the personnel working at the central counting station. The County will forward such information to each Participating Entity in a timely fashion to allow the governing body of each Participating Entity to enter appropriate orders designating such election officials before the election.

4. The County will provide the Participating Entities with reasonable space in a public area adjacent to the central counting station at which each Participating Entity may have representatives or other interested persons present during the counting process.

B. Participating Entities' Responsibilities

1. Other than receiving returns from the Travis County Clerk, the Participating Entities have no role or responsibility on the night of the election.

VI. County Resources

A. The County will provide the Elections Division permanent staff and offices to administer the joint election, under the Travis County Clerk's direction.

B. For early voting, the County will provide a locked and secure area in which voted ballot boxes will be stored until the Early Voting Ballot Board convenes. The County, by and through Administrative Operations, will be responsible for transporting the ballot boxes to the central counting station for the Early Voting Ballot Board.

C. The County will be responsible for providing and maintaining voting equipment and testing any voting equipment as required by the Texas Election Code.

D. The County will process the payroll for all temporary staff hired to conduct the joint election. The payroll processing includes statutory reporting and providing W-2 forms where applicable.

E. The County will conduct early voting as indicated in this agreement.

VII. Joint Election Costs; Payment

A. Transmitted with this agreement is a check payable to Travis County from each Participating Entity, in the amount equal to the deposit identified for each Entity in the Cost Estimate attached as Exhibit C, which is also incorporated into this agreement. This deposit represents approximately 75% of the costs of each Participating Entity's share of the estimated election costs. The County will submit an invoice to each Participating Entity for the balance of the Participating Entity's actual joint election expenses upon the election's completion. Joint-election expenses include expenses for facilities, personnel, supplies, and training that the County actually incurs for establishing and operating all early voting and election-day activities at the polling place in the joint election territory as well as activities related to tabulating votes, all as reflected on the Cost Estimate. Each Participating Entity will pay the total amount of its invoice within thirty (30) days of receiving it.

B. In the event of a recount, the expense of the recount will be borne by the Participating Entity involved in the recount on a pro-rata basis.

C. In the event a Participating Entity cancels its respective election because of unopposed candidates under Texas Election Code Title 1, the Participating Entity will be responsible for its respective share of election expenses incurred through the date that the election is canceled as allocated to the cancelling entity based on the formula in the Cost Estimate, adjusted for the actual expenses incurred by the County through the date of the cancellation. When the Participating Entity cancels its election, the County will recalculate the allocation percentages among the remaining Entities according to the formula used in the Cost Estimate.

D. In the event there are any expenses associated with processing a ballot arising from a write-in candidate, the Participating Entity that received the declaration will bear the expenses.

E. A Participating Entity that establishes an early voting polling place, other than one that was mutually agreed upon by all Participating Entities, will bear the expense of doing so. The Cost Estimate for each individual Participating Entity will include additional polling locations for each Participating Entity, as set forth in Exhibit C.

VIII. General Provisions

A. Legal Notices

Each of the Participating Entities will be individually responsible for preparing the election orders, resolutions, notices, and other pertinent documents for adoption or execution by its own respective governing board and for all related expenses. ***Each of the Participating Entities will be individually responsible for obtaining appropriate preclearance, if necessary, from the United States Department of Justice.*** The Travis County Clerk will provide each Participating Entity information on changes affecting the Participating Entity's election, such as polling place changes and changes in voting equipment, when such changes are confirmed, verified, or otherwise become known to the clerk's office. Each of the Participating Entities will be individually responsible for posting or publishing election notices and for all related expenses. Each of the Participating Entities further will be individually responsible for election expenses incurred in relation to any polling place that is not a common polling place as designated in this agreement.

B. Communication

Throughout this agreement's term, the Travis County Clerk or the clerk's employee will meet as necessary with the designated representative of each Participating Entity to discuss and resolve any problems that might arise regarding the joint election.

C. Custodian

The Travis County Clerk will serve as the custodian of the keys to the ballot boxes for voted ballots in the joint election.

D. Effective Date

This agreement takes effect upon its complete execution by all Participating Entities and the County. The obligation of each Participating Entity to the County under this agreement will not end until that Participating Entity pays the County its share of the joint election costs.

IX. Miscellaneous Provisions

A. Amendment/Modification of Exhibits A, B, and C

1. The Participating Entities acknowledge and agree that Exhibits A, B, and C may be amended to add or remove entities wishing to participate or cease participating in the agreement. The Participating Entities agree to future amendments of Exhibits A, B, and C and authorize the County to enter into such amendments without the Participating Entities' having to sign the future amendments. The County agrees to notify all Participating Entities of any amendments to Exhibits A, B, and C.

2. Except as otherwise provided, this Agreement may not be amended in any respect whatsoever except by a further agreement in writing, duly executed by the parties to this agreement. No official, representative, agent, or employee of the County has any authority to modify this Agreement except by express authorization from the Travis County Commissioners Court. No official, representative, agent, or employee of any Participating Entity has any authority to modify this agreement except by express authorization from the governing body of the respective Participating Entity. The Travis County Clerk may propose necessary amendments to this agreement in writing in order to conduct the joint election smoothly and efficiently, except that any such proposed amendment must be approved by the Travis County Commissioners Court and the governing body of each respective Participating Entity before the amendment will be effective. .

B. Notice

Any notice to be given in this agreement, by any party to the other, must be in writing and delivered personally or by certified mail, return receipt requested, to the proper party at the addresses listed in Exhibit A.

Each party may change the address for notice to it by giving notice of the change under this section's terms.

C. Force Majeure

In the event that the County cannot perform any of its obligations in this agreement or is interrupted or delayed by any occurrence not occasioned by its own conduct, whether it be an act of God, the result of war, riot, civil commotion, sovereign conduct, or like reason, then the County will be excused from performing for such period of time as is reasonably necessary after such occurrence to remedy its effects.

D. Venue and Choice of Law

The Participating Entities agree that venue for any dispute arising under this agreement will lie in the appropriate courts of Austin, Travis County, Texas. This agreement is governed by and is to be construed under the laws of Texas and the United States of America.

E. Entire Agreement

This agreement contains the parties' entire agreement relating to the rights granted and the obligations assumed in it, and it supersedes all prior agreements, including prior election services contracts relating to each Participating Entity's November 3, 2020 election. Any prior agreements, promises, negotiations, or representations not expressly contained in this agreement are of no force or effect. Any oral representations or modifications concerning this agreement have no force or effect, except a subsequent amendment in writing as this agreement provides.

F. Severability

If any provision of this agreement is found to be invalid, illegal, or unenforceable by a court of competent jurisdiction, such invalidity, illegality, or unenforceability will not affect the agreement's remaining provisions; and its parties will perform their obligations under the agreement's surviving terms and provisions.

G. Breach

In the event that any Participating Entity or the County breaches any of its obligations under this agreement, the non-breaching party will be entitled to pursue any and all rights and remedies allowed by law.

H. Payments from Current Revenues

Payments made by the Participating Entities in meeting their obligations under this agreement will be made from current revenue funds available to the governing body of the respective Participating Entity. Payments made by the County in meeting its obligations under this agreement will be made from current revenue funds available to the County.

I. Other Instruments

The Participating Entities agree that they will execute other and further instruments or any documents as may become necessary or convenient to effectuate and carry out this agreement's purposes.

J. Third-Party Beneficiaries

Except as otherwise provided in this agreement, nothing in this agreement, expressed or implied, is intended to confer upon any person, other than the parties to it, any of its benefits, rights or remedies.

K. Other Joint Election Agreements

The County and the Participating Entities expressly understand and acknowledge that each may enter into other joint election agreements with other political subdivisions, to be held on Election Day and at common polling places covered by this agreement, and that the addition of other political subdivisions as parties to this agreement will require amending Exhibits A, B, and C.

L. Mediation

When mediation is acceptable to both parties in resolving a dispute arising under this agreement, the parties agree to use a mutually agreed upon mediator, or a person appointed by a court of competent jurisdiction, for mediation as described in Texas Civil Practice and Remedies Code section 154.023. Unless both parties are satisfied with the mediation's result, the mediation will not constitute a final and binding resolution to the dispute. All communications within the scope of the mediation will remain confidential as described in section 154.023, unless both parties agree, in writing, to waive the confidentiality. Despite this, the parties intend to fully comply with the Texas Open Meetings Act and the Texas Public Information Act whenever applicable. The term "confidential" as used in this agreement has the same meanings as defined and construed under the Texas Public Information Act and the Texas Open Meetings Act. Notwithstanding any provision to the contrary, nothing in this Agreement requires the County or a Participating Entity to waive any applicable exceptions to disclosure under the Texas Public Information Act.

M. Counterparts

This Agreement may be executed in multiple counterparts, all of which will be deemed originals and with the same effect as if all parties to it had signed the same document. Signatures transmitted electronically by e-mail in a "PDF" format or by DocuSign or similar e-signature service shall have the same force and effect as original signatures All of such counterparts will be construed together and will constitute one and the same agreement.

TRAVIS COUNTY

BY: _____
Samuel T. Biscoe
County Judge

Date: _____

BY: 
Dana DeBeauvoir
County Clerk

SIGNATURE PAGE

Name of Participating Entity _____

Address _____

_____

Name of Authorized Signatory _____

Signature _____

Date signed _____

E-mail address _____

EXHIBIT A
PARTICIPATING ENTITIES

Municipalities

City of Austin
City of Cedar Park
City of Elgin
City of Jonestown
City of Lago Vista
City of Lakeway
City of Manor
City of Pflugerville
City of Round Rock
City of Sunset Valley
Village of the Hills
Village of Volente

Schools

Austin ISD
Del Valle Independent School District
Dripping Springs ISD
Eanes ISD
Johnson City ISD
Lago Vista ISD
Leander ISD
Manor ISD
Pflugerville ISD
Round Rock ISD

Library Districts

Wells Branch Community Library District
Westbank Library District

MUDs

Altessa MUD
Lakeside MUD No. 5
North Austin MUD No. 1
Ranch at Cypress Creek MUD 1
SH130 Municipal Management District
Shady Hollow MUD
Wells Branch MUD
Williamson-Travis Counties MUD No. 1

WCIDs

Barton Springs/Edwards Aquifer Conservation District
Travis County WCID - Point Venture

ESDs

Bastrop-Travis Counties ESD No. 1
Travis County ESD No. 1

OTHER

Tanglewood Forest Limited District
Lost Creek Limited District

Travis County Texas

City Boundaries
2020 General Election

Burnet
Williamson
Blanco
Hays
Bastrop
Caldwell

Travis County Tax Office

Voter Registration Division

512-854-9473

- Austin/Elgin SMD
- Austin FULL
- Austin ETJ
- Austin LTD
- City Of Manor
- City of Cedar Park
- City of Elgin
- City of Jonestown
- City of Lago Vista
- City of Lakeway
- City of Pflugerville
- City of Round Rock
- City of Sunset Valley
- Village of Point Venture
- Village of Volente
- Village of the Hills

N
W E
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2 Miles

Print Date: 9/16/2020
Author: Chris Owen

This map was created by the Travis County Voter Registration Department as a 'working map' and is not warranted for any other use. No warranty is made regarding its accuracy and completeness. It is our goal to maintain and provide accurate maps and data, however ommissions and errors may occur. Thank you for your consideration.

REGISTER
BE COUNTED. VOTE!

Travis County Texas

Independent School Districts
2020 General Election

Burnet
Williamson
Blanco
Hays
Bastrop
Caldwell

US 290
SH 130
SH 45
US 183
SH 71
SH 95
LOOP 1

Travis County Tax Office

Voter Registration Division

512-854-9473

- Austin ISD SMD
- Austin ISD
- Del Valle ISD
- Dripping Springs ISD
- Eanes ISD
- Johnson City ISD
- Lago Vista ISD
- Leander ISD
- Manor ISD
- Pflugerville ISD
- Round Rock ISD

N
W
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S

2 Miles

Print Date: 9/16/2020
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REGISTER
BE COUNTED. VOTE!

Travis County Texas

Participating Jurisdictions
2020 General Election

Burnet

Williamson

Blanco

Hays

Caldwell

Bastrop

Ranch at Cypress Creek

WMCID County 1

North Austin 1

Lakeside MUD 3

Northtown

Travis-Bastrop ESD 1

Point Venture

Lost Creek

Westbank Library

Jonestown Library

SWWS Shadow Hollow

SH130 Municipal Management District No 1

US 290

BEN WHITE

183

US 183

FM 969

Travis County Tax Office

Voter Registration Division

512-854-9473

- Election Precinct
- MUD
- WCID
- Library
- Edwards Aquifer
- ESD

N W E S

2 Miles

Print Date: 9/16/2020
Author: Chris Owen

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REGISTER
BE COUNTED. VOTE!

EXHIBIT C - COST ESTIMATES

			$ 5,482,132		38,805.88					Estimate Billing at 50%
Entity	Voters	Percentage	Costs	Admin Fee	Equipment	Total Costs	Costs	Admin Fee	Equipment	Total Costs
Travis County	836,405	33.037%	$ 1,811,109	181,111.00	12,820.13	2,005,040.13	905,555.00	90,556.00	6,410.00	1,002,521.00
City of Austin	590,975	23.343%	$ 1,279,667	127,967.00	9,058.27	1,416,692.27	639,834.00	63,984.00	4,529.00	708,347.00
City of Cedar Park	7,234	0.286%	$ 15,664	1,566.00	110.88	17,340.88	7,832.00	783.00	55.00	8,670.00
City of Elgin	785	0.031%	$ 1,700	170.00	12.03	1,882.03	850.00	85.00	6.00	941.00
City of Jonestown	1,970	0.078%	$ 4,266	427.00	30.20	4,723.20	2,133.00	214.00	15.00	2,362.00
City of Lago Vista	6,623	0.262%	$ 14,341	1,434.00	101.52	15,876.52	7,171.00	717.00	51.00	7,939.00
City of Lakeway	15,157	0.599%	$ 32,820	3,282.00	232.32	36,334.32	16,410.00	1,641.00	116.00	18,167.00
City of Manor	5,922	0.234%	$ 12,823	1,282.00	90.77	14,195.77	6,412.00	641.00	45.00	7,098.00
City of Pflugerville	40,184	1.587%	$ 87,012	8,701.00	615.93	96,328.93	43,506.00	4,351.00	308.00	48,165.00
City of Round Rock	835	0.033%	$ 1,808	181.00	12.80	2,001.80	904.00	91.00	6.00	1,001.00
City of Sunset Valley	517	0.020%	$ 1,119	112.00	7.92	1,238.92	560.00	56.00	4.00	620.00
Village of the Hills	2,251	0.089%	$ 4,874	487.00	34.50	5,395.50	2,437.00	244.00	17.00	2,698.00
Village of Volente	510	0.020%	$ 1,104	110.00	7.82	1,221.82	552.00	55.00	4.00	611.00
Austin ISD	505,615	19.971%	$ 1,094,833	109,483.00	7,749.90	1,212,065.90	547,417.00	54,742.00	3,875.00	606,034.00
Del Valle Independent School District	37,861	1.495%	$ 81,982	8,198.00	580.32	90,760.32	40,991.00	4,099.00	290.00	45,380.00
Dripping Springs ISD	52	0.002%	$ 113	11.00	0.80	124.80	57.00	6.00	-	63.00
Eanes ISD	30,022	1.186%	$ 65,008	6,501.00	460.17	71,969.17	32,504.00	3,251.00	230.00	35,985.00
Johnson City ISD	20	0.001%	$ 43	4.00	0.31	47.31	22.00	2.00	-	24.00
Lago Vista ISD	9,531	0.376%	$ 20,638	2,064.00	146.09	22,848.09	10,319.00	1,032.00	73.00	11,424.00
Leander ISD	43,879	1.733%	$ 95,013	9,501.00	672.56	105,186.56	47,507.00	4,751.00	336.00	52,594.00
Manor ISD	29,494	1.165%	$ 63,865	6,387.00	452.07	70,704.07	31,933.00	3,194.00	226.00	35,353.00
Pflugerville ISD	95,805	3.784%	$ 207,451	20,745.00	1,468.47	229,664.47	103,726.00	10,373.00	734.00	114,833.00
Round Rock ISD	35,029	1.384%	$ 75,850	7,585.00	536.91	83,971.91	37,925.00	3,793.00	268.00	41,986.00
Wells Branch Community Library District	13,273	0.524%	$ 28,741	2,874.00	203.44	31,818.44	14,371.00	1,437.00	102.00	15,910.00
Westbank Library District	21,469	0.848%	$ 46,488	4,649.00	329.07	51,466.07	23,244.00	2,325.00	165.00	25,734.00
Altessa MUD ESTABLISHING	-	0.000%	$ -	-	-	-	-	-	-	-
Lakeside MUD No. 5	1	0.000%	$ 2	-	0.02	2.02	1.00	-	-	1.00
North Austin MUD No. 1	745	0.029%	$ 1,613	161.00	11.42	1,785.42	807.00	81.00	6.00	894.00
Ranch at Cypress Creek MUD 1	685	0.027%	$ 1,483	148.00	10.50	1,641.50	742.00	74.00	5.00	821.00
SH130 Municipal Management District	1	0.000%	$ 2	-	0.02	2.02	1.00	-	-	1.00
Shady Hollow MUD	2,458	0.097%	$ 5,322	532.00	37.68	5,891.68	2,661.00	266.00	19.00	2,946.00
Wells Branch MUD	9,167	0.362%	$ 19,850	1,985.00	140.51	21,975.51	9,925.00	993.00	70.00	10,988.00
Williamson-Travis Counties MUD No. 1	875	0.035%	$ 1,895	190.00	13.41	2,098.41	948.00	95.00	7.00	1,050.00
Barton Springs/Edwards Aquifer Conservation District	162,751	6.428%	$ 352,413	35,241.00	2,494.59	390,148.59	176,207.00	17,621.00	1,247.00	195,075.00
Travis County WCID - Point Venture	1,000	0.039%	$ 2,165	217.00	15.33	2,397.33	1,083.00	109.00	8.00	1,200.00
Bastrop-Travis Counties ESD No. 1	1,998	0.079%	$ 4,326	433.00	30.62	4,789.62	2,163.00	217.00	15.00	2,395.00
Travis County ESD No. 1	14,694	0.580%	$ 31,818	3,182.00	225.22	35,225.22	15,909.00	1,591.00	113.00	17,613.00
Tanglewood Forest Limited District	3,167	0.125%	$ 6,858	686.00	48.54	7,592.54	3,429.00	343.00	24.00	3,796.00
Lost Creek Limited District	2,794	0.110%	$ 6,050	605.00	42.83	6,697.83	3,025.00	303.00	21.00	3,349.00
	2,531,754	**1**	**5,482,129**	**548,212**	**38,806**	**6,069,147**	**2,741,073**	**274,116**	**19,400**	**3,034,589**

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Travis County Juvenile Justice Alternative Education Program Memorandum of Understanding
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	John Graham, Bryan Miller
Attachments:	Travis County JJAEP MOU (SY2020-21) FINAL with HiLites.pdf

Background Information:

Attached is the 2020-2021 Memorandum of Understanding (MOU) with the Travis County Juvenile Justice Alternative Education Program (JJAEP). From September 1, 2019 to August 31, 2020, the total number of students expelled to Travis County Core/JJAEP was zero. Changes from last year's MOU are highlighted in yellow.

Administrative Recommendation:

The Administration recommends that the Board of Trustees review and adopt the 2020-2021 Memorandum of Understanding with the Travis County Juvenile Justice Alternative Education Program.

Sample Motion:

I move that the Board adopt the 2020-2021 Memorandum of Understanding between the Travis County Juvenile Justice Alternative Education Program and the District.

ISMEMORANDUM OF UNDERSTANDING
FOR THE
JUVENILE JUSTICE ALTERNATIVE EDUCATION COOPERATIVE
OF TRAVIS COUNTY

This Memorandum of Understanding ("Agreement") is an Interlocal Agreement entered into pursuant to Texas Education Code, Chapter 37 and the Texas Interlocal Cooperation Act, Texas Government Code, Chapter 791, and is entered into to be effective the 1st day of September, 2020, between **Travis County**, the **Travis County Juvenile Board** ("TCJB"), and the following educational entities: **Austin** Independent School District, **Del Valle** Independent School District, **Eanes** Independent School District, **Lake Travis** Independent School District, **Lago Vista** Independent School District, **Leander** Independent School District, **Manor** Independent School District, **Pflugerville** Independent School District, and **Round Rock** Independent School District (hereinafter referred to collectively as the "ISDs"). The parties to this Agreement shall be collectively referred to herein as "Participants."

RECITALS:

WHEREAS:

(1) Texas Education Code Sec. 37.011(m) requires the TCJB to enter into a Memorandum of Understanding with the ISDs establishing a Juvenile Justice Alternative Education Program ("JJAEP"); and

(2) The Participants desire to participate in the Juvenile Justice Alternative Education Program Cooperative of Travis County ("JJAEP Co-Op") and to comply with the agreements contained herein; and

(3) The ISDs wish to reach an agreement with the TCJB as to the placement of students expelled from school under the discretionary expulsion and removal provisions of Texas Education Code, Chapter 37; and

(4) The Participants desire to create and operate the JJAEP Co-Op pursuant to Chapter 37 of the Texas Education Code and this Agreement; and

(5) The Participants further desire to define and create the duties and responsibilities of the Participants, and to set forth herein the methods by which the Participants shall fund, govern and establish the JJAEP Co-Op; and

(6) The Participant ISDs recognize that the Texas Legislature has appropriated certain funds to pay the County and TCJB for the cost of educating students in the JJAEP Co-Op who are expelled under the mandatory expulsion provisions of Texas Education Code Chapter 37. However, such funds are insufficient to meet the cost of educating students in the JJAEP Co-Op; and

(7) The ISDs are required to consider course credit earned by a student while in the JJAEP Co-Op as credit earned in a school district program pursuant to Texas Education Code Sec. 37.010(d), and the ISDs have an ongoing interest in the quality of education provided in the JJAEP Co-Op and the academic success of students who will be returned from the JJAEP Co-Op to the regular school setting. Therefore, the ISDs desire to assist in providing the JJAEP Co-Op with full, adequate funding; and

(8) The Participant ISDs recognize that for purposes of accountability under Chapter 39 of the Texas Education Code and the Foundation School Program, a student enrolled in the JJAEP shall be reported as if the student were enrolled in an Alternative Education Program of the student's home district and the participating home district of each student shall cooperate fully in making such reports and accepting such accountability. All PEIMS reporting requirements for the students placed in the program shall remain the responsibility of the home district, and all ADA funding entitlements generated from such data shall also remain with the home district, unless otherwise provided by law or regulation of the Texas Education Agency. However, students expelled as "mandatory" placements shall be counted as "ineligible" for attendance counting purposes in the home district; and

(9) The relationship between the Participants necessitates this Interlocal Agreement.

NOW THEREFORE, BY THIS AGREEMENT IT IS MUTUALLY UNDERSTOOD AND AGREED BY THE PARTICIPANTS AS FOLLOWS:

SECTION ONE: DEFINITIONS

For purposes of this Agreement:

1.1 "Discretionary" shall mean any student who is expelled or removed from the regular classroom and meets the definition of any one of the following three categories:

1.1.a. "Discretionary Category I" shall mean any student who is expelled under Texas Education Code Sec. 37.007 (b), (c), (f), or (i) or Sec. 37.0052.

1.1.b. "Discretionary Category II" shall mean any student who is expelled for committing an off-campus offense under Texas Education Code Sec. 37.0081(a);

1.1.c. "Discretionary Category III" shall mean any student who is a publicly Registered Sex Offender who is eligible for placement in the JJAEP under Subchapter I of Chapter 37 of the Texas Education Code.

1.1.d. "Discretionary Category IV" shall mean any student who meets the definitions in Sections 1.1.a–c. above and whose placement in the JJAEP would exceed a school district's allotted discretionary placements as set forth in section 4.8(A) of this Agreement.

1.2 "ISSP transition team" shall mean those persons responsible for reviewing a student's

academic progress in accordance with Texas Education Code Sec. 37.011(d); that is, the TCJB or its designee, and the parent or guardian of the student. For purposes of this Agreement, a representative of the ISD from which the student was expelled may also be a member of the ISSP transition team, together with any JJAEP Co-Op staff as may be appropriate.

1.3 "Mandatory expulsion" shall mean any student who is expelled pursuant to the provisions of Texas Education Code Sec. 37.007 (a), (d), or (e).

1.4 "Rollover funds" shall mean all funds paid by the ISDs to the TCJB for either discretionary or mandatory expulsion allotments that remain unexpended on August 31 of each year.

1.5 "Semester" as referenced by the Texas Education Code Subchapter I. Placement of Registered Sex Offenders shall mean 90 school days.

1.6 "Student" shall mean any person residing in Travis County aged ten years or older and required to attend school pursuant to Texas Education Code Sec. 25.085 and who are under the supervision of juvenile or adult probation.

SECTION TWO: STUDENT CODES OF CONDUCT

2.1 The JJAEP Co-Op will be created and operated pursuant to Chapter 37 of the Texas Education Code and this Memorandum of Understanding. Each ISD has developed a Student Code of Conduct, specifying the circumstances under which a student may be removed from a classroom, campus, or alternative education program.

2.2 The Student Code of Conduct adopted by each ISD shall set forth the circumstances under which students will be subject to expulsion from the school setting and placement in the JJAEP Co-Op. A student may be expelled and placed in the JJAEP if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior despite documented behavioral interventions. Serious misbehavior, as defined by Texas Education Code 37.007(c), 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 Section 1.07, Texas Penal Code; or

(4) Conduct that constitutes the offense of:
- (A) Public lewdness under Section 21.07, Texas Penal Code;
- (B) Indecent exposure under Section 21.08, Texas Penal Code;
- (C) Criminal mischief under Section 28.03, Texas Penal Code;
- (D) Personal hazing under Section 37.152, Texas Education Code; or
- (E) Harassment under Section 42.07(a)(1), Texas Penal Code, of a student or district

employee.

SECTION THREE: GOVERNANCE OF JJAEP CO-OP

3.1 Composition of Governing Body - The JJAEP shall operate as a function of Travis County and the TCJB, separate and apart from the other Participants to this Agreement. It shall not be an independent political subdivision, nor shall it operate under the direction or control of any party to this Agreement other than Travis County and the TCJB.

3.2 Executive Committee - Upon the effective date of this Agreement, there shall be created an Executive Committee, consisting of one (1) representative of each ISD, one (1) representative of Travis County, and one (1) representative of the TCJB (Chief Juvenile Probation Officer or designee), each to be appointed by their respective governing body. All representatives to the Executive Committee shall be named not later than thirty (30) days from the effective date of this Agreement. Vacancies on the Executive Committee shall be filled by appointment by the governing body represented thereby.

The Executive Committee exists solely to advise and assist the TCJB, and has no authority to direct or control the JJAEP Co-Op.

3.3 Quorum and Voting - Four (4) members of the Executive Committee shall constitute a quorum. The Executive Committee shall act by and through resolutions, motions or orders adopted or passed by the Executive Committee upon the vote of the majority of the members the Executive Committee attending the meeting at which the issue was presented.

3.4 Voting Rights - Each member shall be entitled to one vote on each matter submitted to a vote of the members. In the event of a tie vote, the Chair shall have two votes.

3.5 Chair - At the initial meeting of the Executive Committee, and thereafter annually, the Executive Committee shall select from its membership a Chair by the affirmative vote of a majority of the members. The Chair shall prepare the agenda, preside over the meetings of the Executive Committee and shall be responsible for scheduling regular and special called meetings of the Executive Committee, including the provision of notice thereof.

3.6 The TCJB representative shall act as custodian of all minutes, records, and reports of the Executive Committee, and shall generally assist the Chair and shall have such powers and perform such duties and services as shall from time to time be delegated to him or her by the Chair.

3.7 The Chair shall serve in his or her respective capacities until tendering written resignation(s) or until replacement by a majority vote of the members of the Executive Committee.

3.8 The Chair shall be entitled to vote on all matters coming before the Executive Committee.

3.9 Meetings - The Executive Committee shall hold regular meetings at such time and in such place determined by the Executive Committee. Procedures for meetings shall be governed by the most current version of *Robert's Rules of Order*. Special meetings of the Executive Committee shall be called by the Chair, or by affirmative vote of not less than one-third (1/3) of the members of the Committee.

3.10 Notice of Meeting - Written notice of the regular meetings of the Executive Committee shall be mailed, delivered or sent by electronic mail to each member not less than five (5) days prior to the date thereof. Written notice of all meetings of the Executive Committee shall be posted at the place(s) for posting notice of public meetings of each of the Parties hereto in accordance with the Texas Open Meetings Act. The Chair of the Executive Committee shall transmit to each member of the Executive Committee a notice for the purpose of such posting not less than five (5) days prior to the date of the meeting. Written notice of any special meeting of the members shall be given to each member not less than 24 hours and as soon as reasonably possible prior to the date thereof. The notice shall state the place, date and time of the meeting, who called the meeting, and the general purpose or purposes for which the meeting is called. Notice shall be given by or at the general direction of Chair of the Committee, or the members calling the meeting.

3.11 Duties - The activities of the Executive Committee shall include, but not be limited to the following:

A. To develop and recommend proposed written operating policies to the TCJB consistent with any rules and regulations adopted by the Texas Juvenile Justice Department pursuant to Texas Education Code Sec. 37.011, and Texas Human Resources Code Sec. 221.002(a) regarding the operations, policies and procedures of the JJAEP Co-Op, and to make advisory recommendations to the TCJB regarding such operations, policies, and procedures including suggested changes or amendments thereto;

B. To facilitate coordination with the Participants to this Agreement on matters relating to the supervision, educational and rehabilitative services available for expelled students and students assigned to the JJAEP Co-Op and the subsequent transition back into the school setting;

C. To formulate and recommend other policies or procedures as appropriate to the TCJB as may be necessary to operate consistent with any rules and regulations as shall be adopted by the Texas Juvenile Justice Department; and

D. To review the annual budget, actual operating costs, and cost projections for the JJAEP Co-Op.

3.12 JJAEP Co-Op Executive Committee Compensation - No member of the JJAEP Co-Op Executive Committee shall receive compensation for his or her services as a member of the Committee. Nothing herein contained shall be construed to preclude any Committee member from receiving compensation or reimbursement for expenses from the member's respective employer for serving on the Committee.

SECTION FOUR: STUDENT PLACEMENT IN JJAEP

4.1 The Participants hereto acknowledge that Texas Education Code Sec. 37.010(a) requires that every expelled student in a county with a population of 125,000 or greater who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. It is therefore the intent of the JJAEP Co-Op to provide educational services to all expelled students, as provided more fully herein. However, no students will be assigned to the Travis County JJAEP except as set forth by provisions of this Agreement.

4.2 Students who are expelled from the school district setting will be afforded due process within the respective ISD as provided by school district policy and federal and state law.

4.3 Each ISD shall use its best efforts to notify the juvenile court in writing as soon as practicable upon the ISD's identification of a student who the ISD reasonably believes has engaged in conduct for which the student will be subject to mandatory expulsion. Such notice may be given in addition to any notice required under Texas Family Code Sec. 52.041. If the juvenile court receives written notice under this section that a student is believed to have engaged in conduct for which the ISD reasonably believes the student will be subject to mandatory expulsion, and the student is under the jurisdiction of the juvenile court, the juvenile court shall consider entering an order that the student attend the JJAEP Co-Op as soon as practicable, pending the outcome of any disciplinary proceedings at the ISD.

4.4 Every student eligible for placement in the JJAEP as set forth by the provisions of this Agreement who has been expelled from an ISD, and for whom information has been provided by the ISD from which the student has been expelled to the juvenile court in accordance with Texas Family Code Sec. 52.041, shall be ordered by the juvenile court to enroll in the JJAEP Co-Op as soon as reasonably practicable after the juvenile court's receipt of such notice. The information provided by the ISD for any student expelled for serious misbehavior under Texas Education Code Sec. 37.007(c), shall include documentation of the serious misbehavior and documentation of the behavioral interventions provided by the ISD prior to the expulsion.

4.5 Failure of an ISD to timely notify the juvenile court of an expulsion pursuant to Texas Family Code Sec. 52.041 shall result in the student's duty to continue attending the school district's educational program, which shall be provided to that student until such time as the notification to the juvenile court is properly made.

4.6 The juvenile court shall, for each student taken into custody for conduct that occurred on school property or at a school-sponsored or school-related activity, use its best efforts to ascertain whether the conduct for which the student was taken into custody would subject the student to mandatory expulsion. If the juvenile court ascertains that the conduct for which the student was taken into custody is such that it would subject the student to mandatory expulsion, the juvenile court shall consider entering an order that the student immediately begin attending the JJAEP Co-Op pending resolution of the disciplinary action, including any expulsion hearings, at the ISD.

4.7 It is the intent of the Participants hereto that for each expelled student who is placed in the JJAEP Co-Op, the term of such placement will be coterminous with the term of the student's expulsion from school. The ISDs agree that a placement term of no less than one six week grading period will be required, absent extenuating circumstances. Students must remain in the JJAEP Co-Op for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court or the student is referred back to the ISD pursuant to Section 4.8 or Section 4.9 or Section 4.10 herein. The juvenile court shall consider the term of a student's expulsion in entering any order as to the student, including terms and conditions of release from custody, deferred prosecution, or probation. At the conclusion of the student's term of probation, or any other requirement imposed by the juvenile court, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, and if the student meets the requirements for admission into the public schools established by law, the school district in which the student resides must readmit the student, but may assign such student to the school district alternative education program.

4.8 It is the intent of the Participants hereto that the JJAEP Co-Op shall give priority to mandatory expulsion students from each of the ISDs. It is understood by the Participants, however, that the JJAEP Co-Op has limited space and staffing, and that conditions outside the control of any Participant to this Agreement may cause fluctuations in the JJAEP Co-Op population. The current maximum capacity of the JJAEP is fifty students. The "maximum capacity" of the JJAEP may be redefined from time to time, however, as deemed appropriate by the JJAEP Co-Op. Given the limited space at the JJAEP, participants agree to abide by the following procedures for discretionary placement decisions:

A. Each participating school district will be permitted to enroll as many as four (4) discretionary students in the JJAEP Co-Op at the same time during the school year. Any district that exceeds four (4) discretionary enrollments at the same time will be billed in accordance with Section 9.1.b. of this Agreement. These students must meet the definitions of discretionary Category I, II, III and IV students, as set forth by this Agreement.

B. Discretionary students will not be accepted into the JJAEP in the event that maximum capacity has been reached.

C. Discretionary students will not be accepted into the JJAEP if the student is seventeen (17) years of age or older, and not under the jurisdiction of the juvenile court.

In the event the JJAEP has reached maximum capacity and a mandatory expulsion student is referred for placement in the JJAEP Co-Op, the JJAEP Manager will immediately identify the school district(s) with the highest number of discretionary student placements, and determine which discretionary student from these districts should be dismissed from the JJAEP Co-Op to accommodate the additional mandatory expulsion student. The decision by the JJAEP Manager will be based on the severity of the offense, the circumstances and term of the expulsion, the number of days the student has attended JJAEP, and the student's academic and behavioral progress while at the JJAEP.

In the event the JJAEP has reached maximum capacity and a school district with fewer than four (4) discretionary placements refers a student for placement based on a discretionary offense, the JJAEP Manager will identify any district(s) with more than four (4) discretionary student placements and determine which discretionary student(s) from these districts must be dismissed from the JJAEP to accommodate the referral from the district with fewer than four (4) discretionary placements. The decision by the JJAEP Manager will be based on the severity of the offense, the circumstances and term of the expulsion, the number of days the student has attended JJAEP, and the student's academic and behavioral progress while at the JJAEP.

4.9 A student who is assigned to the JJAEP as a "discretionary category II" student for a felony offense under Texas Education Code Sec. 37.0081(a) shall be returned to the sending ISD upon the first of the following events to occur:

a. The charges are dismissed or reduced to a misdemeanor offense;
b. The student is acquitted;
c. The student completes the term of placement;
d. The student is assigned to another program; or
e. The student graduates from high school.

4.10 A student who is assigned to the JJAEP for engaging in serious misbehavior, as defined by and pursuant to Texas Education Code Sec. 37.007(c) will be returned to the sending ISD upon the completion of the semester or, in circumstances when the student is expelled within 6 weeks of the end of a semester, the completion of the following semester, unless otherwise returned earlier by expiration of the term of the expulsion or by other mutual agreement.

SECTION FIVE: LIAISON

5.1 Each ISD shall notify the juvenile court in writing of its designated Liaison. Each Liaison shall have authority to offer recommendations to the juvenile court regarding placement alternatives for students under the jurisdiction of the juvenile court, and to bind the Liaison's respective ISD to any agreement to return a child to the school setting.

5.2 The Liaison shall assist the juvenile court in obtaining the permission from the parent(s) of each student served by the JJAEP Co-Op to release medical, educational or other appropriate records to the juvenile court and to the JJAEP Co-Op. In the absence of such parental consent, the juvenile court may consider the need for a court order releasing such records, and the Liaison may provide the juvenile court with such other educational information regarding the child as may be permitted by law.

5.3 The Liaison shall be responsible for coordinating the ISD's participation on the ISSP transition team, as appropriate.

5.4 As necessary, the Liaison will consult with representatives of the Participants regarding matters affecting the programs, services, and student population of the JJAEP Co-Op.

SECTION SIX: JJAEP CO-OP FACILITIES AND STAFFING

6.1 The JJAEP Co-Op facilities and staffing will be provided by Travis County and the TCJB. Such facilities and staffing may be provided under a separate agreement with one or more ISDs or a third party provider. It is contemplated by the Participants that the facilities, staffing, services and other requirements of the JJAEP Co-Op will be fully operational to the extent of this Agreement no later than the first day of school in each year in which this Agreement continues in force and effect. The JJAEP Co-Op shall operate on the same school calendar as the Austin Independent School District. TCJB shall comply with all state bidding and procurement laws in obtaining facilities and staffing for the JJAEP Co-Op to the extent such are applicable.

SECTION SEVEN: TRANSPORTATION

7.1 Each ISD shall be responsible for providing for the transportation of its students to and from the JJAEP Co-Op facility. Each ISD acknowledges and agrees that the student drop off and pick-up locations will be no further than two (2) miles from the students' residence. Disciplinary incidents occurring during transport on the ISDs' vehicles will be referred to the JJAEP Program Administrator or designee for appropriate disciplinary action.

SECTION EIGHT: RELEASE OF STUDENT AND JUVENILE RECORDS

8.1 The governing body of each Participant finds that in order to appropriately serve students receiving services under this Agreement, the sharing of information pertinent to the provision of education and rehabilitation services is essential and in the best interests of the students served. In the absence of parental consent, the juvenile court with jurisdiction over a student receiving educational services under this Agreement shall consider authorizing the entities providing services to such student to release appropriate juvenile, educational, diagnostic, treatment or other records as appropriate to permit the consistent provision of services to the student, as provided under Texas Family Code Sec. 58.0051 and 58.0052.

8.2 All student education records discussed or reviewed by any person specific to an individual student shall be considered confidential, and shall be shared only with the juvenile court, the student, the parent(s) or guardian(s) of the student, and those employees of the juvenile court,

Participant, or JJAEP Co-Op with a legitimate educational interest in the student. Student educational records shall be transferred to the appropriate ISD upon dismissal of a student from the JJAEP Co-Op.

8.3 Each ISD shall be responsible for providing the JJAEP the following educational records prior to the students' admission to the JJAEP:

a. Grades and transcript (current and past semester)
b. Current student schedule
c. Attendance for one prior full semester
d. Behavior referrals for one prior full semester

e. Student's Texas Unique ID Number (TSDS #)
f. PEIMS ID
g. Immunization records
h. Special Education assessments if applicable
i. ARD, IEP, BIP, or 504 information if applicable
j. Manifestation Determination documentation if applicable
k. LPAC-ELL documentation if applicable
l. Home language survey
m. School lunch eligibility
n. Current information related to state-mandated assessments
o. Expulsion letter

SECTION NINE: FUNDING FOR JJAEP CO-OP

9.1.a. Daily Rate for Discretionary Category I and III Students - The ISDs will be billed a daily rate not to exceed the daily rate authorized by the Texas Juvenile Justice Department for mandatory expulsion students for each day a "discretionary category I" student expelled pursuant to Texas Education Code Sec. 37.007 (b), (c), (f) or (i); or a "discretionary category III" student placed as a publicly Registered Sex Offender pursuant to Texas Education Code Chapter 37, Subchapter I, is in attendance in the JJAEP Co-Op.

9.1.b. Daily Rate for Discretionary Category II and IV Students - The ISDs will be billed a daily rate based on the actual operational costs, as determined by the TCJB based on the Board's annual audit, for each day a "discretionary category II" student expelled for a felony pursuant to Texas Education Code Sec. 37.0081 or a "discretionary Category IV" student is enrolled in the JJAEP. Audit figures from the most recently finalized audit will be used to set current year actual daily costs. The rate per student per day of enrollment for school year 2020-2021 will be set by the TCJB at their duly noticed meeting in August 2020, and notification will be provided to all ISDs under this Agreement.

9.2 Rollover Funds - If any portion of the funds paid by the ISDs hereunder remain unused at the end of any school year, such funds shall become rollover funds for the following year, and shall be applied to the cost of funding JJAEP Co-Op operational expenses for the subsequent school year(s).

9.3 Maintenance of Depository Account - Travis County shall place all funds received hereunder in a fully insured depository account, or other secured account, as required by law. Funds received hereunder shall be separately accounted for and may not be budgeted or allocated for any purpose other than the operation of the JJAEP Co-Op. All principal and any interest accruing to the TCJB account from such deposited funds shall be credited to the JJAEP Co-Op and shall be used for the necessary and reasonable expenses of the JJAEP Co-Op and shall not be commingled with the regular operating funds of either the TCJB or Travis County. All rollover funds shall be separately accounted for and used to fund program costs for the subsequent school year.

9.4 Accounting - Travis County shall provide an accounting to the Participants, on an as-requested basis, of the amounts paid to the TCJB in connection with the JJAEP Co-Op, together with supporting documentation.

9.5 Billing - Travis County agrees to establish and coordinate billing arrangements with the ISDs with respect to the ISDs' funding obligations, if any, to the JJAEP Co-Op under this Agreement.

9.6 Audit - At least annually, Travis County shall provide an audited accounting to the other Participants of funds received and paid with respect to the JJAEP Co-Op.

9.7 Budget - The Executive Committee shall provide recommendations to the TCJB on budgetary matters relating to the establishment and operation of the JJAEP Co-Op.

SECTION TEN: SPECIAL SERVICES

10.1 The TCJB shall be responsible for providing any educational and support services that are provided to all students in a general education setting. The referring ISD is responsible for providing any education and support services beyond the general educational curriculum and general education setting that are required to comply with Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, Individuals with Disabilities Education Act, and Title VI of the Civil Rights Act of 1964. The ISD in which a student resides shall provide and fund any services specified in the Individualized Education Plan (IEP), 504 Plan, and Language Proficiency Assessment Committee (LPAC) Report that fall outside of the general education curriculum or setting to eligible students.

10.2 TCJB and the ISDs shall cooperate in the provision of special services to students placed in the JJAEP Co-Op. However, ultimately, the referring ISD is responsible to ensure that appropriate programs and services, as articulated in a student's Individualized Education Program (IEP), Behavior Intervention Plan (BIP), 504 Plan, or LPAC Report are provided at the JJAEP continuously and without disruption.

10.3 Any student who commits an offense and has been identified by the ISD as having a disability may be expelled from the ISD only after a duly constituted Admission, Review, and Dismissal ("ARD") Committee or 504 Committee determines that the alleged offense is not a manifestation of the student's disability in accordance with applicable state and federal laws. Each ISD shall provide reasonable notice to the administrator of the JJAEP Co-Op of the ISD's Admission, Review and Dismissal Committee ("ARD") or 504 Committee meetings where placement in the JJAEP Co-Op will be considered or when reviewing or modifying the program of a student who qualifies for special education or 504 services in the JJAEP Co-Op. A copy of the student's current Special Education or 504 records must be provided to the JJAEP administrator with the notice of the meeting. The JJAEP administrator or designee may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and the implementation of the student's IEP, BIP, or 504 Plan. The ISDs shall be responsible for

scheduling and sending notices of ARD or 504 meetings during the period of expulsion, and for notifying and inviting JJAEP Co-Op representatives to participate in these meetings. For students receiving services under the Individuals with Disabilities Education Act or Section 504, the ARD Committee or 504 Committee meetings shall satisfy the requirement for the Individual Student Services Plan transition team meetings as otherwise required in Section 12.1 herein.

10.4 If, after placement of a student with disabilities in the JJAEP Co-Op under this Agreement, the administrator of the JJAEP Co-Op has concerns that the student's educational or behavioral needs cannot be met in the JJAEP Co-Op, the administrator (or his/her designee) shall immediately provide written notice to the ISD from which the student was expelled. Upon receipt of such notice, the ISD shall convene an ARD Committee or 504 Committee meeting to reconsider the placement of the student in the program, giving reasonable advance notice to the administrator of the JJAEP Co-Op. A representative of the JJAEP Co-Op may participate in the ARD Committee or 504 Committee meeting to the extent that the meeting relates to the student's placement or continued placement in the JJAEP Co-Op.

10.5 If a student assigned to the JJAEP is suspected of having a disability under the Individuals with Disabilities Education and Improvement Act (IDEA) criteria, the referring ISD's Child Find procedure will be initiated to resolve whether an assessment to determine eligibility is necessary. The JJAEP will assist with the completion of necessary referral documents. Any student determined to qualify for services and protection under IDEA or Section 504, shall be afforded all lawfully required services and protections by the referring ISD to the extent that the JJAEP cannot provide the service and the referring ISD is notified of the need to provide the service.

10.6 The JJAEP, in collaboration with the sending ISD, must ensure that a student who is non-English speaking or who speaks English as a second language is provided English as a Second Language (ESL) services and instruction appropriate to address his or her needs, as determined by a Language Proficiency Assessment Committee (LPAC). The sending ISD shall be responsible for scheduling and sending notices of LPAC meetings and any related assessments during the period of expulsion. The sending ISD shall provide reasonable written notice to the JJAEP Administrator of any LPAC meetings during the period of expulsion and will allow JJAEP representatives to attend and participate in the meetings. The sending ISDs will provide copies of the most current LPAC determinations to the JJAEP.

SECTION ELEVEN: ADMINISTRATION OF ALL REQUIRED STATE TESTING

11.1 In accordance with Texas Education Code, Section 37.011(d), state mandated assessment instruments shall be administered to all students enrolled in the JJAEP, except where such students are exempt from such testing by an ARD committee or other legal authority. The Participants agree that they will cooperate in the acquisition of testing materials, scheduling, and as otherwise necessary in order to facilitate assessment instrument administration. Prior to scheduled testing dates, the Participants will communicate regarding the most efficient method of obtaining secured testing materials for all students placed in the JJAEP. The JJAEP and ISDs will cooperate in the acquisition of such materials for students in the JJAEP. Each ISD shall provide to the JJAEP Administrator the name of a responsible contact person who shall have responsibility, on behalf of each ISD, for coordination of administration of statewide assessment instruments for that ISD's students enrolled in the JJAEP.

SECTION TWELVE: EXPEDITED MAGISTRATE SYSTEM

12.1 The expeditious hearing of all cases related to the JJAEP Co-Op by the juvenile court is crucial to the spirit and the letter of the Texas Legislature's changes to both the Education and the Juvenile Justice Codes. The TCJB and juvenile courts will utilize their best efforts to provide a system whereby all juvenile cases related to the Travis County JJAEP can be heard by the juvenile courts as soon as practicable after the student has been expelled from the school setting. Accordingly, the following expedited judicial procedures shall be applied to those cases concerning students expelled from the school setting:

A. The juvenile courts shall establish a procedure by which the Juvenile Probation Department Intake Division shall identify students who are eligible for placement in the JJAEP Co-Op, and notify the District Attorney when it receives a referral for an offense that may result in placement in the JJAEP Co-Op not later than the next working day after the referral is received.

B. The ISDs shall make their best efforts to conduct their expulsion hearings no later than seven (7) school days after an offense is reported to the respective school Liaison. If the student is expelled, the ISD will send to the juvenile court, not later than the second working day after the expulsion hearing, the recommendations of the Liaison regarding placement of the student in either the JJAEP Co-Op or a school district program. The Liaison will also forward such academic and behavioral records as it may have legal authority to share with the juvenile court, or in the absence of such authority, shall forward a written report to the juvenile court relating non-confidential information that is relevant to the educational placement of the student.

SECTION THIRTEEN: ACADEMIC REVIEW AND TRANSITION

13.1 Within a reasonable period of time after admission to the JJAEP Co-Op, each student shall have an Individual Student Services Plan ("ISSP") prepared by the ISSP transition team to meet the student's individual academic needs. The ISSP shall be reviewed periodically, at reasonable intervals, and shall address each student's emotional, social, and educational needs. In the case of a high school student, the ISSP shall contain a review of the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The ISSP shall be designed by the ISSP transition team and any other persons deemed appropriate by the TCJB, and shall require parental participation. For students receiving services under the Individuals with Disabilities Education Act, no ISSP transition team review shall be required under this section.

13.2 The TCJB shall provide to the ISDs a summative evaluation of the performance of all students served by the JJAEP Co-Op on an annual basis. Such evaluation shall reflect the academic performance of students served in the JJAEP Co-Op each year, as well as providing follow-up with former students of the JJAEP Co-Op. The ISDs shall assist the JJAEP Co-Op in developing meaningful performance measurement criteria, and in providing follow-up data for

former JJAEP Co-Op students who return to the school setting. All Participants shall use their best efforts to work collaboratively to capture meaningful performance data, as well as follow-up information on students returning to the ISDs.

13.3 The ISSP transition team shall formulate a transition plan, specifying any services to be provided upon return to the regular educational setting, as part of the ISSP for each student. The ISSP transition plan shall be completed prior to the student's completion of the JJAEP Co-Op placement.

SECTION FOURTEEN: TERM OF AGREEMENT

14.1 The initial term of this Agreement shall be for the period from the effective date of this Agreement through August 31, 2021. This Agreement shall be automatically renewed for an additional term of one (1) year on the same terms and conditions, unless one or more of the Participants hereto elects to terminate this Agreement by providing written notice to all other Participants hereto at least sixty (60) days prior to the expiration of the initial term, unless terminated sooner. This Agreement may be extended for additional terms of one (1) year upon the mutual consent of the Participants evidenced by an extension agreement entered into not later than thirty (30) days prior to the termination date of this Agreement, or any extension hereof.

14.2 Any provision of the preceding Section 14.1 to the contrary notwithstanding, any ISD may withdraw from this Agreement prior to the expiration of the term hereof by written agreement of the TCJB, or for good cause, at any time. Any ISD withdrawing from this Agreement shall be entitled to recover all funds from the Texas Juvenile Justice Department to which it is entitled. No ISD withdrawing from this Agreement shall be entitled to receive any portion of the rollover funds, unless this Agreement is terminated by all Participants hereto in its entirety, or this Agreement is terminated by operation of law. In the event this Agreement is terminated in its entirety, any rollover funds remaining shall be distributed to the ISDs, pro-rata, based upon the number of students served by the ISD residing in Travis County.

14.3 In the event of termination by any Participant, the Agreement will remain in force and effect with respect to the remaining Participants, unless such termination frustrates the overall purposes and intent of this Agreement.

SECTION FIFTEEN: MISCELLANEOUS

15.1 Records and Reporting Requirements - Throughout the term of this Agreement, the Participants hereto agree to establish and maintain detailed records regarding the administration and operation of the juvenile justice alternative education program and JJAEP Co-Op, including information regarding the costs of such programs, including facilities, staffing and administrative expenses.

15.2 Legal Requirements - The Participants agree to comply fully with all applicable federal, state, and local statutes, ordinances, rules, and regulations in connection with the programs contemplated under this Agreement. This Agreement is subject to all applicable present and future valid laws governing the juvenile justice programs applicable to school districts and/or county juvenile probation departments. In the event that any of the Participants hereto are required by law or regulation to perform any act inconsistent with this Agreement, or to cease performing any act required by this Agreement, this Agreement shall be deemed to have been modified to conform with the requirements of such law or regulation.

15.3 Notice - Except where oral notice is specifically allowed or required under this Agreement, any notice provided hereunder by any party to another shall be in writing and may be either: 1) delivered by hand to the party or the party's designated agent; 2) deposited in the United States mail, postage paid; 3) transmitted by telecopy; 4) transmitted by electronic mail transmission; or 5) delivered by a reputable courier service, to the following address or telecopy number:

Austin Independent School District:
Dr. Stephanie Elizalde, Superintendent of Schools
Austin Independent School District
1111 West 6th Street, Suite A-250
Austin, Texas 78703
512-414-2412 PHONE 512-414-1486 FAX
e-mail: superintendent@austinisd.org

Del Valle Independent School District:
Dr. Annette Tielle, Superintendent of Schools
Del Valle Independent School District
5301 Ross Road, Suite 103
Del Valle, TX 78617
512-386-3010 PHONE 512-386-3015 FAX
e-mail: annette.villerot@dvisd.net

Eanes Independent School District:
Dr. Tom Leonard, Superintendent of Schools
Eanes Independent School District
601 Camp Craft Road
Austin, TX 78746
512-732-9001 PHONE 512-732-9005 FAX
e-mail: tleonard@eanesisd.net

Lake Travis Independent School District:
Mr. Paul Norton, Superintendent of Schools
Lake Travis Independent School District
3322 Ranch Road 620 South
Austin, TX 78738
512-533-6020 PHONE 512-533-6001 FAX
e-mail: nortonp@ltisdschools.org

Lago Vista Independent School District:
Mr. Darren Webb, Superintendent of Schools
Lago Vista Independent School District
P.O. Box 4929
Lago Vista, TX 78645-0001
512-267-8300 PHONE 512-267-8304 FAX
e-mail: darren_webb@lagovista.txed.net

Leander Independent School District:
Dr. Bruce Gearing, Superintendent of Schools
Leander Independent School District
P.O. Box 218
Leander, Texas 78646
512-570-0000 PHONE 512-570-0048 FAX
e-mail: superintendent@leanderisd.org

Manor Independent School District:
Dr. Andre Spencer, Superintendent of Schools
Manor Independent School District
P.O. Box 359
Manor, TX 78653
512-278-4002 PHONE 512-278-4017 FAX
e-mail: Andre.Spencer@manorisd.net

Pflugerville Independent School District:
Dr. Douglas Killian, Superintendent of Schools
Pflugerville Independent School District
1401 West Pecan Street
Pflugerville, TX 78660-2518
512-594-0000 PHONE 512-594-0011 FAX
e-mail: superintendent@pfisd.net

Round Rock Independent School District:
Dr. Steve Flores, Superintendent of Schools
Round Rock Independent School District
1311 Round Rock Avenue
Round Rock, Texas 78681
512-464-5022 PHONE 512-464-5055 FAX
e-mail: superintendent_rrisd@roundrockisd.org

Travis County Juvenile Board:
Honorable Rhonda Hurley
98th District Court
Chair, Travis County Juvenile Board
1000 Guadalupe Street, 5th Floor
Austin, Texas 78701
512- 854-9384 PHONE 512- 854-9332 FAX

Travis County:
Honorable Sam Biscoe, Travis County Judge
700 Lavaca, Suite 2.300
Austin, Texas 78701
512- 854-9555 PHONE 512- 854-9535 FAX
with a copy to the Travis County Attorney:

Honorable David Escamilla, Travis County Attorney
314 West 11th Street, Suite 300
Austin, Texas 78701
512- 854-9415 PHONE 512- 854-9316 FAX

Any party may designate a different agent or address for notice purposes by giving the other Participants ten (10) days written notice in the manner provided above.

15.4 Amendments - If changed conditions are encountered during the term of this Agreement, the Agreement may be supplemented or amended under terms and conditions mutually agreeable to the Participants, provided that all such changes, amendments, supplements or modifications shall be in writing.

15.5 Integration Clause - This Agreement, including schedules and attachments, contains the entire agreement of the Participants hereto with respect to the matters covered by its terms, and it may not be modified in any manner without the express written consent of the Participants. No other agreement, statement, or promise made by or to any party, or made by or to any employee, officer, or agent of any party, that is not contained in this Agreement shall be of any force or effect. It is acknowledged by the Participants that no officer, agent, employee or representative of Travis County has any authority to change or amend the terms of this Agreement or any attachments to it or to waive any breach of this Agreement unless expressly granted that authority by the Travis County Commissioners Court.

15.6 Partial Invalidity - If any term(s) or provision(s) of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be effected, impaired or invalidated, unless such holding causes the obligations of the Participants hereto to be impossible to perform or shall render the terms of this Agreement to be inconsistent with the intent of the Participants hereto.

15.7 Non-assignability - No assignment of this Agreement or of any duty or obligation of performance hereunder, shall be made in whole or in part by any Participant without the prior written consent of the other Participants hereto.

15.8 Waiver - No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.

15.9 Immunity - Neither Travis County, the TCJB, nor the ISDs waive or relinquish any immunity or defense on behalf of themselves, their trustees, commissioners, offices, employees, and agents as a result of its execution of this Agreement and performance of the functions and obligations described herein.

15.10 Available Funds - The Participants to this Agreement expressly acknowledge and agree that all monies paid pursuant to this Agreement shall be paid from budgeted available funds for the current fiscal year of each such entity.

15.11 Open Meetings - The meetings at which this Agreement was approved by the Participants' governing boards were posted and held in accordance with the Texas Open Meetings Act, Texas Government Code Ch. 551.

15.12 Mediation - Any dispute arising under this Agreement may be submitted, upon agreement of the Participants, to non-binding mediation. When mediation is acceptable to the participants in resolving any dispute rising under this Agreement, the Participants agree to use the Dispute Resolution Center of Austin or any other mediator as shall be mutually agreed upon by the Participants, to provide mediation as described in Section 154.023 of the Texas Civil Practice and Remedies Code. Unless the Participants are satisfied with the result of the mediation, the mediation will not constitute a final binding resolution of the dispute. All communications within the scope of the mediation shall remain confidential as described in §154.073 of the Texas Civil Practice and Remedies Code, unless the Participants agree, in writing, to waive the confidentiality.

IN WITNESS THEREOF, the undersigned Participants acting under the authority of their respective governing boards have caused this Agreement to be duly executed in multiple counterparts, each of which shall constitute an original, all as of the day and year above first written, which is the date of this Agreement.

APPROVED:

_____
Honorable Rhonda Hurley
Chair, Travis County Juvenile Board

APPROVED:

_____
Honorable Sam Biscoe
Travis County Judge

APPROVED:

_____
Austin Independent School District

APPROVED:

_____
Eanes Independent School District

APPROVED:

_____
Lake Travis Independent School District

APPROVED:

_____
Manor Independent School District

APPROVED:

_____
Round Rock Independent School District

APPROVED:

_____
Del Valle Independent School District

APPROVED:

_____
Lago Vista Independent School District

APPROVED:

_____
Leander Independent School District

APPROVED:

_____
Pflugerville Independent School District

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Leander Educational Excellence Foundation License Agreement Scoreboard Ads
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Holly B. Wardell
Attachments:	Leander Educational Excellence Foundation License Agreement

Background Information:
Holly B. Wardell has worked with LEEF to develop the attached agreement regarding scoreboard advertising sales.

Administrative Recommendation:
Administration recommends the Board approve the license agreement between Leander ISD and the Leander Educational Excellence Foundation (LEEF) Regarding Scoreboard Advertising.

Sample Motion:
I move the Board approve the license agreement between Leander ISD and the Leander Educational Excellence Foundation (LEEF) regarding scoreboard advertising.

License Agreement between
Leander Independent School District
and
Leander Educational Excellence Foundation

I. Purpose

This License Agreement ("Agreement") is entered into on this __day of September, 2020 between Leander Independent School District ("Leander ISD") and the Leander Educational Excellence Foundation ("LEEF"). Subject to the following terms and conditions, Leander ISD grants a license to LEEF to sell advertisement packages and/or individual units to be presented on electronic scoreboards located at Leander ISD athletic facilities, specifically the A.C. Bible, Jr. Memorial Stadium, the John Gupton Stadium, and the Ed. W. Monroe Memorial Stadium.

II. Grant

Leander ISD grants LEEF a two-year non-exclusive, non-assignable, and non-sublicensable license to sell advertisement packages and/or units on remaining ad spaces on three (3) electronic scoreboards owned and operated by Leander ISD.

III. Term and Termination

This Agreement shall commence on the effective date provided herein and shall continue for two (2) calendar years. Either party may terminate this Agreement at any time, with or without cause, upon thirty (30) days' written notice to the other party. Upon termination of this Agreement for any reason, all rights licensed under this Agreement will immediately revert to Leander ISD. In the event of termination of this Agreement, LEEF shall produce all documents, records, and materials relating to LEEF's transactions arising from this Agreement.

IV. Compensation

Fifteen percent (15%) of all proceeds realized from LEEF's sale of advertisement packages and/or units must be tendered to Leander ISD within thirty (30) days of receipt of funds. For the entire term of this Agreement, LEEF shall keep a descriptive accounting reflecting each sale of advertisement packages and/or units and provide an updated accounting to Leander ISD once per quarter as directed by Leander ISD.

V. Scope

LEEF may sell advertisements to individuals and entities so long as the merchandise or services to be advertised do not conflict with the Prohibited Uses set forth below. LEEF acknowledges that all rights, title, and interest in and to advertising space on Leander ISD's electronic scoreboards are owned and controlled by Leander ISD. LEEF agrees to not dispute or challenge, or assist any person or entity in disputing or challenging Leander ISD's rights in and to the advertising space on Leander ISD electronic scoreboards. Nothing in this agreement prohibits LEEF from making adjustments to its fee arrangements with ad patrons in the event an ad does not run, appear as agreed upon with the patron, or otherwise properly displayed.

VI. Prohibited Uses

Leander ISD shall retain final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment. LEEF may not market or sell advertisement packages and/or units to advertisers of merchandise or services promoting or depicting alcoholic beverages; tobacco and smoking-related products; CBD; inherently dangerous products such as firearms, knives, and explosives; nudity or sexual activity; products related to gambling; controlled substances and paraphernalia; advertisements that would prevent Leander ISD from maintaining a position of neutrality on political and religious issues or would create an appearance of favoritism on said issues; and any other activity that Leander ISD determines to be inappropriate in accordance with relevant board policies, including Leander ISD Board Policy GKB(LOCAL). Additionally, LEEF may not sell advertisement packages and/or units in a manner that discriminates against any person or group based on race, color, sex, age, national origin, disability, or religion.

VII. Amendments

No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same be in writing, be dated subsequent to the date hereof, and be duly executed by the parties hereof.

VIII. Assignment

No party shall voluntarily or by operation of law, assign or otherwise transfer its rights or obligations under this Agreement without the other party's prior written consent. Any purported assignment in violation of this paragraph shall be void.

IX. Severability

The provisions of this Agreement are severable and the unenforceability of any provision of this Agreement shall not affect the enforceability of any other provisions hereof.

X. Integration

This Agreement is the entire agreement between the parties. No other agreements, oral or written, have been entered into with respect to the subject matter of this Agreement.

XI. Notice

All notices or other communications required or permitted hereunder shall be in writing, and shall be personally delivered or sent by registered or certified mail, return receipt request, courier delivery, electronic mail, facsimile, or receipted overnight mail, and shall be deemed received upon the earlier of (a) the date of delivery, if personally delivered, or (b) three (3) business days after the date of posting by the U.S. postal service, if mailed. All such notices or communications shall be addressed as follows:

If to LISD:

Dr. Bruce Gearing
Superintendent
Leander Independent School District
P.O. Box 218
Leander, Texas 78646

If to LEEF:

Crystal Smith
President
Leander Educational Excellence Foundation

P.O. Box 218
Leander, Texas 78646

Either party may change such address for notice for the party designated to receive such notice by giving advance written notice to the other party as provided in this paragraph.

XII. Dispute Resolution

The parties will attempt to settle any dispute internally through good faith negotiations. If informal negotiations fail, LEEF will submit its grievance to the District through the District's policy GF (LOCAL).

XIII. Legal Compliance

Both parties warrant and certify that in the performance of this Agreement, they will comply with all federal, state, county, and city laws, ordinances, regulations, and standards applicable to the provisions of services described herein and the performance of all obligations undertaken pursuant to this Agreement.

XIV. Execution

Each individual signing this Agreement below warrants that he or she has the power and authority to bind the party for which he or she signs to all the terms and conditions of this Agreement.

LEANDER ISD

By _____
Trish Bode, Board President

Dated _____

LEANDER EDUCATIONAL EXCELLENCE FOUNDATION

By _____
Crystal Smith, President

Dated _____

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Forming a Standing Policy Review Sub-Committee
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Shawn Swisher
Attachments:	N/A

Background Information:

District administration suggested at the September 24, 2020 Board Meeting that the Board consider forming a standing Board Sub-Committee for the purposes of policy review. The rationale is to allow for thorough vetting of proposed policy changes before it comes before the full Board for review and action. The intent is to seek efficiencies in the process and streamline the policy review and update process. The committee would consist of three (3) trustees and would be assisted by various members of administration and legal counsel, as appropriate and as it relates to the subject matter of the policy that will be reviewed. The committee can then bring recommendations to the full board for discussion, deliberation and ultimate action.

Administrative Recommendation:

Administration recommends the Board form a standing policy review sub-committee, consisting of three (3) trustees. Said committee will be assisted by various members of administration and legal counsel.

Sample Motion:

I move for the formation of a sub-committee of the Board for the purposes of policy review and updates.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Texas Association of School Boards Initiated Localize Policy Update 115 with Additional District Changes to Policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL)
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Shawn Swisher
Attachments:	• Policy Update 115 Comparison Packet, Explanatory Notes, Vantage • Points District Changes to Policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL) • Annotated Legal Policies

Background Information:

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

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

District suggested changes are indicated in red. District suggested changes were made by various stakeholders (Directors/Coordinators). Texas Association of School Boards (TASB) changes are indicated in pink and can be found within the following attachment: District Changes to Policies FEB(LOCAL), FFG(XHIBIT), FNG(LOCAL) and GF(LOCAL) Atch.pdf

Based on Board Member request at the September 24, 2020 Board Meeting, an annotated version of Update 115 Legal Policies have been included as an attachment.

Board Policies with recommended changes
BDF(LOCAL): Board Internal Organization - Citizen Advisory Committees
BF(LOCAL): Board Policies
DIA(LOCAL): Employee Welfare - Freedom from Discrimination, Harassment, and Retaliation
DMD(LOCAL): Professional Development - Professional Meetings and Visitations
EI(LOCAL): Academic Achievement
FB(LOCAL): Equal Educational Opportunity
FD(LOCAL): Admissions
FEB(LOCAL): Attendance - Attendance Accounting (TASB changes in pink/ District suggested changes in red)
FFG(LOCAL): Student Welfare - Child Abuse and Neglect (TASB changes in pink/District suggested changes in red)
FFG(EXHIBIT): Student Welfare - Child Abuse and Neglect (District suggested changes in red) ONLY District changes
FFH(LOCAL): Student Welfare - Freedom from Discrimination, Harassment, and Retaliation
FMF(LOCAL): Student Activities - Contests and Competition
FNG(LOCAL): Student Rights and Responsibilities - Student and Parent Complaints/Grievances (TASB changes in pink/District suggested changes in red)
GF(LOCAL): Public Complaints (TASB changes in pink/District suggested changes in red)

BDF(LOCAL): Board Internal Organization - Citizen Advisory Committees
Policy Service recommends that the administrative details regarding committees be removed from the local policy manual, as board-adopted policy is not required.

BF(LOCAL): Board Policies
A revision to this local policy clarifies that a district's legally referenced policies are not adopted by the board.

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

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

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

DMD(LOCAL): Professional Development - Professional Meetings and Visitations
Policy Service recommends that the administrative details regarding professional meetings be removed from the local policy manual, as board-adopted policy is not required.

EI(LOCAL): Academic Achievement
Provisions on partial credit have been updated to reflect revised Administrative Code rules, which changed terminology regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester." To provide flexibility, Policy Service is recommending deletion of the statement that a student shall be required to retake only the portion of the course with a failing grade. The ways a student can earn credit for the failed part of a course can include various methods other than retaking the failed portion, and board policy is not required to specify which particular method may be used. Please note: The district's locally developed text at Full Credit is recommended for deletion. This provision would be more appropriately addressed in administrative regulations, such as the student handbook.

FB(LOCAL): Equal Educational Opportunity

The provision on the Title IX coordinator has been updated in response to the new Title IX regulations. Corresponding wording changes were made to the ADA/Section 504 coordinator text. Please note: We have retained unchanged your unique text at Impartial Hearing and throughout the remainder of the policy.

FD(LOCAL): Admissions

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to adopt local policy to assist with awarding credit to a student who is homeless or in substitute care for a course that was earned prior to the student enrolling in or transferring to the district. See Transition Assistance for recommended text to comply with this local policy requirement.

FEB(LOCAL): Attendance - Attendance Accounting (District suggested changes in red)

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

The District suggests adding "or designee" to be consistent with other policies assigned solely to the Superintendent. (suggested by Bryan Miller)

FFG(LOCAL): Student Welfare - Child Abuse and Neglect

This local policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules. Recommended text is included to provide the required policy addressing sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 TASB Model Student Handbook has been updated to meet this requirement. The rules also revise the elements of the required child abuse and neglect reporting policy. To ensure all the policy elements are addressed in board-adopted local policy, we have revised and moved provisions from FFG(EXHIBIT) into this local policy and recommend deletion of the exhibit.

FFG(Exhibit): Student Welfare - Child Abuse and Neglect (District suggested changes in red)

The district suggests the following changes

- Replace Guidance and Counseling department with Counseling Services in first paragraph.
- Consider adding the Williamson County Sheriff's Office to the list of law enforcement agencies as there are students outside of the Williamson County cities listed.

(suggested by Steve Clark)

FFH(LOCAL): Student Welfare - Freedom from Discrimination, Harassment, and Retaliation

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

- The definition of Prohibited Conduct has been revised to include conduct that meets the Title IX definition of sexual harassment, but the policy retains the broader definitions of prohibited conduct in districts' current policies to ensure that all prohibited conduct is addressed.
- Text at Sex-Based Harassment and Investigation of Reports Other than Title IX directs readers to new provisions on responding to allegations of prohibited conduct that if proved would meet the definition of sexual harassment under Title IX, as the law requires a specific response process for these allegations. Allegations of prohibited conduct not based on sex or that would not meet the definition of sexual harassment under Title IX will follow the district's existing investigation process.
- The provision requiring an employee to report prohibited conduct has been updated to include either direct or indirect reports.
- Text at Response to Sexual Harassment—Title IX addresses legally required actions when the district receives notice or allegations of conduct that would meet the definition of sexual harassment under Title IX.
- New provisions direct the superintendent to develop a Title IX formal complaint process that will apply following a formal complaint and that must comply with the elements in the new regulations, as included in FFH(LEGAL).

- To determine responsibility in a Title IX formal complaint of sexual harassment, the policy designates that the district will use a preponderance of the evidence standard. If the board wishes to instead use the clear and convincing evidence standard, which is a higher standard of evidence, please contact the district's policy consultant. The district must use the same standard of evidence for investigation of all formal Title IX sexual harassment complaints, including complaints by employees.
- Provisions on retaliation and false claims have been updated and moved to the end of the policy. Policy Service also recommends updates to the examples for harassment to include cyberharassment and electronic communications.

FNG(LOCAL): Student Rights and Responsibilities - Student and Parent Complaints/Grievances (District suggested changes in red)

Policy Service has revised the list of protected characteristics at Other Complaint Processes, item 1, to align with the list at FFH(LOCAL) above. A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

The District suggests it is in the best interest to the District to leave the timeline as stated at 90 days, to mean 90 "business" days, as this will provide the District adequate time resolve issues before the need to go to the Board. (suggested by Sandy Slade)

GF(LOCAL): Public Complaints (District suggested changes in red)

A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

The District suggests it is in the best interest to the District to leave the timeline as stated at 90 days, to mean 90 "business" days, as this will provide the District adequate time resolve issues before the need to go to the Board.(suggested by Sandy Slade)

Administrative Recommendation:

Administration recommends that the Board adopt local board policy update 115 with additional district changes to policies FEB(LOCAL), FFG(XHIBIT), FNG(LOCAL) and GF(LOCAL) as presented.

Sample Motion:

I move that we adopt local board policy update 115 with additional district changes to policies FEB(LOCAL), FFG(EXHIBIT), FNG(LOCAL) and GF(LOCAL) as presented.

(LOCAL) Policy Comparison Packet

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

In this packet, you will find:

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

Annotations are shown as follows.

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

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

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

Contact:

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

Committees of citizens may be appointed by the Board in order to advise the Board or administration on areas the Board or its designee deems appropriate.

The Board shall approve all appointments to and have direct control over all use of citizen advisory committees when such committees are appointed.

The Board shall describe the proposed functions, size, term of service, membership, and relationship to District staff when such committees are formed.

The Board shall be kept informed of and shall have the right to approve or disapprove the findings and recommendations of such committees.

Within the context of current law, the District shall be guided by Board-adopted written policies that are given appropriate distribution and are accessible to staff members, parents, students, and community residents.

Organization

Legally referenced policies contain provisions from federal and state statutes and regulations, case law, and other legal authority that together form the framework for local decision making and implementation. These policies are binding on the District until the cited provisions are repealed, revised, or superseded by legislative, regulatory, or judicial action.

Legally referenced policies are not adopted by the Board.

At each policy code the legally referenced policy and the Board-adopted local policy must be read together to further a full understanding of a topic.

Terms

The terms “Trustee” and “Board member” are used interchangeably in the local policy manual. Both terms are intended to reflect all the duties and obligations of the office.

[See AB for District name terminology.]

Harmony with Law

Newly enacted law is applicable when effective. No policy or regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable law.

Severability

If any portion of a policy or its application to any person or circumstance is found to be invalid, that invalidity shall not affect other provisions or applications of policy that can be given effect without the invalid provision or application; and to this end the provisions of this policy manual are declared to be severable.

Policy Development

Policies and policy amendments may be initiated by the Superintendent, Board members, school personnel, or community citizens, but generally shall be recommended for the Board’s consideration by the Superintendent.

Official Policy Manual

The Board shall designate one copy of the local policy manual as the official policy manual of the District. The official copy shall be kept in the central administration office, and the Superintendent ~~or designee~~ shall be responsible for its accuracy and integrity and shall maintain a historical record of the District’s policy manual.

Adoption and Amendment

Local policies may be adopted or amended by a majority of the Board at any regular or special meeting, provided that Board members have had advance written notice of the proposed change and that it has been placed on the agenda for such meeting.

Local policies become effective upon Board adoption or at a future date designated by the Board at the time of adoption.

TASB Localized Updates

After Board review of legally referenced policies and adoption of local policies, the new material shall be incorporated into the official policy manual and into other localized policy manuals maintained by the District. If discrepancies occur between different copies of the manual, the version contained in the official policy manual shall be regarded as authoritative.

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

Definitions

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

Statement of Nondiscrimination

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

Discrimination

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

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

Prohibited Conduct

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

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

Prohibited Harassment

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

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

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

Examples

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

Sex-Based Harassment

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

Sexual Harassment

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

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

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

Examples

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

~~**Retaliation**~~

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

~~Examples~~

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

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

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

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

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

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

Initial Assessment

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

Interim Action

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

District Investigation

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

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

Concluding the Investigation

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

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

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

District Action

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

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

Confidentiality

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

Appeal

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

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

Response to Sexual Harassment—Title IX

General Response

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

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

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

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

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

Title IX Formal Complaint Process

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

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

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

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

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

12. Other local procedures as determined by the Superintendent.

Standard of Evidence

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

Retaliation

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

Examples

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

Records Retention

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

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

Access to Policy and Procedures

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

Meetings, Conferences, and Workshops

Professional personnel may attend and participate in meetings, conferences, and workshops that will contribute to their professional growth and development. [See also DMA and DMC]

When attendance at such events is recommended or required by the administration, the Board, TEA, or UIL, personnel may attend with the Superintendent's approval. No salary deduction or loss of leave shall occur when attendance is recommended or required.

The Superintendent may grant additional absences to employees for attendance at meetings, conferences, and workshops that are of special interest to the employee.

Release Time

Requests for release time with pay to attend employee organization meetings, other than any such meetings approved for required staff development purposes, shall be considered on a case-by-case basis. The responsibility for justifying the school-related purpose to be accomplished by attendance shall rest with the employee. Approval shall be given only if the employee is on the program, has some official function, or can obtain specific information related to his or her job description that will assist the District in improving the instructional program.

Certificate of Coursework Completion

The District shall not issue a certificate of coursework completion to a student who fails to meet all state and local requirements for graduation. [See EIF, FMH]

~~**Full Credit**~~

~~A student shall earn credit for both semesters of a two-semester course if the combined grade for the two semesters is 70 or above.~~

Partial Credit

When a student earns a passing grade in only half~~one semester~~ of a ~~two-semester~~ course and the combined grade for both halves~~the two semesters~~ is lower than 70, the District shall award the student credit for the half~~semester~~ with the passing grade. ~~The student shall be required to retake only the semester in which he or she earned the failing grade.~~

Equal Access

The District shall ensure that all students have equal access to the District's programs, instructional materials, and resources, and that all children are given equal access to academic growth and development within the educational arena.

Title IX Coordinator

Reports of discrimination based on sex/gender may be directed to the Title IX coordinator. The District designates and authorizes the~~has designated a~~ Title IX coordinator to coordinate its efforts to comply with Title IX of the Education Amendments of 1972. [See FB(EXHIBIT)]

ADA / Section 504 Coordinator

Reports of discrimination based on disability may be directed to the ADA/Section 504 coordinator. The District designates and authorizes the~~has designated an~~ ADA/Section 504 coordinator to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended. [See FB(EXHIBIT)]

Superintendent

The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.

Complaints

Allegations of unlawful discrimination, prohibited harassment, including sexual harassment, or retaliation shall be made according to FFH(LOCAL).

Records Retention

Copies of reports alleging discrimination, prohibited harassment, including sexual harassment, and retaliation; investigation reports; and related records shall be maintained by the District for a period of at least three years. If the person alleged to have experienced discrimination, prohibited harassment, or retaliation was a minor, the records shall be maintained until the person reaches the age of 21.

Section 504 Committee

The Section 504 coordinator and members of the Section 504 committee shall receive training in the procedures and requirements for identifying and providing educational and related services to those students who have disabilities, but who are not in need of special education in accordance with the Individuals with Disabilities Education Act (IDEA). [See EHBA]

The Section 504 committee shall be composed of at least two persons, including persons knowledgeable about the student, the meaning of the evaluation data, the placement options, and the legal requirements regarding least restrictive environment and comparable facilities for students with disabilities.

Referrals

	A student may be referred by parents, teachers, counselors, administrators, or any other District employee for evaluation to determine if the student has disabilities and is in need of special instruction or services.
Parental Consent	The Section 504 coordinator shall notify parents prior to any individual evaluation conducted to determine if their child has disabilities or to determine what educational or related services should be provided to the student. Parental consent shall be obtained before the initial student evaluation procedures for the identification, diagnosis, and prescription of specific education services.
Notice to Parents	Parents shall be given written notice of the District's refusal to evaluate a student or to provide specific aids and services the parents have requested.
Preplacement Evaluation	The results of the evaluation shall be considered before any action is taken to place a student with disabilities or make a significant change in placement in an instructional program. The evaluation shall include consideration of adaptive behavior. Adaptive behavior is the effectiveness with which the individual meets the standards of personal independence and social responsibility expected of his or her age and cultural group.
Impartial Hearing	Parents shall be given written notice of their due process right to an impartial hearing if they have a concern or complaint about the District's actions regarding the identification, evaluation, or educational placement of a student with disabilities. The impartial hearing shall be conducted by a person who is knowledgeable about the issues involved in Section 504 and who is not employed by the District or related to a member of the Board in a degree that would be prohibited under the nepotism statute [see DBE]. The impartial hearing officer is not required to be an attorney.
State-Mandated Assessments	Modifications in taking the state-mandated assessments may be made for a Section 504 student when the modifications have been determined not to destroy the validity of the test, are necessary for the student to take the test, are consistent with modifications provided the student in the classroom, and are approved by TEA. [See EKB]

Persons Age 21 and~~And~~ Over

The District shall not admit into its public schools any person age 21 or over unless otherwise required by law.

Registration Forms

The student's parent, legal guardian, or other person having lawful control shall annually complete registration forms. A student who has reached age 18 shall be permitted to complete these forms.

Proof of Residency

At the time of initial registration and on an annual basis thereafter, the parent, guardian, or other person having lawful control of the student under order of a court shall present proof of residency in accordance with administrative regulations developed by the Superintendent. The District may investigate stated residency as necessary.

Minor Living Apart

Person Standing in Parental Relation

A minor student residing in the District but whose parent, guardian, or other person having lawful control under a court order does not reside in the District shall present a power of attorney or an authorization agreement as provided in Chapter 34 of the Family Code assigning responsibility for the student in all school-related matters to an adult resident of the District.

Misconduct

A minor student living apart who has engaged in misconduct that results in any of the consequences found in Education Code 25.001(d) shall not be permitted to attend a District school.

Exceptions

Based on an individual student's circumstance, the Superintendent shall have authority to grant exceptions to the requirement for a power of attorney or authorization agreement and to the exclusion for misconduct.

Extracurricular Activities

The Superintendent shall determine whether a minor student living apart is present in the District for the primary purpose of participating in extracurricular activities.

Nonresident Student in Grandparent's After-School Care

The parent and grandparent of a nonresident student requesting admission under Education Code 25.001(b)(9) shall provide to the Superintendent the required information on the grandparent's residency and describe the extent of after-school care to be provided by the grandparent.

The Superintendent shall have authority to approve or deny such admissions requests in accordance with criteria approved by the Board.

"Accredited" Defined

For the purposes of this policy, "accredited" shall be defined as accreditation by TEA, an equivalent agency from another state, or an accrediting association recognized by the commissioner of education.

Grade-Level Placement

Accredited Schools

The parent, guardian, or other person having lawful control of a student enrolling in a District school from an accredited public, private, or parochial school shall provide evidence of the prior schooling outside the District. The student shall be placed initially at the grade level reached elsewhere, pending observation by the classroom teacher, guidance personnel, and the principal. On the basis of these observations and results of tests that may be administered by appropriate District personnel, the principal shall determine the final grade placement.

Nonaccredited Schools

A student enrolling in a District school from a nonaccredited public, private, or parochial school, including a homeschool, shall be placed initially at the discretion of the principal, pending observation by classroom teachers, guidance personnel, and the principal. Criteria for placement may include:

1. Scores on achievement tests, which may be administered by appropriate District personnel.
2. Recommendation of the sending school.
3. Prior academic record.
4. Chronological age and social and emotional development of the student.
5. Other criteria deemed appropriate by the principal.

Transfer of Credit

Accredited Texas Public Schools

Credit toward state graduation requirements earned in an accredited public school district in Texas shall be transferable and recognized by the District.

Other Accredited or Nonaccredited Schools

Before recognizing credit in a course earned in an accredited nonpublic school, an accredited school outside of Texas, or a nonaccredited school, appropriate personnel shall evaluate a student's records and transcript. The District may require the student to demonstrate mastery of the content or use alternative methods to verify course content for the award of credit. ~~[See EI]~~

Transition Assistance

In accordance with law, when a student who is identified as homeless or in substitute care enrolls in the District, the District shall assess the student's available records and other relevant information to determine transfer of credit for subjects and courses taken prior to enrollment.

[See EI]

Withdrawal

A parent or guardian wishing to withdraw a minor student shall present a signed statement that includes the reason for the withdrawal. A student who is 18 or older may submit a withdrawal statement without a parent's or guardian's signature.

[For District withdrawal of students no longer in attendance, see FEA(LOCAL).]

Attendance Accounting System

The Superintendent shall be responsible for designating the official attendance-taking time during the campus's instructional day and maintaining a student attendance accounting system in accordance with statutory and TEA requirements. [See also FD for admissions and residency requirements.]

Alternative Attendance-Taking~~Recording~~ Time

The ~~When appropriate, the~~ Superintendent is authorized to ~~shall~~ establish written procedures permitting a campus to record absences in~~specify~~ an alternative hour from the District's official ~~time for taking~~ attendance-taking time ~~other than the second or fifth instructional hour. Exceptions may be authorized for an entire campus~~ or for a designated group of students at a campus. The alternative ~~time for recording~~ attendance-taking time shall be determined in accordance with TEA's *Student Attendance Accounting Handbook* and administrative regulations.

Parental Consent to Leave Campus

The Superintendent shall establish procedures regarding parental consent for a student to leave campus, including procedures for documenting a student's absence. The procedures shall be communicated in the employee and student handbooks.

Program to Address Child Sexual Abuse, Trafficking, and Maltreatment

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District improvement plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law. Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

Reporting Child Abuse and Neglect

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 has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified.

A~~by any~~ person is required to~~shall~~ make a report if the person has cause to believe that an adult was a victim of abuse or neglect ~~immediately~~ as a child and the person determines in good faith that

disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.~~required by law.~~

~~Reports shall be made in accordance with FFG(EXHIBIT).~~

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

Restrictions on Reporting

In accordance with law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a 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.

Making a Report

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the Texas Abuse Hotline Website[i];
3. A local CPS office; or
4. If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the 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 to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility.

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus principal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

Confidentiality

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential

and disclosed only in accordance with the rules of the investigating agency.

Immunity

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

Failing to Report Suspected Child Abuse or Neglect

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

Responsibilities Regarding Investigations

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

[i] Texas Abuse Hotline Website: http://www.txabusehotline.org

Note: This policy addresses discrimination, harassment, and retaliation against~~involving~~ District students. For provisions regarding discrimination, harassment, and retaliation against~~involving~~ District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG. Note that FFH shall be used in conjunction with FFI (bullying) for certain prohibited conduct.

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any student on the basis of race, color, religion, sex, gender, national origin, age, disability, ~~age,~~ or any other basis prohibited by law. The District prohibits dating violence, as defined by this policy. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

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

Prohibited Conduct

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

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

Prohibited Harassment

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, sex, gender, national origin, age, disability, ~~age,~~ or any other basis prohibited by law, when the conduct ~~that~~ is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Prohibited harassment includes dating violence as defined by law and this policy.

Examples

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

Sex-Based Harassment

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

Sexual Harassment

By an Employee

Sexual harassment of a student by a District employee includes both welcome and unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

1. A District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or
2. The conduct is so severe, persistent, or pervasive that it:
    a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
    b. Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or other inappropriate social relationships between students and District employees are prohibited. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See DH]

By Others

Sexual harassment of a student, including harassment committed by another student, includes unwelcome sexual advances; requests for sexual favors; or sexually motivated physical, verbal, or nonverbal conduct when the conduct is so severe, persistent, or pervasive that it:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;

2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or

3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of sexual harassment of a student may include sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, contact, or communications, including electronic communication~~or contact~~.

Necessary or permissible physical contact such as assisting a child by taking the child's hand, comforting a child with a hug, or other physical contact not reasonably construed as sexual in nature is not sexual harassment.

Gender-Based Harassment

Gender-based harassment includes physical, verbal, or nonverbal conduct based on the student's gender, the student's expression of characteristics perceived as stereotypical for the student's gender, or the student's failure to conform to stereotypical notions of masculinity or femininity. For purposes of this policy, gender-based harassment is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;

2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or

3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of gender-based harassment directed against a student, regardless of the student's or the harasser's actual or perceived sexual orientation or gender identity, may include offensive jokes, name-calling, slurs, or rumors; cyberharassment; physical aggression or assault; threatening or intimidating conduct; or other kinds of aggressive conduct such as theft or damage to property.

Dating Violence

Dating violence occurs when a person in a current or past dating relationship uses physical, sexual, verbal, or emotional abuse to harm, threaten, intimidate, or control the other person in the relationship. Dating violence also occurs when a person commits these acts against a person in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

For purposes of this policy, dating violence is considered prohibited harassment if the conduct is so severe, persistent, or pervasive that the conduct:

1. Affects a student's ability to participate in or benefit from an educational program or activity, or creates an intimidating, threatening, hostile, or offensive educational environment;
2. Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
3. Otherwise adversely affects the student's educational opportunities.

Examples

Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.

~~**Retaliation**~~

~~In accordance with federal anti-discriminations laws, the District prohibits retaliation against a student alleged to have experienced discrimination or harassment, including dating violence, or against any individual who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated.~~

~~Examples~~

~~Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.~~

~~**False Claim**~~

~~A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action.~~

~~**Prohibited Conduct**~~

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

Reporting Procedures

Student Report

Any student who believes that he or she has experienced prohibited conduct or believes that another student has experienced prohibited conduct should immediately report the alleged acts to a teacher, school counselor, principal, other District employee, or the appropriate District official listed in this policy.

Employee Report

Any District employee who suspects or receives direct or indirect notice that a student or group of students has or may have experienced prohibited conduct shall immediately notify the appropriate District official listed in this policy and take any other steps required by this policy.

Method of Reporting

Students, parents, and employees reporting prohibited conduct may make a verbal or written report. Reports may also be made using the District's incident form available on the District's website.

Definition of District Officials

For the purposes of this policy, District officials are the Title IX coordinator, the ADA/Section 504 coordinator, and the Superintendent.

Title IX Coordinator

Reports of discrimination based on sex, including sexual harassment, ~~or~~ gender-based harassment, or dating violence, may be directed to the designated Title IX coordinator for students. [See FFH(EXHIBIT)]

ADA / Section 504 Coordinator

Reports of discrimination based on disability may be directed to the designated ADA/Section 504 coordinator for students. [See FFH(EXHIBIT)]

Superintendent

The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws.

Alternative Reporting Procedures

An individual~~A student~~ shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.

A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.

Timely Reporting

To ensure the District's prompt investigation, reports~~Reports~~ of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. ~~A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.~~

Notice to Parents

The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

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

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

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

Initial Assessment

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proved~~proven~~, would constitute prohibited conduct as defined by this policy. If so, the District shall immediately undertake an investigation, except as provided below at Criminal Investigation.

If the District official determines that the allegations, if proved~~proven~~, would not constitute prohibited conduct as defined by this policy, the District official shall refer the complaint for consideration under FFI.

Interim Action

If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of the District's investigation.

District Investigation

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

The District shall conduct an adequate, reliable, and impartial investigation. The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The parties may identify witnesses and evidence that will assist in the investigation of the complaint. The investigation may also include analysis of other information or documents related to the allegations.

Criminal Investigation

If a law enforcement or regulatory agency notifies the District that a criminal or regulatory investigation has been initiated, the District shall confer with the agency to determine if the District investigation would impede the criminal or regulatory investigation. The District shall proceed with its investigation only to the extent that it does not impede the ongoing criminal or regulatory investigation. After the law enforcement or regulatory agency has finished gathering its evidence, the District shall promptly resume its investigation.

Concluding the Investigation

Absent extenuating circumstances, such as a request by a law enforcement or regulatory agency for the District to delay its investigation, the investigation should be completed within ten District business days from the date of the report; however, the investigator shall take additional time if necessary to complete a thorough investigation.

The investigator shall prepare a written report of the investigation. The report shall include a determination of whether prohibited conduct or bullying occurred. The report shall be filed with the District official overseeing the investigation.

Notification of Outcome

The District shall provide written notification of the outcome of the investigation to both parties, as appropriate, and in accordance with privacy and confidentiality laws, including FERPA.

District Action

Prohibited Conduct

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct. The District shall take steps to prevent recurrence of any discrimination and to correct its effects on the complainant and others as appropriate.

Corrective Action

Examples of corrective action may include a training program for those involved in the report~~complaint~~, a comprehensive education program for the school community, counseling to the victim and the student who engaged in prohibited conduct, follow-up inquiries to determine if any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where prohibited conduct has occurred, and reaffirming the District's policy against discrimination and harassment.

Bullying

If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate notice to parents and District action. The District official shall refer to FDB for transfer provisions.

Improper Conduct

If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take disciplinary action in accordance with the Student Code of Conduct or other corrective action reasonably calculated to address the conduct.

Confidentiality

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

Appeal

A student or parent who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level. A student or parent shall be informed of his or her right to file a complaint with the United States Department of Education Office for Civil Rights.

Response to Sexual Harassment–Title IX

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

General Response

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

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

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

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

Title IX Formal Complaint Process

To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for

responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

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

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence;
3. A requirement that the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process;
5. Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process, including time frames for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;
6. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
7. A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment;
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
9. A description of the supportive measures available to the complainant and respondent;
10. A prohibition on using or seeking information protected under a legally recognized privilege unless the individual holding the privilege has waived the privilege;
11. Additional formal complaint procedures in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures; and

12. Other local procedures as determined by the Superintendent.

Standard of Evidence

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

Retaliation

In accordance with federal anti-discriminations laws, the District prohibits retaliation against a student alleged to have experienced discrimination or harassment, including dating violence, or against any individual who, in good faith, makes a report of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or participates in an investigation. The District shall investigate allegations of retaliation and take action against those found to have retaliated. The definition of prohibited retaliation under this policy also includes retaliation against a student who refuses to participate in any manner in an investigation under Title IX.

Examples

Examples of retaliation may include threats, intimidation, coercion, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.

False Claim

A student who intentionally makes a false claim or offers false statements in a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action in accordance with law.

Records Retention

The District shall retain copies of allegations, investigation reports, and related records regarding any prohibited conduct in accordance with the District's records control~~retention~~ schedules, but for no less than the minimum amount of time required by law. [See CPC]

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

Access to Policy and Procedures

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

UIL Activities

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

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

Athletic Program

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

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

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

Non-UIL Activities

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

Overnight Trips

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

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

Student or parent complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FNG after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, religion, sex, gender, national origin, age, or disability~~, or religion~~ shall be submitted in accordance with FFH.
2. Complaints concerning dating violence shall be submitted in accordance with FFH.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with FFH.
4. Complaints concerning bullying or retaliation related to bullying shall be submitted in accordance with FFI.
5. Complaints concerning failure to award credit or a final grade on the basis of attendance shall be submitted in accordance with FEC.
6. Complaints concerning expulsion shall be submitted in accordance with FOD and the Student Code of Conduct.
7. Complaints concerning any final decisions of the gifted and talented selection committee regarding selection for or exit from the gifted program shall be submitted in accordance with EHBB.
8. Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be submitted in accordance with FB and the procedural safeguards handbook.
9. Complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act shall be submitted in accordance with EHBAE, FOF, and the procedural safeguards handbook provided to parents of all students referred to special education.
10. Complaints concerning instructional resources shall be submitted in accordance with EF.
11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

12. Complaints concerning intradistrict transfers or campus assignment shall be submitted in accordance with FDB.

13. Complaints concerning admission, placement, or services provided for a homeless student shall be submitted in accordance with FDC.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 calendar days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Notice to Students and Parents

The District shall inform students and parents of this policy through appropriate District publications.

Guiding Principles

Informal Process

The Board encourages students and parents to discuss their concerns with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

A student or parent may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, students and parents are encouraged to seek informal resolution of their concerns. A student or parent whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Freedom from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the

	deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
Scheduling Conferences	The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student or parent fails to appear at a scheduled conference, the District may consider the complaint and issue a decision in the student's or parent's absence.
Response	At Levels One and Two, "response" shall mean a written communication to the student or parent from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the student's or parent's email address of record, or sent by U.S. Mail to the student's or parent's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.
Days	"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Representative	"Representative" shall mean any person who or organization that is designated by the student or parent to represent the student or parent in the complaint process. A student may be represented by an adult at any level of the complaint. The student or parent may designate a representative through written notice to the District at any level of this process. If the student or parent designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.
Consolidating Complaints	Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.
Untimely Filings	All time limits shall be strictly followed unless modified by mutual written consent. If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the student or parent, at any point during the complaint process. The student or parent may appeal the dismissal by seeking review in writing within ten

days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the student or parent does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student or parent unless the student or parent did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the student or parent first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

   In most circumstances, students and parents shall file Level One complaints with the campus principal.

   If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the student or parent within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the student or parent a written response within ten days following

the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the student or parent did not receive the relief requested at Level One or if the time for a response has expired, the student or parent may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The student or parent may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the student or parent at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the student or parent may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the student or parent did not receive the relief requested at Level Two or if the time for a response has expired, the student or parent may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The student or parent may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student or parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three

presentation. The Level Three presentation, including the presentation by the student or parent or the student's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

Frequent Appeals

If a student, a parent, or a student's representative has presented five Level Three appeals to the Board within a calendar year, the Board shall consider any subsequent Level Three appeal from the complainant during that calendar year only upon written submission, with no Level Three presentation made to the Board by the complainant or the administration. In such an event, the Board shall consider the written record and give notice of its decision in writing.

Upon a motion by any Board member, however, the presiding officer shall call for a vote to suspend this rule and allow an oral presentation of the Level Three appeal.

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

Complaints by members of the public shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with GF after the relevant complaint process:

1. Complaints concerning instructional resources shall be filed in accordance with EF.
2. Complaints concerning a commissioned peace officer who is an employee of the District shall be filed in accordance with CKE.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 calendar days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Guiding Principles

Informal Process

The Board encourages the public to discuss concerns with an appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

An individual may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Freedom from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on

	the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
Scheduling Conferences	The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the individual fails to appear at a scheduled conference, the District may consider the complaint and issue a decision in the individual's absence.
Response	At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.
Days	"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Representative	"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process. The individual may designate a representative through written notice to the District at any level of this process. If the individual designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.
Consolidating Complaints	Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.
Untimely Filings	All time limits shall be strictly followed unless modified by mutual written consent. If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date

of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and

2. With the lowest level administrator who has the authority to remedy the alleged problem.

   If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the individual within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other

relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The individual may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The individual may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the individual notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the individual or his or her representative, any presentation

from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

Frequent Appeals

If a member of the public has presented five Level Three appeals to the Board within a calendar year, the Board shall consider any subsequent Level Three appeal from the complainant during that calendar year only upon written submission, with no Level Three presentation made to the Board by the complainant or the administration. In such an event, the Board shall consider the written record and give notice of its decision in writing.

Upon a motion by any Board member, however, the presiding officer shall call for a vote to suspend this rule and allow an oral presentation of the Level Three appeal.

Explanatory Notes
TASB Localized Policy Manual Update 115

Leander ISD

ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

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

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

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

AF(LEGAL) INNOVATION DISTRICTS

Revisions to the Administrative Code, effective January 2020:

- Specify that an innovation district may not be exempted from Education Code Chapters 48 (Foundation School Program) and 49 (Options for Local Revenue Levels in Excess of Entitlement); and
- Authorize the commissioner to terminate district of innovation status for a district's failure to comply with the duty to discharge or refuse to hire certain employees or applicants as required by state law.

AIA(LEGAL) ACCOUNTABILITY: ACCREDITATION AND PERFORMANCE INDICATORS

Administrative rule changes, effective August 2019, specify that districts with a local accountability system must use the local accountability system rating standards established by the commissioner. These standards will be updated annually and published in the *Local Accountability System Manual*.

Definitions for the various accreditation statuses have also been added.

AIB(LEGAL) ACCOUNTABILITY: PERFORMANCE REPORTING

TEA has renamed the Performance-Based Monitoring Analysis System (PBMAS) to the Results Driven Accountability (RDA) system, effective December 3, 2019. This was to align with the Office of Special Education Programs (OSEP) framework.

AIC(LEGAL) ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

Beginning with the 2020–21 school year, HB 4205 creates a new option for campuses that are required to submit campus turnaround plans—an accelerated campus excellence (ACE) turnaround plan. The commissioner is required to approve an ACE turnaround plan if the commissioner determines that the plan meets the statutory requirements.

Other changes are from revised Administrative Code rules, effective March 31, 2020. The rules clarify interventions and sanctions provisions, including campus intervention team membership and participation and campus turnaround plan submission, approval, and implementation processes.

Additional detail has been included about the required notice the campus intervention team must provide regarding the public meeting for soliciting input on development of a targeted improvement plan.

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BBA(LEGAL) BOARD MEMBERS: ELIGIBILITY/QUALIFICATIONS

This legally referenced policy on eligibility and qualifications for board members has been revised to clarify that a person cannot *run* for the board if the person has a final felony conviction from which the person has not been pardoned or had the disabilities removed (see Eligibility). The provision at Ineligibility indicating that a person cannot *serve* as a member of the board if the person has been convicted of a felony remains unchanged.

BBBB(LEGAL) ELECTIONS: POST-ELECTION PROCEDURES

HB 2640 deleted the requirement for the presiding officer of the board to prepare a report of precinct results for the secretary of state.

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

Extensive changes to this legally referenced policy on board member training and orientation are from revised Administrative Code rules, effective March 24, 2020. See the TASB Board Development Services website for helpful overviews of the training requirements.

BDF(LEGAL) BOARD INTERNAL ORGANIZATION: CITIZEN ADVISORY COMMITTEES

HB 18 revised the list of persons that a board may appoint to the school health advisory council (SHAC). The bill also added requirements for a district to publish in the student handbook and on the district's website certain information on student physical and mental health resources, policies, and procedures and whether each campus has a full-time nurse or school counselor. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

BDF(LOCAL) BOARD INTERNAL ORGANIZATION: CITIZEN ADVISORY COMMITTEES

Policy Service recommends that the administrative details regarding committees be removed from the local policy manual, as board-adopted policy is not required.

BF(LOCAL) BOARD POLICIES

A revision to this local policy clarifies that a district's legally referenced policies are not adopted by the board.

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

BQ(LEGAL) PLANNING AND DECISION-MAKING PROCESS

HB 18 revised the list of strategies for improvement of student performance that must be included in the district improvement plan (DIP) to include positive behavior interventions and support and implementation of a comprehensive school counseling program. In addition, the DIP must include:

- Strategies for providing elementary school students information about higher education; and
- The district's procedures on mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

Details about dating violence have been moved to FFH addressing harassment; details about sexual abuse, sex trafficking, and other maltreatment of children have been moved to FFG addressing child abuse and neglect.

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BQA(LEGAL) PLANNING AND DECISION-MAKING PROCESS: DISTRICT-LEVEL

Provisions on the district-level decision-making committee's responsibilities have been revised to better match statute.

BQB(LEGAL) PLANNING AND DECISION-MAKING PROCESS: CAMPUS-LEVEL

Provisions on the campus-level decision-making committee's responsibilities have been revised to better match statute.

CBB(LEGAL) STATE AND FEDERAL REVENUE SOURCES: FEDERAL

The Note on page 5 has been adjusted to include a link to a USDA memo addressing micro-purchase and simplified acquisition thresholds for federal child nutrition programs.

CCA(LEGAL) LOCAL REVENUE SOURCES: BOND ISSUES

TASB Policy Service engaged an outside law firm with expertise in the area of bonds to review the federal securities law provisions in this legally referenced policy, which resulted in revisions throughout that section of the policy.

In addition, we have included two existing statutory provisions on:

- Attorney general review and approval of a public security and the record of proceedings, and
- Authority of the issuer of public securities to contract for certain services.

CCG(LEGAL) LOCAL REVENUE SOURCES: AD VALOREM TAXES

At Tax Rate Adoption, we have added information on the maximum compressed rate from HB 3 and new Administrative Code rules effective April 10, 2020.

HB 492 repeals existing law regarding reappraisal of property damaged in a disaster area. However, an amendment to the Texas constitution approved by voters in November 2019 authorizes a temporary exemption for property damaged in a disaster. These new provisions have been added to CCGA(LEGAL) addressing ad valorem tax exemptions.

A board must conduct an efficiency audit before holding an election seeking voter approval to adopt an M&O tax rate. In conducting the audit, the auditor selected by the board must follow the Legislative Budget Board (LBB) guidelines, to which we have included a link.

CCGA(LEGAL) AD VALOREM TAXES: EXEMPTIONS AND PAYMENTS

HB 492 provides for a temporary exemption for property damaged in a disaster, as authorized in an amendment to the Texas Constitution approved by voters in November 2019.

CCGB(LEGAL) AD VALOREM TAXES: ECONOMIC DEVELOPMENT

Revisions to this legally referenced policy reflect amended Administrative Code rules, effective February 6, 2020, and include:

- The exclusion of any employee names or other personal identifying information from the definition of *substantive documents* submitted to the comptroller in connection with economic development applications,
- Clarification of the procedures for an applicant to obtain continued eligibility for a limitation on appraised value, and

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- Extended timelines for the comptroller to review a written agreement for a limitation on appraised value.

CCH(LEGAL) LOCAL REVENUE SOURCES: APPRAISAL DISTRICT

Effective September 1, 2020, SB 2 requires an appraisal district board in a county with a population of a million or more to increase the size of the appraisal review board (ARB) to an appropriate number of members. The ARB must establish special panels to conduct protest hearings.

CFA(LEGAL) ACCOUNTING: FINANCIAL REPORTS AND STATEMENTS

Revisions to the provisions on the Annual Local Debt Report are from amended Administrative Code rules, effective April 5, 2020.

Other revisions are to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CFC(LEGAL) ACCOUNTING: AUDITS

This legally referenced policy on audits has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CKA(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: INSPECTIONS

This legally referenced policy on asbestos has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

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

Revisions regarding training are from amended Administrative Code rules, effective February 5, 2020, and require district police officers and school resource officers to receive a school-based law enforcement proficiency certificate within 180 days of commission or placement in the district.

CKEA(LEGAL) SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

The addition of provisions regarding reporting on appointment and separation of licensed peace officers was prompted by amended Administrative Code rules, effective February 5, 2020.

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

Revisions to the provisions prohibiting certain expenditures of funds from the instructional materials allotment are from amended Administrative Code rules, effective February 6, 2020.

CO(LEGAL) FOOD AND NUTRITION MANAGEMENT

A Note has been added pointing to the Texas Department of Agriculture's Records Retention List, which can assist districts with retaining documentation to demonstrate program compliance.

CQ(LEGAL) TECHNOLOGY RESOURCES

This legally referenced policy has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources. Citations to various laws pertaining to unlawful interception, use, or disclosure of communications have also been added to this policy for reference.

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

Online posting provisions have been updated to:

- Clarify that notification by the campus intervention team regarding public input on development of a targeted improvement plan must be published on the district and campus websites,
- Add the requirement to post a completed campus turnaround plan 30 days before the final plan is submitted to the board,
- Add details about posting of the Annual Local Debt Report,
- Add the requirement to post information on designated agents under the Digital Millennium Copyright Act for districts seeking to limit liability, and
- Add the requirement to post the district's family engagement plan.
- Add contact information for the district's Title IX coordinator and the district's policy of nondiscrimination; and
- Add materials used to train the Title IX coordinator and other individuals who are relevant to resolving complaints under Title IX.

CQB(LEGAL) TECHNOLOGY RESOURCES: CYBERSECURITY

We have removed provisions on the Electronic Communication Privacy Act that address the criminal consequences of the Act. A high-level reference to this information has been added to CQ(LEGAL).

CRE(LEGAL) INSURANCE AND ANNUITIES MANAGEMENT: WORKERS' COMPENSATION

We have removed case law addressing enforcement of a reasonable absence-control rule because the case is also included in DEC(LEGAL).

CS(LEGAL) FACILITY STANDARDS

Provisions on termination of LP-gas service have been revised as a result of amended Administrative Code rules, effective January 6, 2020.

CY(LEGAL) INTELLECTUAL PROPERTY

This legally referenced policy on intellectual property has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

D(LEGAL) PERSONNEL

The D Section table of contents has been revised to rename DBAA Pre-Employment Reviews.

DAA(LEGAL) EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY

This legally referenced policy has been revised at Bankruptcy Discrimination to better match statute.

The provisions addressing compliance coordinators for federal nondiscrimination laws have been updated in response to the new Title IX regulations.

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

This legally referenced policy has been retitled and reorganized to include various pre-employment reviews. As a result, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to this policy from DC(LEGAL).

Provisions have been added on the U.S. Department of Transportation's (DOT) national commercial driver license drug and alcohol clearinghouse. A district may not employ a driver subject to DOT drug and alcohol testing who will perform a safety-sensitive function without first conducting a pre-employment inquiry through the clearinghouse.

DC(LEGAL) EMPLOYMENT PRACTICES

As mentioned above, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to DBAA(LEGAL), which now addresses pre-employment reviews.

DED(LOCAL) COMPENSATION AND BENEFITS: VACATIONS AND HOLIDAYS

If your district offers paid vacation or holiday benefits to certain district employees, please contact the district's policy consultant for recommended policy language addressing board authorization and development of administrative procedures for consistent application.

TASB HR Services has a framework to help districts develop administrative procedures on these issues.

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

DF(LEGAL) TERMINATION OF EMPLOYMENT

Failure to terminate an employee on the Do Not Hire Registry has been added as a reason for which the State Board for Educator Certification may impose sanctions on an educator. This change is from amended Administrative Code rules, effective March 5, 2020.

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

Changes to this legally referenced policy on reports to TEA regarding non-certified employee misconduct are from revised Administrative Code rules, effective December 31, 2019. The rules clarify the information that must be in a report and include several relevant definitions.

DHE(LEGAL) EMPLOYEE STANDARDS OF CONDUCT: SEARCHES AND ALCOHOL/DRUG TESTING

Information on postaccident alcohol or controlled substances testing has been incorporated from DHE(EXHIBIT), which is being deleted.

Additional detail has been included regarding required Department of Transportation drug and alcohol testing of commercial vehicle operators.

DHE(EXHIBIT) EMPLOYEE STANDARDS OF CONDUCT: SEARCHES AND ALCOHOL/DRUG TESTING

This exhibit on postaccident alcohol or controlled substances testing is being deleted, as the content has been incorporated into DHE(LEGAL).

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

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

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

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

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

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

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

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

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

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

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

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

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

DMA(LEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

HB 18 revises both optional and required training for district staff development. Required training, which must be provided annually, focuses on various aspects of student mental health, as listed in the policy. Suicide prevention training must address the specific components indicated.

Details about required mental health support programs have been updated in accordance with HB 18 and moved to FFEB addressing student mental health.

Provisions addressing required training on child abuse, trafficking, and maltreatment have been updated based on revised Administrative Code rules, effective November 6, 2019.

DMD(LOCAL) PROFESSIONAL DEVELOPMENT: PROFESSIONAL MEETINGS AND VISITATIONS

Policy Service recommends that the administrative details regarding professional meetings be removed from the local policy manual, as board-adopted policy is not required.

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

DP(LEGAL) PERSONNEL POSITIONS

This legally referenced policy on personnel has been revised to include provisions on various physical and mental health professionals, including:

- School nurses,
- Certified school counselors,
- Nonphysician mental health professionals, and
- Licensed specialists in school psychology (LSSPs).

EEL(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CONTRACTS WITH OUTSIDE AGENCIES

In accordance with new federal provisions, districts that have Junior Reserve Officers' Training Corps programs must permit homeschooled students to participate in the program.

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

Provisions on coordinated health programs have been updated based on HB 18.

HB 18 amends the SHAC's duties to include making recommendations about various aspects of student mental health.

EHB(LEGAL) CURRICULUM DESIGN: SPECIAL PROGRAMS

New provisions on dyslexia compliance monitoring are from revised Administrative Code rules, effective December 25, 2019.

SB 2075 requires that a district notify the parent of a student who has or is at risk for dyslexia or a related disorder that the Texas State Library and Archives Commission provides audiobooks free of charge to students with eligible disabilities.

EHBA(LEGAL) SPECIAL PROGRAMS: SPECIAL EDUCATION

Provisions on off-campus programs to provide special education and related services during school hours in a non-district facility are from new Administrative Code rules, effective November 10, 2019. The rules address placement in the programs, notification to and review by TEA, contract requirements, and changes of student residence.

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

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. For such students who transfer into the district, the rules require the receiving district to:

- Accept a referral done by a previous district for a special education evaluation and complete any written report of a full individual and initial evaluation by the timelines in law, and
- Ensure that the district meets student transfer requirements relating to the ARD committee for a student who is already eligible for services.

EHBE(LEGAL) SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

This legally referenced policy on bilingual education has been revised throughout as a result of amended Administrative Code rules, effective April 10, 2020. The rules address requirements for administering the home language survey, parental notice and consent, and assessment options for students in a two-way dual language immersion program.

Other revisions are to better match statute.

EHBG(LEGAL) SPECIAL PROGRAMS: PREKINDERGARTEN

Amended Administrative Code rules, effective February 13, 2020, prompted revisions throughout the high-quality prekindergarten program provisions.

EHBJ(LEGAL) SPECIAL PROGRAMS: INNOVATIVE AND MAGNET PROGRAMS

Changes to the application process for requesting approval from the State Board of Education or the commissioner to offer an innovative course are from amended Administrative Code rules, effective December 25, 2019.

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

Provisions on dual credit agreements have been updated based on amended Administrative Code rules, effective November 24, 2019. We have also added some existing statutory provisions on dual credit programs to address faculty supervision and student transcripts.

EI(LEGAL) ACADEMIC ACHIEVEMENT

Provisions on partial award of credit have been updated to reflect revised Administrative Code rules, effective March 15, 2020. The rules revised terminology regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester."

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to:

- Adopt local policy to assist with awarding credit for a course that was earned prior to the student enrolling in or transferring to the district [see FD(LOCAL) recommendations in Update 115],
- Develop credit recovery plans for students who were denied credits outside the district or if the student's credit deficit would impede on-time promotion or graduation,
- Create course transition plans for students who were denied credit,
- Develop and administer personal graduation plans for junior or middle school students, and
- Comply with existing Education Code provisions regarding awarding of diplomas.

EI(LOCAL) ACADEMIC ACHIEVEMENT

Provisions on partial credit have been updated to reflect revised Administrative Code rules, which changed terminology regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester."

To provide flexibility, Policy Service is recommending deletion of the statement that a student shall be required to retake only the portion of the course with a failing grade. The ways a student can earn credit for the failed part of a course can include various methods other than retaking the failed portion, and board policy is not required to specify which particular method may be used.

Please note: The district's locally developed text at Full Credit is recommended for deletion. This provision would be more appropriately addressed in administrative regulations, such as the student handbook.

EIF(LEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

Beginning with students enrolled in the 12th grade in the 2021–22 school year, HB 3 will require a student to complete and submit a federal or Texas application for financial aid to graduate. The provision has been added to the policy manual now in case the district starts receiving questions about this provision. TEA will be issuing rules with more details.

Details on forming an individual graduation committee, including acceptable alternate members, have been added from amended Administrative Code rules, effective February 10, 2020.

Administrative Code rules effective November 24, 2019, provide that a student who completes the core curriculum of an institution of higher education meets the curriculum requirements for the foundation high school program, earns an endorsement and the distinguished level of achievement, and is entitled to a high school diploma.

Provisions on transitioning to the foundation high school program have been deleted from law.

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EKB(LEGAL) TESTING PROGRAMS: STATE ASSESSMENT

Changes to this legally referenced policy on assessments include:

- Additional detail on end-of-course assessments, for more complete information;
- Deletion of detailed provisions on use of the TSI as a substitute assessment in lieu of a statutory reference; and
- Revisions to testing requirements for accountability purposes based on amended Administrative Code rules, effective February 23, 2020.

EKC(LEGAL) TESTING PROGRAMS: READING ASSESSMENT

Effective with the 2020–21 school year, HB 3 requires a district to administer the commissioner-adopted reading instrument or the commissioner-approved alternative reading instrument to students at the kindergarten level and report results of reading instruments to parents within 60 calendar days of administration.

ELA(LEGAL) CAMPUS OR PROGRAM CHARTERS: PARTNERSHIP CHARTERS

This legally referenced policy on partnership charters has been significantly revised in accordance with amended Administrative Code rules, effective March 31, 2020. The rules:

- State that operating partners have final and sole authority over certain campus decisions;
- Add numerous requirements for performance contracts; and
- Update the TEA approval process.

In accordance with amended Administrative Code rules, effective September 1, 2019, a performance contract for a partnership charter only needs to include assurances that the district has consulted with relevant campus personnel if the partnering entity is an open enrollment charter school and not for other partnering entities approved by TEA.

F(LEGAL) STUDENTS

Update 115 includes reorganization of student mental health provisions. As a result:

- FFE has been renamed Counseling and Mental Health;
- FFEA has been renamed Counseling; and
- FFEB has been renamed Mental Health.

FB(LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

The provisions on required grievance procedures and retaliation have been updated based on the new Title IX regulations.

FB(LOCAL) EQUAL EDUCATIONAL OPPORTUNITY

The provision on the Title IX coordinator has been updated in response to the new Title IX regulations. Corresponding wording changes were made to the ADA/Section 504 coordinator text.

Please note: We have retained unchanged your unique text at Impartial Hearing and throughout the remainder of the policy.

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FB(EXHIBIT) EQUAL EDUCATIONAL OPPORTUNITY

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

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

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

FD(LOCAL) ADMISSIONS

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to adopt local policy to assist with awarding credit to a student who is homeless or in substitute care for a course that was earned prior to the student enrolling in or transferring to the district. See Transition Assistance for recommended text to comply with this local policy requirement.

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

FDB(LEGAL) ADMISSIONS: INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

Clarification has been added regarding transfer of a student with a disability who receives special education services and who engaged in bullying.

FEA(LEGAL) ATTENDANCE: COMPULSORY ATTENDANCE

From HB 3, we have added a provision, effective September 1, 2020, clarifying that a student is not required to attend school for the additional instructional days for which a district receives a financial incentive under Education Code 48.0051. See FEB(LEGAL) for more information.

FEB(LEGAL) ATTENDANCE: ATTENDANCE ACCOUNTING

Amended Administrative Code rules, effective December 25, 2019, delete the reference to taking attendance during the second or fifth instructional hour and specify that attendance shall be taken at the official attendance-taking time during the campus's instructional day. There is no requirement to include the official attendance-taking time in policy; it may be designated in district procedures.

From HB 3, we have added a provision, effective September 1, 2020, under which a district may receive a financial incentive for offering an additional 30 days of half-day instruction above the required minimum number of minutes for students in prekindergarten through fifth grade.

FEB(LOCAL) ATTENDANCE: ATTENDANCE ACCOUNTING

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

See FEB in the *TASB Regulations Resource Manual*.

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FFAC(LEGAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Provisions on nursing peer review committees have been moved to DP(LEGAL).

Provisions on psychotropics and psychiatric evaluations have been moved to FFEB(LEGAL).

FFAE(LEGAL) WELLNESS AND HEALTH SERVICES: SCHOOL-BASED HEALTH CENTERS

HB 18 permits the board (in addition to a local health education and health-care advisory council) to initiate the establishment of a school-based health center at a campus. The bill also expands the list of services that may be provided at school-based health centers to include physical health care, treatment of mental health conditions, and treatment for substance abuse.

Other changes from HB 18 address parental consent for referrals, the membership of the advisory council, and coordination with existing providers.

FFB(LEGAL) STUDENT WELFARE: CRISIS INTERVENTION

Provisions on the recommended best practice programs and research-based practices on student mental health have been moved to FFEB(LEGAL).

FFC(LEGAL) STUDENT WELFARE: STUDENT SUPPORT SERVICES

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. The rules address processes and practices on the following:

- Transferring student records;
- Developing systems to ease transition for students, including welcome packets, introductions, and mechanisms for receiving school nutrition program benefits;
- Convening enrollment conferences;
- Determining appropriate placement in educational programs and courses;
- Facilitating participation in extracurricular programs;
- Promoting postsecondary information; and
- Notifying the educational decision-maker and caseworker of events that significantly impact the student's education.

FFE(LEGAL) STUDENT WELFARE: COUNSELING AND MENTAL HEALTH

Provisions on counseling have been moved to FFEA.

FFEA(LEGAL) COUNSELING AND MENTAL HEALTH: COUNSELING

This legally referenced policy has been reorganized to focus on both behavioral and academic counseling programs. As a result:

- Personnel provisions on school counselors and their duties have been moved to DP(LEGAL), and
- Various provisions regarding consent to counseling services previously at FFE(LEGAL) have been moved to this code.

From HB 18, we have added a provision requiring a school counselor to work with various stakeholders to plan, implement, and evaluate a comprehensive school counseling program.

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From HB 114, we have added a provision applicable with the 2020–21 school year requiring a school counselor to provide information regarding availability of college credit for military experience, education, and training obtained during military service.

FFEB(LEGAL) COUNSELING AND MENTAL HEALTH: MENTAL HEALTH

This legally referenced policy has been added to focus on student mental health programs. As a result, provisions on psychotropics and psychiatric evaluations previously at FFAC(LEGAL) have been moved to this code.

The policy now addresses the various mental health programs, as revised by HB 18, for which the district must develop practices and procedures. The practices and procedures must be included in the student handbook and district improvement plan. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

FFG(LEGAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

This legally referenced policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules, effective November 6, 2019. The rules address the required policy on sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement. The rules also revise the elements of the required child abuse and neglect reporting policy.

FFG(LOCAL) has been revised to comply with these rule changes.

FFG(LOCAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

This local policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules.

Recommended text is included to provide the required policy addressing sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

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

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

FFG(EXHIBIT) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

As mentioned at FFG(LEGAL), Administrative Code rules on child abuse and neglect were recently revised. To ensure that all required policy elements are addressed in board-adopted local policy, we have revised and moved provisions from this exhibit into FFG(LOCAL). This exhibit is recommended for deletion.

FFH(LEGAL) STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

This legally referenced policy addressing discrimination, harassment, and retaliation against students has been significantly revised to include the new Title IX regulations, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment.

Leander ISD

The final Title IX regulations and related materials are available on the U.S. Department of Education Office for Civil Rights website.

Provisions on dating violence have been moved from BQ(LEGAL) to this code on discrimination, harassment, and retaliation.

FFH(LOCAL) STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

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

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

Policy Service also recommends updates to the examples for harassment to include cyberharassment and electronic communications.

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

FFH(EXHIBIT) STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

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

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

Leander ISD

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

FM(LEGAL) STUDENT ACTIVITIES

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

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

FMF(LOCAL) STUDENT ACTIVITIES: CONTESTS AND COMPETITION

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

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

Policy Service has revised the list of protected characteristics at Other Complaint Processes, item 1, to align with the list at FFH(LOCAL) above.

A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

See FNG in the *TASB Regulations Resource Manual* for updated complaint forms.

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

Please note: We have retained unchanged your unique text at Frequent Appeals.

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

Our records indicate that you have an exhibit at this code that you may need to review and revise in light of the changes in this update. Please advise us:

- If this exhibit is obsolete and should be deleted from your localized policy manual; or
- If you have revisions that you wish to submit for editorial and legal review and incorporation into your localized policy manual.

GBAA(EXHIBIT) INFORMATION ACCESS: REQUESTS FOR INFORMATION

This exhibit referring to the attorney general's guidelines for charges under the Public Information Act is being deleted. The citation to the Administrative Code where these charges are found has been added to GBAA(LEGAL).

See GBAA in the *TASB Regulations Resource Manual* for updated forms related to requests for information.

Leander ISD

GF(LOCAL) PUBLIC COMPLAINTS

A recommended revision specifies that a person filing a complaint regarding refusal of entry to or ejection from property based on Education Code 37.105 shall be permitted to address the board within 90 "calendar" days. This is an exception to how other timelines are calculated in the policy, which are based on "business" days in accordance with how days are defined.

See GF in the *TASB Regulations Resource Manual* for updated complaint forms.

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

Please note: We have retained unchanged your unique text at Frequent Appeals.

GF(EXHIBIT) PUBLIC COMPLAINTS

Our records indicate that you have an exhibit at this code that you may need to review and revise in light of the changes in this update. Please advise us:

- If this exhibit is obsolete and should be deleted from your localized policy manual; or
- If you have revisions that you wish to submit for editorial and legal review and incorporation into your localized policy manual.

GKA(LEGAL) COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

Provisions on drones have been updated based on changes to federal law and replace previous provisions on model aircraft.

Vantage Points

A Board Member's Guide to Update 115

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

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

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

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

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

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

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

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

Section B—Local Governance

Board Policy

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

Section D—Personnel

Compensation and Benefits

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

Discrimination, Harassment, and Retaliation

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

Other revisions address the new Title IX regulations and:

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

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

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

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

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

Section E—Instruction

Academic Achievement

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

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

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

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

Section F—Students

Admissions

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

Attendance Accounting

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

Child Abuse and Neglect

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

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

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

Discrimination, Harassment, and Retaliation

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

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

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

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

Student and Parent Complaints

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

Section G—Community and Governmental Relations

Public Complaints

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

Miscellaneous Deletions

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

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

A message from TASB Governmental Relations

TASB Advocates for Public Schools

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

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

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

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

Attendance Accounting System

The Superintendent or designee shall be responsible for designating the official attendance-taking time during the campus's instructional day and maintaining a student attendance accounting system in accordance with statutory and TEA requirements. [See also FD for admissions and residency requirements.]

Alternative Attendance-Taking~~Recording~~ Time

The ~~When appropriate, the~~ Superintendent or designee is authorized to ~~shall~~ establish written procedures permitting a campus to record absences in~~specify~~ an alternative hour from the District's official ~~time for taking~~ attendance-taking time ~~other than the second or fifth instructional hour. Exceptions may be authorized for an entire campus~~ or for a designated group of students at a campus. The alternative ~~time for recording~~ attendance-taking time shall be determined in accordance with TEA's *Student Attendance Accounting Handbook* and administrative regulations.

Parental Consent to Leave Campus

The Superintendent or designee shall establish procedures regarding parental consent for a student to leave campus, including procedures for documenting a student's absence. The procedures shall be communicated in the employee and student handbooks.

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

What are the District's policies addressing child abuse or neglect and my responsibilities for reporting suspected child abuse or neglect?

The applicable District policies—FFG(LEGAL) and (LOCAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact the office of student support services, at (512) 570-0153, or ~~the office of guidance and counseling~~ Counseling Services, at (512) 570-0212.

What are my legal responsibilities for reporting if I suspect that a child has been or may be abused or neglected?

Anyone who suspects that a child has been or may be abused or neglected has a legal responsibility, under state law, for reporting the suspected abuse or neglect to law enforcement or to Child Protective Services (CPS).

Any District employee, agent, or contractor has an additional legal obligation to submit the oral or written report within 48 hours of learning of the facts giving rise to the suspicion.

An employee will make a report if the employee has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

Are there any restrictions on reporting?

Under state law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

- Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

To whom do I make a report?

Reports may be made to any of the following:

- A law enforcement agency: The Leander Police Department, at (512) 259-0613; the Cedar Park Police Department, at (512) 258-2800; the Travis County Sheriff's Office, at (512) 854-9697; the Williamson County Sheriff's Office, at (512) 943-1300 or the Austin Police Department, Child Abuse Unit, at (512) 974-6880;

- The CPS division of the Texas Department of Family and Protective Services at (800) 252-5400 or Texas Abuse Hotline Website[1]; or
- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

Will my report be kept confidential?

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

Will I be liable in any way for making a report?

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

What will happen if I don't report suspected child abuse or neglect?

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

What are my responsibilities regarding investigations of abuse or neglect?

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

[1] Texas Abuse Hotline Website: http://www.txabusehotline.org

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

Student or parent complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with FNG after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, religion, sex, gender, national origin, age, or disability~~, or religion~~ shall be submitted in accordance with FFH.
2. Complaints concerning dating violence shall be submitted in accordance with FFH.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with FFH.
4. Complaints concerning bullying or retaliation related to bullying shall be submitted in accordance with FFI.
5. Complaints concerning failure to award credit or a final grade on the basis of attendance shall be submitted in accordance with FEC.
6. Complaints concerning expulsion shall be submitted in accordance with FOD and the Student Code of Conduct.
7. Complaints concerning any final decisions of the gifted and talented selection committee regarding selection for or exit from the gifted program shall be submitted in accordance with EHBB.
8. Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be submitted in accordance with FB and the procedural safeguards handbook.
9. Complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act shall be submitted in accordance with EHBAE, FOF, and the procedural safeguards handbook provided to parents of all students referred to special education.
10. Complaints concerning instructional resources shall be submitted in accordance with EF.
11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

12. Complaints concerning intradistrict transfers or campus assignment shall be submitted in accordance with FDB.

13. Complaints concerning admission, placement, or services provided for a homeless student shall be submitted in accordance with FDC.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 ~~calendar~~ business days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Notice to Students and Parents

The District shall inform students and parents of this policy through appropriate District publications.

Guiding Principles

Informal Process

The Board encourages students and parents to discuss their concerns with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

A student or parent may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, students and parents are encouraged to seek informal resolution of their concerns. A student or parent whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Freedom from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the

	deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
Scheduling Conferences	The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student or parent fails to appear at a scheduled conference, the District may consider the complaint and issue a decision in the student's or parent's absence.
Response	At Levels One and Two, "response" shall mean a written communication to the student or parent from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the student's or parent's email address of record, or sent by U.S. Mail to the student's or parent's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.
Days	"Days" shall mean District business days, unless otherwise noted. ~~.~~ In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Representative	"Representative" shall mean any person who or organization that is designated by the student or parent to represent the student or parent in the complaint process. A student may be represented by an adult at any level of the complaint. The student or parent may designate a representative through written notice to the District at any level of this process. If the student or parent designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.
Consolidating Complaints	Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.
Untimely Filings	All time limits shall be strictly followed unless modified by mutual written consent. If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the student or parent, at any point during the complaint process. The student or parent may appeal the dismissal by seeking review in writing within ten

days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the student or parent does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student or parent unless the student or parent did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the student or parent first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

   In most circumstances, students and parents shall file Level One complaints with the campus principal.

   If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the student or parent within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the student or parent a written response within ten days following

the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the student or parent did not receive the relief requested at Level One or if the time for a response has expired, the student or parent may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The student or parent may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the student or parent at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the student or parent may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the student or parent did not receive the relief requested at Level Two or if the time for a response has expired, the student or parent may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The student or parent may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student or parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three

presentation. The Level Three presentation, including the presentation by the student or parent or the student's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

Frequent Appeals

If a student, a parent, or a student's representative has presented five Level Three appeals to the Board within a calendar year, the Board shall consider any subsequent Level Three appeal from the complainant during that calendar year only upon written submission, with no Level Three presentation made to the Board by the complainant or the administration. In such an event, the Board shall consider the written record and give notice of its decision in writing.

Upon a motion by any Board member, however, the presiding officer shall call for a vote to suspend this rule and allow an oral presentation of the Level Three appeal.

Complaints

In this policy, the terms “complaint” and “grievance” shall have the same meaning.

Other Complaint Processes

Complaints by members of the public shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with GF after the relevant complaint process:

1. Complaints concerning instructional resources shall be filed in accordance with EF.
2. Complaints concerning a commissioned peace officer who is an employee of the District shall be filed in accordance with CKE.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 ~~calendar~~ business days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Guiding Principles

Informal Process

The Board encourages the public to discuss concerns with an appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

An individual may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or “mini-trial” at any level.

Freedom from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against any individual for bringing a concern or complaint.

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on

	the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.
Scheduling Conferences	The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the individual fails to appear at a scheduled conference, the District may consider the complaint and issue a decision in the individual's absence.
Response	At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.
Days	"Days" shall mean District business days, unless otherwise noted. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."
Representative	"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process. The individual may designate a representative through written notice to the District at any level of this process. If the individual designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.
Consolidating Complaints	Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.
Untimely Filings	All time limits shall be strictly followed unless modified by mutual written consent. If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date

of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing.

Level One

Complaint forms must be filed:

1. Within 15 days of the date the individual first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and

2. With the lowest level administrator who has the authority to remedy the alleged problem.

   If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the individual within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other

relevant documents or information the administrator believes will help resolve the complaint.

Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The individual may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the individual at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the individual may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the individual a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

Level Three

If the individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the individual of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The individual may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the individual notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the individual and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the individual or his or her representative, any presentation

from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

Frequent Appeals

If a member of the public has presented five Level Three appeals to the Board within a calendar year, the Board shall consider any subsequent Level Three appeal from the complainant during that calendar year only upon written submission, with no Level Three presentation made to the Board by the complainant or the administration. In such an event, the Board shall consider the written record and give notice of its decision in writing.

Upon a motion by any Board member, however, the presiding officer shall call for a vote to suspend this rule and allow an oral presentation of the Level Three appeal.

ANNOTATED

Policy Reference Manual
Update 115

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

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

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

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

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Instruction Sheet

TASB Policy Reference Manual Update 115

Policy Reference Manual

Code	Type	Action To Be Taken	Note
ATTN	(NOTE)	No policy enclosed	See explanatory note
AF	(LEGAL)	Replace policy	Revised policy
AIA	(LEGAL)	Replace policy	Revised policy
AIB	(LEGAL)	Replace policy	Revised policy
AIC	(LEGAL)	Replace policy	Revised policy
BBA	(LEGAL)	Replace policy	Revised policy
BBBB	(LEGAL)	Replace policy	Revised policy
BBD	(LEGAL)	Replace policy	Revised policy
BDF	(LEGAL)	Replace policy	Revised policy
BQ	(LEGAL)	Replace policy	Revised policy
BQA	(LEGAL)	Replace policy	Revised policy
BQB	(LEGAL)	Replace policy	Revised policy
CBB	(LEGAL)	Replace policy	Revised policy
CCA	(LEGAL)	Replace policy	Revised policy
CCG	(LEGAL)	Replace policy	Revised policy
CCGA	(LEGAL)	Replace policy	Revised policy
CCGB	(LEGAL)	Replace policy	Revised policy
CCH	(LEGAL)	Replace policy	Revised policy
CFA	(LEGAL)	Replace policy	Revised policy
CFC	(LEGAL)	Replace policy	Revised policy
CKA	(LEGAL)	Replace policy	Revised policy
CKE	(LEGAL)	Replace policy	Revised policy
CKEA	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CO	(LEGAL)	Replace policy	Revised policy
CQ	(LEGAL)	Replace policy	Revised policy
CQA	(LEGAL)	Replace policy	Revised policy
CQB	(LEGAL)	Replace policy	Revised policy
CRE	(LEGAL)	Replace policy	Revised policy
CS	(LEGAL)	Replace policy	Revised policy
CY	(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

Policy Reference Manual

Code	Type	Action To Be Taken	Note
DC	(LEGAL)	Replace policy	Revised policy
DF	(LEGAL)	Replace policy	Revised policy
DHC	(LEGAL)	Replace policy	Revised policy
DHE	(LEGAL)	Replace policy	Revised policy
DIA	(LEGAL)	Replace policy	Revised policy
DMA	(LEGAL)	Replace policy	Revised policy
DP	(LEGAL)	Replace policy	Revised policy
EEL	(LEGAL)	Replace policy	Revised policy
EHAA	(LEGAL)	Replace policy	Revised policy
EHB	(LEGAL)	Replace policy	Revised policy
EHBA	(LEGAL)	Replace policy	Revised policy
EHBAB	(LEGAL)	Replace policy	Revised policy
EHBE	(LEGAL)	Replace policy	Revised policy
EHBG	(LEGAL)	Replace policy	Revised policy
EHBJ	(LEGAL)	Replace policy	Revised policy
EHDD	(LEGAL)	Replace policy	Revised policy
EI	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EKB	(LEGAL)	Replace policy	Revised policy
EKC	(LEGAL)	Replace policy	Revised policy
ELA	(LEGAL)	Replace policy	Revised policy
F	(LEGAL)	Replace table of contents	Revised table of contents
FB	(LEGAL)	Replace policy	Revised policy
FDB	(LEGAL)	Replace policy	Revised policy
FEA	(LEGAL)	Replace policy	Revised policy
FEB	(LEGAL)	Replace policy	Revised policy
FFAC	(LEGAL)	Replace policy	Revised policy
FFAE	(LEGAL)	Replace policy	Revised policy
FFB	(LEGAL)	Replace policy	Revised policy
FFC	(LEGAL)	Replace policy	Revised policy
FFE	(LEGAL)	DELETE policy	See explanatory note
FFEA	(LEGAL)	Replace policy	Revised policy
FFEB	(LEGAL)	ADD policy	See explanatory note
FFG	(LEGAL)	Replace policy	Revised policy

Instruction Sheet
TASB Policy Reference Manual Update 115

Policy Reference Manual

Code	Type	Action To Be Taken	Note
FFH	(LEGAL)	Replace policy	Revised policy
FM	(LEGAL)	Replace policy	Revised policy
GBAA	(EXHIBIT)	DELETE exhibit	See explanatory note
GKA	(LEGAL)	Replace policy	Revised policy

Explanatory Notes
TASB Policy Reference Manual Update 115

Policy Reference Manual

ATTN(NOTE) GENERAL INFORMATION ABOUT THIS UPDATE

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

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

AF(LEGAL) INNOVATION DISTRICTS

Revisions to the Administrative Code, effective January 2020:

- Specify that an innovation district may not be exempted from Education Code Chapters 48 (Foundation School Program) and 49 (Options for Local Revenue Levels in Excess of Entitlement); and
- Authorize the commissioner to terminate district of innovation status for a district's failure to comply with the duty to discharge or refuse to hire certain employees or applicants as required by state law.

AIA(LEGAL) ACCOUNTABILITY: ACCREDITATION AND PERFORMANCE INDICATORS

Administrative rule changes, effective August 2019, specify that districts with a local accountability system must use the local accountability system rating standards established by the commissioner. These standards will be updated annually and published in the *Local Accountability System Manual*.

Definitions for the various accreditation statuses have also been added.

AIB(LEGAL) ACCOUNTABILITY: PERFORMANCE REPORTING

TEA has renamed the Performance-Based Monitoring Analysis System (PBMAS) to the Results Driven Accountability (RDA) system, effective December 3, 2019. This was to align with the Office of Special Education Programs (OSEP) framework.

AIC(LEGAL) ACCOUNTABILITY: INTERVENTIONS AND SANCTIONS

Beginning with the 2020–21 school year, HB 4205 creates a new option for campuses that are required to submit campus turnaround plans—an accelerated campus excellence (ACE) turnaround plan. The commissioner is required to approve an ACE turnaround plan if the commissioner determines that the plan meets the statutory requirements.

Other changes are from revised Administrative Code rules, effective March 31, 2020. The rules clarify interventions and sanctions provisions, including campus intervention team membership and participation and campus turnaround plan submission, approval, and implementation processes.

Additional detail has been included about the required notice the campus intervention team must provide regarding the public meeting for soliciting input on development of a targeted improvement plan.

BBA(LEGAL) BOARD MEMBERS: ELIGIBILITY/QUALIFICATIONS

This legally referenced policy on eligibility and qualifications for board members has been revised to clarify that a person cannot *run* for the board if the person has a final felony conviction from which the person

Policy Reference Manual

has not been pardoned or had the disabilities removed (see Eligibility). The provision at Ineligibility indicating that a person cannot *serve* as a member of the board if the person has been convicted of a felony remains unchanged.

BBBB(LEGAL) ELECTIONS: POST-ELECTION PROCEDURES

HB 2640 deleted the requirement for the presiding officer of the board to prepare a report of precinct results for the secretary of state.

BBD(LEGAL) BOARD MEMBERS: TRAINING AND ORIENTATION

Extensive changes to this legally referenced policy on board member training and orientation are from revised Administrative Code rules, effective March 24, 2020. See the TASB Board Development Services website for helpful overviews of the training requirements.

BDF(LEGAL) BOARD INTERNAL ORGANIZATION: CITIZEN ADVISORY COMMITTEES

HB 18 revised the list of persons that a board may appoint to the school health advisory council (SHAC). The bill also added requirements for a district to publish in the student handbook and on the district's website certain information on student physical and mental health resources, policies, and procedures and whether each campus has a full-time nurse or school counselor. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

BQ(LEGAL) PLANNING AND DECISION-MAKING PROCESS

HB 18 revised the list of strategies for improvement of student performance that must be included in the district improvement plan (DIP) to include positive behavior interventions and support and implementation of a comprehensive school counseling program. In addition, the DIP must include:

- Strategies for providing elementary school students information about higher education; and
- The district's procedures on mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention.

Details about dating violence have been moved to FFH addressing harassment; details about sexual abuse, sex trafficking, and other maltreatment of children have been moved to FFG addressing child abuse and neglect.

BQA(LEGAL) PLANNING AND DECISION-MAKING PROCESS: DISTRICT-LEVEL

Provisions on the district-level decision-making committee's responsibilities have been revised to better match statute.

BQB(LEGAL) PLANNING AND DECISION-MAKING PROCESS: CAMPUS-LEVEL

Provisions on the campus-level decision-making committee's responsibilities have been revised to better match statute.

CBB(LEGAL) STATE AND FEDERAL REVENUE SOURCES: FEDERAL

The Note on page 5 has been adjusted to include a link to a USDA memo addressing micro-purchase and simplified acquisition thresholds for federal child nutrition programs.

CCA(LEGAL) LOCAL REVENUE SOURCES: BOND ISSUES

TASB Policy Service engaged an outside law firm with expertise in the area of bonds to review the federal securities law provisions in this legally referenced policy, which resulted in revisions throughout that section of the policy.

Policy Reference Manual

In addition, we have included two existing statutory provisions on:

- Attorney general review and approval of a public security and the record of proceedings, and
- Authority of the issuer of public securities to contract for certain services.

CCG(LEGAL) LOCAL REVENUE SOURCES: AD VALOREM TAXES

At Tax Rate Adoption, we have added information on the maximum compressed rate from HB 3 and new Administrative Code rules effective April 10, 2020.

HB 492 repeals existing law regarding reappraisal of property damaged in a disaster area. However, an amendment to the Texas constitution approved by voters in November 2019 authorizes a temporary exemption for property damaged in a disaster. These new provisions have been added to CCGA(LEGAL) addressing ad valorem tax exemptions.

A board must conduct an efficiency audit before holding an election seeking voter approval to adopt an M&O tax rate. In conducting the audit, the auditor selected by the board must follow the Legislative Budget Board (LBB) guidelines, to which we have included a link.

CCGA(LEGAL) AD VALOREM TAXES: EXEMPTIONS AND PAYMENTS

HB 492 provides for a temporary exemption for property damaged in a disaster, as authorized in an amendment to the Texas Constitution approved by voters in November 2019.

CCGB(LEGAL) AD VALOREM TAXES: ECONOMIC DEVELOPMENT

Revisions to this legally referenced policy reflect amended Administrative Code rules, effective February 6, 2020, and include:

- The exclusion of any employee names or other personal identifying information from the definition of *substantive documents* submitted to the comptroller in connection with economic development applications,
- Clarification of the procedures for an applicant to obtain continued eligibility for a limitation on appraised value, and
- Extended timelines for the comptroller to review a written agreement for a limitation on appraised value.

CCH(LEGAL) LOCAL REVENUE SOURCES: APPRAISAL DISTRICT

Effective September 1, 2020, SB 2 requires an appraisal district board in a county with a population of a million or more to increase the size of the appraisal review board (ARB) to an appropriate number of members. The ARB must establish special panels to conduct protest hearings.

CFA(LEGAL) ACCOUNTING: FINANCIAL REPORTS AND STATEMENTS

Revisions to the provisions on the Annual Local Debt Report are from amended Administrative Code rules, effective April 5, 2020.

Other revisions are to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

CFC(LEGAL) ACCOUNTING: AUDITS

This legally referenced policy on audits has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

Policy Reference Manual

CKA(LEGAL) SAFETY PROGRAM/RISK MANAGEMENT: INSPECTIONS

This legally referenced policy on asbestos has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

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

Revisions regarding training are from amended Administrative Code rules, effective February 5, 2020, and require district police officers and school resource officers to receive a school-based law enforcement proficiency certificate within 180 days of commission or placement in the district.

CKEA(LEGAL) SECURITY PERSONNEL: COMMISSIONED PEACE OFFICERS

The addition of provisions regarding reporting on appointment and separation of licensed peace officers was prompted by amended Administrative Code rules, effective February 5, 2020.

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

Revisions to the provisions prohibiting certain expenditures of funds from the instructional materials allotment are from amended Administrative Code rules, effective February 6, 2020.

CO(LEGAL) FOOD AND NUTRITION MANAGEMENT

A Note has been added pointing to the Texas Department of Agriculture's Records Retention List, which can assist districts with retaining documentation to demonstrate program compliance.

CQ(LEGAL) TECHNOLOGY RESOURCES

This legally referenced policy has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources. Citations to various laws pertaining to unlawful interception, use, or disclosure of communications have also been added to this policy for reference.

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

Online posting provisions have been updated to:

- Clarify that notification by the campus intervention team regarding public input on development of a targeted improvement plan must be published on the district and campus websites,
- Add the requirement to post a completed campus turnaround plan 30 days before the final plan is submitted to the board,
- Add details about posting of the Annual Local Debt Report,
- Add the requirement to post information on designated agents under the Digital Millennium Copyright Act for districts seeking to limit liability, and
- Add the requirement to post the district's family engagement plan.
- Add contact information for the district’s Title IX coordinator and the district’s policy of nondiscrimination; and
- Add materials used to train the Title IX coordinator and other individuals who are relevant to resolving complaints under Title IX.

Policy Reference Manual

CQB(LEGAL) TECHNOLOGY RESOURCES: CYBERSECURITY

We have removed provisions on the Electronic Communication Privacy Act that address the criminal consequences of the Act. A high-level reference to this information has been added to CQ(LEGAL).

CRE(LEGAL) INSURANCE AND ANNUITIES MANAGEMENT: WORKERS' COMPENSATION

We have removed case law addressing enforcement of a reasonable absence-control rule because the case is also included in DEC(LEGAL).

CS(LEGAL) FACILITY STANDARDS

Provisions on termination of LP-gas service have been revised as a result of amended Administrative Code rules, effective January 6, 2020.

CY(LEGAL) INTELLECTUAL PROPERTY

This legally referenced policy on intellectual property has been revised to add some existing legal provisions, delete nonessential provisions, and better match legal sources.

D(LEGAL) PERSONNEL

The D Section table of contents has been revised to rename DBAA Pre-Employment Reviews.

DAA(LEGAL) EMPLOYMENT OBJECTIVES: EQUAL EMPLOYMENT OPPORTUNITY

This legally referenced policy has been revised at Bankruptcy Discrimination to better match statute.

The provisions addressing compliance coordinators for federal nondiscrimination laws have been updated in response to the new Title IX regulations.

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

This legally referenced policy has been retitled and reorganized to include various pre-employment reviews. As a result, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to this policy from DC(LEGAL).

Provisions have been added on the U.S. Department of Transportation's (DOT) national commercial driver license drug and alcohol clearinghouse. A district may not employ a driver subject to DOT drug and alcohol testing who will perform a safety-sensitive function without first conducting a pre-employment inquiry through the clearinghouse.

DC(LEGAL) EMPLOYMENT PRACTICES

As mentioned above, provisions on the required pre-employment affidavit and the Do Not Hire Registry have been moved to DBAA(LEGAL), which now addresses pre-employment reviews.

DF(LEGAL) TERMINATION OF EMPLOYMENT

Failure to terminate an employee on the Do Not Hire Registry has been added as a reason for which the State Board for Educator Certification may impose sanctions on an educator. This change is from amended Administrative Code rules, effective March 5, 2020.

Policy Reference Manual

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

Changes to this legally referenced policy on reports to TEA regarding non-certified employee misconduct are from revised Administrative Code rules, effective December 31, 2019. The rules clarify the information that must be in a report and include several relevant definitions.

DHE(LEGAL) EMPLOYEE STANDARDS OF CONDUCT: SEARCHES AND ALCOHOL/DRUG TESTING

Information on postaccident alcohol or controlled substances testing has been incorporated from DHE(EXHIBIT), which is being deleted.

Additional detail has been included regarding required Department of Transportation drug and alcohol testing of commercial vehicle operators.

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

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

DMA(LEGAL) PROFESSIONAL DEVELOPMENT: REQUIRED STAFF DEVELOPMENT

HB 18 revises both optional and required training for district staff development. Required training, which must be provided annually, focuses on various aspects of student mental health, as listed in the policy. Suicide prevention training must address the specific components indicated.

Details about required mental health support programs have been updated in accordance with HB 18 and moved to FFEB addressing student mental health.

Provisions addressing required training on child abuse, trafficking, and maltreatment have been updated based on revised Administrative Code rules, effective November 6, 2019.

DP(LEGAL) PERSONNEL POSITIONS

This legally referenced policy on personnel has been revised to include provisions on various physical and mental health professionals, including:

- School nurses,
- Certified school counselors,
- Nonphysician mental health professionals, and
- Licensed specialists in school psychology (LSSPs).

EEL(LEGAL) INSTRUCTIONAL ARRANGEMENTS: CONTRACTS WITH OUTSIDE AGENCIES

In accordance with new federal provisions, districts that have Junior Reserve Officers' Training Corps programs must permit homeschooled students to participate in the program.

Policy Reference Manual

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

Provisions on coordinated health programs have been updated based on HB 18.

HB 18 amends the SHAC's duties to include making recommendations about various aspects of student mental health.

EHB(LEGAL) CURRICULUM DESIGN: SPECIAL PROGRAMS

New provisions on dyslexia compliance monitoring are from revised Administrative Code rules, effective December 25, 2019.

SB 2075 requires that a district notify the parent of a student who has or is at risk for dyslexia or a related disorder that the Texas State Library and Archives Commission provides audiobooks free of charge to students with eligible disabilities.

EHBA(LEGAL) SPECIAL PROGRAMS: SPECIAL EDUCATION

Provisions on off-campus programs to provide special education and related services during school hours in a non-district facility are from new Administrative Code rules, effective November 10, 2019. The rules address placement in the programs, notification to and review by TEA, contract requirements, and changes of student residence.

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

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. For such students who transfer into the district, the rules require the receiving district to:

- Accept a referral done by a previous district for a special education evaluation and complete any written report of a full individual and initial evaluation by the timelines in law, and
- Ensure that the district meets student transfer requirements relating to the ARD committee for a student who is already eligible for services.

EHBE(LEGAL) SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

This legally referenced policy on bilingual education has been revised throughout as a result of amended Administrative Code rules, effective April 10, 2020. The rules address requirements for administering the home language survey, parental notice and consent, and assessment options for students in a two-way dual language immersion program.

Other revisions are to better match statute.

EHBG(LEGAL) SPECIAL PROGRAMS: PREKINDERGARTEN

Amended Administrative Code rules, effective February 13, 2020, prompted revisions throughout the high-quality prekindergarten program provisions.

EHBJ(LEGAL) SPECIAL PROGRAMS: INNOVATIVE AND MAGNET PROGRAMS

Changes to the application process for requesting approval from the State Board of Education or the commissioner to offer an innovative course are from amended Administrative Code rules, effective December 25, 2019.

Policy Reference Manual

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

Provisions on dual credit agreements have been updated based on amended Administrative Code rules, effective November 24, 2019. We have also added some existing statutory provisions on dual credit programs to address faculty supervision and student transcripts.

EI(LEGAL) ACADEMIC ACHIEVEMENT

Provisions on partial award of credit have been updated to reflect revised Administrative Code rules, effective March 15, 2020. The rules revised terminology regarding awarding of credit proportionately when a student receives a passing grade in "half" of a course, rather than per "semester."

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care and require districts to:

- Adopt local policy to assist with awarding credit for a course that was earned prior to the student enrolling in or transferring to the district,
- Develop credit recovery plans for students who were denied credits outside the district or if the student's credit deficit would impede on-time promotion or graduation,
- Create course transition plans for students who were denied credit,
- Develop and administer personal graduation plans for junior or middle school students, and
- Comply with existing Education Code provisions regarding awarding of diplomas.

EIF(LEGAL) ACADEMIC ACHIEVEMENT: GRADUATION

Beginning with students enrolled in the 12th grade in the 2021–22 school year, HB 3 will require a student to complete and submit a federal or Texas application for financial aid to graduate. The provision has been added to the policy manual now in case the district starts receiving questions about this provision. TEA will be issuing rules with more details.

Details on forming an individual graduation committee, including acceptable alternate members, have been added from amended Administrative Code rules, effective February 10, 2020.

Administrative Code rules effective November 24, 2019, provide that a student who completes the core curriculum of an institution of higher education meets the curriculum requirements for the foundation high school program, earns an endorsement and the distinguished level of achievement, and is entitled to a high school diploma.

Provisions on transitioning to the foundation high school program have been deleted from law.

EKB(LEGAL) TESTING PROGRAMS: STATE ASSESSMENT

Changes to this legally referenced policy on assessments include:

- Additional detail on end-of-course assessments, for more complete information;
- Deletion of detailed provisions on use of the TSI as a substitute assessment in lieu of a statutory reference; and
- Revisions to testing requirements for accountability purposes based on amended Administrative Code rules, effective February 23, 2020.

Policy Reference Manual

EKC(LEGAL) TESTING PROGRAMS: READING ASSESSMENT

Effective with the 2020–21 school year, HB 3 requires a district to administer the commissioner-adopted reading instrument or the commissioner-approved alternative reading instrument to students at the kindergarten level and report results of reading instruments to parents within 60 calendar days of administration.

ELA(LEGAL) CAMPUS OR PROGRAM CHARTERS: PARTNERSHIP CHARTERS

This legally referenced policy on partnership charters has been significantly revised in accordance with amended Administrative Code rules, effective March 31, 2020. The rules:

- State that operating partners have final and sole authority over certain campus decisions;
- Add numerous requirements for performance contracts; and
- Update the TEA approval process.

In accordance with amended Administrative Code rules, effective September 1, 2019, a performance contract for a partnership charter only needs to include assurances that the district has consulted with relevant campus personnel if the partnering entity is an open enrollment charter school and not for other partnering entities approved by TEA.

F(LEGAL) STUDENTS

Update 115 includes reorganization of student mental health provisions. As a result:

- FFE has been renamed Counseling and Mental Health;
- FFEA has been renamed Counseling; and
- FFEB has been renamed Mental Health.

FB(LEGAL) EQUAL EDUCATIONAL OPPORTUNITY

The provisions on required grievance procedures and retaliation have been updated based on the new Title IX regulations.

FDB(LEGAL) ADMISSIONS: INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

Clarification has been added regarding transfer of a student with a disability who receives special education services and who engaged in bullying.

FEA(LEGAL) ATTENDANCE: COMPULSORY ATTENDANCE

From HB 3, we have added a provision, effective September 1, 2020, clarifying that a student is not required to attend school for the additional instructional days for which a district receives a financial incentive under Education Code 48.0051. See FEB(LEGAL) for more information.

FEB(LEGAL) ATTENDANCE: ATTENDANCE ACCOUNTING

Amended Administrative Code rules, effective December 25, 2019, delete the reference to taking attendance during the second or fifth instructional hour and specify that attendance shall be taken at the official attendance-taking time during the campus's instructional day. There is no requirement to include the official attendance-taking time in policy; it may be designated in district procedures.

Policy Reference Manual

From HB 3, we have added a provision, effective September 1, 2020, under which a district may receive a financial incentive for offering an additional 30 days of half-day instruction above the required minimum number of minutes for students in prekindergarten through fifth grade.

FFAC(LEGAL) WELLNESS AND HEALTH SERVICES: MEDICAL TREATMENT

Provisions on nursing peer review committees have been moved to DP(LEGAL).

Provisions on psychotropics and psychiatric evaluations have been moved to FFEB(LEGAL).

FFAE(LEGAL) WELLNESS AND HEALTH SERVICES: SCHOOL-BASED HEALTH CENTERS

HB 18 permits the board (in addition to a local health education and health-care advisory council) to initiate the establishment of a school-based health center at a campus. The bill also expands the list of services that may be provided at school-based health centers to include physical health care, treatment of mental health conditions, and treatment for substance abuse.

Other changes from HB 18 address parental consent for referrals, the membership of the advisory council, and coordination with existing providers.

FFB(LEGAL) STUDENT WELFARE: CRISIS INTERVENTION

Provisions on the recommended best practice programs and research-based practices on student mental health have been moved to FFEB(LEGAL).

FFC(LEGAL) STUDENT WELFARE: STUDENT SUPPORT SERVICES

New Administrative Code rules, effective March 30, 2020, address transition assistance for highly mobile students who are homeless or in substitute care. The rules address processes and practices on the following:

- Transferring student records;
- Developing systems to ease transition for students, including welcome packets, introductions, and mechanisms for receiving school nutrition program benefits;
- Convening enrollment conferences;
- Determining appropriate placement in educational programs and courses;
- Facilitating participation in extracurricular programs;
- Promoting postsecondary information; and
- Notifying the educational decision-maker and caseworker of events that significantly impact the student's education.

FFE(LEGAL) STUDENT WELFARE: COUNSELING AND MENTAL HEALTH

Provisions on counseling have been moved to FFEA.

FFEA(LEGAL) COUNSELING AND MENTAL HEALTH: COUNSELING

This legally referenced policy has been reorganized to focus on both behavioral and academic counseling programs. As a result:

- Personnel provisions on school counselors and their duties have been moved to DP(LEGAL), and

Policy Reference Manual

- Various provisions regarding consent to counseling services previously at FFE(LEGAL) have been moved to this code.

From HB 18, we have added a provision requiring a school counselor to work with various stakeholders to plan, implement, and evaluate a comprehensive school counseling program.

From HB 114, we have added a provision applicable with the 2020–21 school year requiring a school counselor to provide information regarding availability of college credit for military experience, education, and training obtained during military service.

FFEB(LEGAL) COUNSELING AND MENTAL HEALTH: MENTAL HEALTH

This legally referenced policy has been added to focus on student mental health programs. As a result, provisions on psychotropics and psychiatric evaluations previously at FFAC(LEGAL) have been moved to this code.

The policy now addresses the various mental health programs, as revised by HB 18, for which the district must develop practices and procedures. The practices and procedures must be included in the student handbook and district improvement plan. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement.

FFG(LEGAL) STUDENT WELFARE: CHILD ABUSE AND NEGLECT

This legally referenced policy on child abuse and neglect has been significantly revised based on amended Administrative Code rules, effective November 6, 2019. The rules address the required policy on sexual abuse, trafficking, and other maltreatment of students that must be included in the district improvement plan and the student handbook. The 2020–21 *TASB Model Student Handbook* has been updated to meet this requirement. The rules also revise the elements of the required child abuse and neglect reporting policy.

FFH(LEGAL) STUDENT WELFARE: FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

This legally referenced policy addressing discrimination, harassment, and retaliation against students has been significantly revised to include the new Title IX regulations, which define sexual harassment under Title IX and establish detailed procedures for how districts must respond to notice or allegations of sexual harassment.

The final Title IX regulations and related materials are available on the U.S. Department of Education Office for Civil Rights website.

Provisions on dating violence have been moved from BQ(LEGAL) to this code on discrimination, harassment, and retaliation.

FM(LEGAL) STUDENT ACTIVITIES

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

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

GBAA(EXHIBIT) INFORMATION ACCESS: REQUESTS FOR INFORMATION

This exhibit referring to the attorney general's guidelines for charges under the Public Information Act is being deleted. The citation to the Administrative Code where these charges are found has been added to GBAA(LEGAL).

Policy Reference Manual

See GBAA in the *TASB Regulations Resource Manual* for updated forms related to requests for information.

GKA(LEGAL) COMMUNITY RELATIONS: CONDUCT ON SCHOOL PREMISES

Provisions on drones have been updated based on changes to federal law and replace previous provisions on model aircraft.

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:

1. A state or federal requirement, imposed by statute or rule, applicable to an open-enrollment charter school operating under

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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;

9. Education Code Chapter 48; and

~~8.~~10. Education Code Chapter 49.

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

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

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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(b)–(c)

Termination by Commissioner

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

Discretionary Termination

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

~~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 in lieu of terminating the district's designation.

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

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

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

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

Mandatory Termination

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

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

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

No Appeal

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

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Accreditation

Each district must be accredited by Texas Education Agency (TEA). A district that is not accredited may not receive funds from TEA or hold itself out as operating a public school of this state. *Education Code 11.001, 39.052(f)*

District accreditation is determined in accordance with Education Code Chapter 39, Subchapter C and rules adopted by the commissioner of education at 19 Administrative Code, Chapter 97, Subchapter EE (related to Accreditation Status, Standards, and Sanctions). *Education Code 39.051*

Statuses

The commissioner shall determine criteria for the following accreditation statuses:

1. Accredited. Accredited means TEA recognizes the district as a public school of this state that meets the standards determined by the commissioner under Education Code 39.052(b) and (c), and specified in 19 Administrative Code 97.1059; and is not currently assigned an accreditation status of Accredited-Warned or Accredited-Probation;

2. Accredited-Warned. Accredited-Warned means the district exhibits deficiencies in performance, as specified in 19 Administrative Code 97.1055(b), that, if not addressed, will lead to probation~~; and~~ or revocation of its accreditation status;

3. Accredited-Probation. Accredited-Probation means the district exhibits deficiencies in performance, as specified in 19 Administrative Code 97.1055(c), that must be addressed to avoid revocation of its accreditation status; and

4. Not Accredited-Revoked. Not Accredited-Revoked means TEA does not recognize the district as a Texas public school because the district's performance has failed to meet standards adopted by the commissioner under Education Code 39.052(b) and (c), and specified in 19 Administrative Code 97.1055(d).

Education Code 39.051; 19 TAC 97.1055(a)(1)

Annual Evaluation

Each year, the commissioner shall determine the accreditation status of each district. In determining the accreditation status of a district, the commissioner:

1. Shall evaluate and consider performance:

   a. On achievement indicators under Education Code 39.053 [see Performance Indicators, below]; and

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b. Under the financial accountability rating system developed under Education Code, Chapter 39, Subchapter D [see CFA].

2. May evaluate and consider:

a. The district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education that relate to:

(1) Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(2) High school graduation requirements; or

(3) Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs;

b. The effectiveness of the district's programs for special populations; and

c. The effectiveness of the district's career and technology program.

Based on a district's performance, the commissioner shall assign each district an accreditation status or revoke the accreditation of the district and order closure of the district.

A district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required by Education Code Chapter 39, Subchapter C.

Education Code 7.056(e)(3)(C)-(I), 39.052; 19 TAC 97.1055

For additional information on the commissioner process for assigning accreditation status, see 19 Administrative Code 97.1055.

Notice of Status

The commissioner shall notify a district if the district has received an accreditation status of accredited-warned or accredited-probation, or a campus's performance is below standard. *Education Code 39.052(e)*

To Parents and Property Owners

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 Administrative Code 97.1055. The district's notice must contain information about the accreditation sta-

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tus, the implications of such status, and the steps the district is taking to address the areas of deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.

The district's notice must:

1. Not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the required notification, and remain until the district is assigned the accredited status; and

2. Appear in a newspaper of general circulation, as defined in 19 Administrative Code 97.1051 (relating to Definitions), in the district for three consecutive days as follows:

   a. From Sunday through Tuesday of the second week following assignment of the status; or

   b. If the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the newspaper beginning the second week following assignment of the status; or

3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or

4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

To TEA

A district required to act under this subsection shall send the following to TEA via certified mail, return receipt requested:

1. The universal resource locator (URL) for the link to the notification required above; and

2. Copies of the notice in the newspaper showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or

3. Copies of the notice sent by mail and copies of all mailing lists and postage receipts; or

4. Copies of the notice presented at a public meeting and copies of the board of trustees meeting notice and minutes for the

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board meeting in which the notice was presented and publicly discussed.

19 TAC 97.1055(f)

Performance Indicators

The commissioner shall adopt a set of indicators of the quality of learning and achievement, including three domains of achievement indicators. [See Achievement Indicators, below] *Education Code 39.053(a)*

The indicators must measure and evaluate districts and campuses with respect to:

1. Improving student preparedness for success in subsequent grade levels and entering the workforce, the military, or post-secondary education;
2. Reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and
3. Informing parents and the community regarding campus and district performance.

Education Code 39.053(a-1)

Achievement Indicators

Districts and campuses must be evaluated based on indicators of achievement grouped in three domains:

1. Student achievement domain;
2. School progress domain; and
3. Closing the gaps domain.

Education Code 39.053(c)

Performance on the achievement indicators in the three domains shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status. *Education Code 39.053(b)*

Each school district shall submit the data required for the indicators to the commissioner. *Education Code 39.053(i)*

A–F Performance Ratings

The commissioner shall adopt rules to evaluate district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F.

In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Education Code 39.053(c) [see Achievement Indicators, above].

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An overall or domain performance rating of:

1. A reflects exemplary performance.
2. B reflects recognized performance.
3. C reflects acceptable performance.
4. D reflects performance that needs improvement.
5. F reflects unacceptable performance.

A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. A reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, C, or D or exemplary, recognized, or acceptable performance, or performance that needs improvement.

For purposes of assigning districts and campuses an overall and a domain performance rating, the commissioner shall ensure that the method used to evaluate performance is implemented in a manner that provides the mathematical possibility that all districts and campuses receive an A rating.

Not later than August 15 of each year, the performance ratings of each district and campus shall be made publicly available as provided by rules adopted by the commissioner.

Education Code 39.054(a), (a-3), (b)

Local Accountability System

The ~~commissioner shall adopt rules regarding the assignment of campus performance ratings by districts. The rules:~~

~~6. Must require a district, in assigning an overall performance~~local accountability system rating ~~for a campus, to incorporate:~~

~~Domain performance ratings assigned~~standards established by the commissioner under Education Code 39.~~054 [see A–F Performance~~ 0544 shall be used by districts to locally evaluate the performance of districts and campuses. The procedures and criteria required to determine campus grades by the districts will be annually published in official TEA publications.

~~a. Ratings, above]; and~~

~~b. Performance ratings based on locally developed domains or sets~~ may be revised as a result of ~~accountability measures;~~

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~~May permit a district to assign weights to each domain or set of accountability measures, as determined by the district, provided that the domains~~investigative activities by the commissioner as authorized under Education Code 39.~~054 must in the aggregate account for at least 50 percent of the overall performance rating;~~057(d) and (e).

~~7. Must require that each locally developed domain or set of accountability measures:~~

~~a. Contains levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels;~~

~~b. Provides for the assignment of a letter grade of A, B, C, D, or F; and~~

~~c. Meets~~ The specific criteria and standards ~~for reliability and validity;~~

~~8. Must require that calculations for overall performance ratings and each locally developed domain or set of accountability measures be capable of being audited by a third party;~~

~~9. Must require that a district produce a campus score card that may be displayed on TEA's website; and~~

~~10. Must require that a district or school develop and make available to the public an explanation of the methodology used to assign performance ratings under this section.~~

~~Approval by TEA~~

~~The commissioner shall develop a process to approve a request by a district to assign campus performance ratings under which a district must obtain approval of a local accountability plan submitted by the district to TEA. A plan may be approved only if:~~

~~11. After review, the agency determines the plan meets the minimum requirements under this section and agency rule;~~

~~12. At the commissioner's discretion, an audit conducted by the agency verifies the calculations included in the plan; and~~

~~13. A review panel approves the plan.~~

~~Review Panel~~

~~The commissioner shall appoint a review panel that includes a majority of members who are superintendents or members of the board of trustees of school districts with approved~~ used in the local accountability ~~plans~~system manual are established annually by the commissioner and communicated to all districts.

19 TAC 97.1003(a), (c)–(d)

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Campus Performance Ratings

A district authorized to assign campus performance ratings shall evaluate the performance of each campus and assign each campus a performance rating of A, B, C, D, or F for overall performance and for each locally developed domain or set of accountability measures. Not later than a date established by the commissioner, the district ~~or school~~ shall:

1. Report the performance ratings to the agency; and
2. Make the performance ratings available to the public as provided by commissioner rule.

Education Code 39.0544(e)

If a district has been approved under Education Code 39.0544 to assign campus performance ratings and the commissioner has not assigned a campus overall performance rating of D or F, the commissioner shall assign the campus an overall performance rating based on the district-assigned performance rating under the local accountability system. A reference in law to an acceptable rating or acceptable performance includes an overall domain performance rating of A, B, C, or D or performance that is exemplary, recognized, or acceptable performance, or performance that needs improvement. *Education Code 39.054(a)*

Distinction Designations for Outstanding Performance

The commissioner shall award distinction designations for outstanding performance. A distinction designation awarded to a district or campus shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the A–F performance ratings.

A district or campus may not be awarded a distinction designation unless the district or campus has acceptable performance under the A–F performance ratings.

Education Code 39.201

Academic Distinction

The commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness based on the commissioner's adopted criteria. *Education Code 39.202*

Campus Distinction

The commissioner shall award a campus a distinction designation for outstanding performance in:

1. Improvement in student achievement;
2. Closing student achievement differentials; and
3. Academic achievement in English language arts, mathematics, science, or social studies.

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Education Code 39.203

The commissioner may award a distinction designation for outstanding performance in advanced middle or junior high school student achievement. *Education Code 39.203(d)*

Excellence Exemptions

Except as listed below, a district or campus that is rated A (exemplary) is exempt from requirements and prohibitions imposed under the Education Code, including regulations adopted under the Education Code.

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;
3. A requirement, restriction, or prohibition relating to:
    a. Curriculum essential knowledge and skills or high school graduation requirements;
    b. Public school accountability;
    c. Extracurricular activities;
    d. Health and safety;
    e. Purchasing;
    f. Elementary class size limits;
    g. Removal of a disruptive student from the classroom;
    h. At-risk programs;
    i. Prekindergarten programs;
    j. Rights and benefits of school employees;
    k. Special education programs; or
    l. Bilingual education programs.

The commissioner may exempt an exemplary campus from class size limits if the campus submits a written plan showing steps that will be taken to ensure that the exemption will not be harmful to the academic achievement of the students on the school campus. If granted, the exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

Education Code 39.232

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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.);

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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

~~**Performance-Based Monitoring Analysis System**~~

Results Driven Accountability (RDA)

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

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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:

   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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Table of Contents

Interventions and Sanctions for School Districts 3
Grounds for Commissioner Action 3
Conservator or Management Team 4
Board of Managers 5
Revocation of Accreditation 5
Intervention to Improve High School Completion Rate 6
Campus Intervention Team and Targeted Improvement Plan .. 6
Actions Based on Campus Performance 6
Texas Accountability Intervention System 7
Campus Intervention Team 8
Public Hearing 10
Submission to Commissioner 10
Executing Plan 10
Needs Improvement Rating 11
Campus Planning and Site-Based Decision-Making 12
Submission of Campus Improvement Plan 12
Compliance Through Federal Accountability 12
Campus Turnaround Plan 12
Updated Targeted Improvement Plan 12
Public Notice 13
Submission and Approval 13
Implementation 13
Required Contents 13
ACE Turnaround Plan 14
Implementing Entities 16
Commissioner Approval or Rejection 16
Implementation 17
Assistance and Partnerships 17
Change in Campus Performance Rating 17
Continued Unacceptable Performance Rating 17
Repurposing of Closed Campus 18
Student Enrollment and Assignment 19
Targeted Technical Assistance 19
Commissioner Authority 19
Alternative Management 19
Solicitation of Proposals 19

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Qualifications of Managing Entity 20
Contract with Managing Entity 21
Return of Management to District 22
Applicability of Accountability Provisions 22
Funding 22
Open Meetings and Public Information 22
Board of Managers 22
General Powers and Duties 22
Board of Managers of District 23
Board of Managers of Campus 23
Composition of Board of Managers 23
Training of Board of Managers 23
Compensation 24
Replacement of Member of Board of Managers 24
Expiration of Appointment 24
Removal of Board of Managers 25
Challenge of Intervention or Sanction 25
Review of Sanctions by SOAH 25
Annual Review 25
Increasing Intensity 26
Special Accreditation Investigations 26
Commissioner Action 28
Miscellaneous Provisions 28
Acquisition of Professional Services 28
Costs Paid by District 28
Monitoring Reviews and On-Site Investigations 29
Immunity from Civil Liability 29
Campus Name Change Prohibited 30
Transitional Interventions and Sanctions 30
Special Program Performance: Intervention Stages 30
Intervention Pause 30
Failure to Submit EOP 31
Student Board Member 31

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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;

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 (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.~~interventions as described by TEA. The commissioner shall assign members to a campus intervention team as outlined in 19 Administrative Code 97.1063 and Education Code ~~39.106~~39A.052. The campus shall establish a campus leadership team (CLT) that includes the campus principal and other campus leaders responsible for the development, implementation, and monitoring of the targeted improvement plan.

If a campus is assigned an unacceptable rating under Education Code 39.054(e)~~)~~: ~~)~~

1. For a second consecutive year, the campus must engage in the processes outlined in this provision, and the campus must develop a campus turnaround plan to be approved by the commissioner.

2. For a third or fourth consecutive year, the campus must engage in the processes outlined in this provision, and the campus must implement the commissioner-approved campus turnaround plan as described in 19 Administrative Code 97.1064.

~~1.~~3. 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.

Based on a campus's progress toward improvement, the commissioner may order a hearing if a campus's performance is below any standard under Education Code 39.054(e).

Interventions and sanctions listed under this provision begin upon release of preliminary ratings and may be adjusted based on final accountability ratings.

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19 TAC 97.1061(a)–(c), (e)–(i)

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~~).~~) and the campus principal's direct supervisor, if the DCSI is not the campus principal's direct supervisor. The DCSI must submit qualifications to TEA for approval. ~~*19 TAC 97.1063*~~

An education professional, approved through an application either by TEA or TEA's technical assistance provider, who is not an employee of the campus or district, shall assist with the needs assessment.

19 TAC 97.1063(b)–(c)

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
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) and 19 Administrative Code 97.1061(d).

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.

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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 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; 19 TAC 97.1061(d)(3)–(4)

Notice of Public Meeting

The campus intervention team must provide written notice of the public meeting to the parents of students attending the campus

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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*

The public must be notified of the meeting 15 days prior to the meeting by way of the district and campus website, local newspapers, or other media that reach the general public, and the parent liaison, if present on the campus. *19 TAC 97.1061(d)(3)(A)(2)*

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*

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;

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

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.

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.

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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 interventions 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.

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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. *19 TAC 97.1064(d)*

Submission and Approval

Upon approval of the board, the district must submit the campus turnaround plan electronically to TEA by March 1 unless otherwise specified. Not later than June 15 of each year, the commissioner must either approve or reject any campus turnaround plan prepared and submitted by a district. *19 TAC 97.1064(g)–(h); Education Code 39A.103–.104*

Implementation

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.

A campus that has received an unacceptable rating for the school year following the development of the campus turnaround plan must implement its commissioner-approved campus turnaround plan with fidelity until the campus operates for two consecutive school years without an unacceptable rating.

The commissioner may appoint a monitor, conservator, management team, or board of managers for a school district that has a campus that has been ordered to implement an updated targeted improvement plan. The commissioner may order any of the interventions as necessary to ensure district-level support for the low-performing campus and the implementation of the updated targeted improvement plan. The commissioner may make the appointment at any time during which the campus is required to implement the updated targeted improvement plan.

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

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(a) [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)]

ACE Turnaround Plan

A campus may submit an accelerated campus excellence (ACE) turnaround plan. The plan must provide:

1. The assignment of a principal to the campus who has demonstrated a history of improvement in student academic growth at campuses in which the principal has previously worked;

2. That the principal has final authority over personnel decisions at the campus;

3. That at least 60 percent of the classroom teachers assigned to the campus be teachers who demonstrated instructional effectiveness during the previous school year, with instructional effectiveness determined by:

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a. For a teacher who taught in the district during the previous school year:

(1) The teacher's impact on student growth as determined using a locally developed value-added model that measures student performance on at least one assessment selected by the district; and

(2) An evaluation of the teacher based on classroom observation; and

b. For a teacher who did not teach in the district during the previous school year, data and other evidence indicating that if the teacher had taught in the district during the previous school year, the teacher would have performed in the top half of teachers in the district;

4. A detailed description of the employment and compensation structures for the principal and classroom teachers, which must include significant incentives for a high-performing principal or teacher to remain at the campus and a three-year commitment by the district to continue incentives for the principal and teachers;

5. Policies and procedures for the implementation of best practices at the campus, including:

a. Data-driven instructional practices;

b. A system of observation of and feedback for classroom teachers;

c. Positive student culture on the campus;

d. Family and community engagement, including partnerships with parent and community groups;

e. Extended learning opportunities for students, which may include service or workforce learning opportunities; and

f. Providing student services before or after the instructional day that improve student performance, which may include tutoring, extracurricular activities, counseling services, and offering breakfast, lunch, and dinner to all students at the campus; and

6. Assistance by a third-party provider that is approved by the commissioner in the development and implementation of the district's plan.

Education Code 39A.105(b)

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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.

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 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.

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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.

Education Code 39A.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.

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

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. Serves a majority of grade levels not served at the original campus; or

2. 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

        (2) A majority of which have been assigned an overall performance rating of B or higher under Education Code 39.054 for the preceding school year; and

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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*

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.

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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
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

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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
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:

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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.

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.

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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 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*

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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.

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.

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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
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.

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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;
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

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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;

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

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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

Acquisition of Professional Services

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:

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 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 48.272.

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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);
    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.

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

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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 (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. *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:

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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) (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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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 [but see Ineligibility below].
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.~~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*

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)*

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) (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)]

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

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

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

Gov't Code 602.002

Election Records

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

Destruction of Records

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

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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)*

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

No continuing education shall take place during a board meeting unless that meeting is called expressly for the delivery of board member continuing education. Continuing education may take

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place ~~before~~prior to or after a legally called board meeting in accordance with Government Code 551.001(4) (definition of "meeting"). *19 TAC 61.1(~~c~~e)*

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

Annually, the SBOE shall commend those board-superintendent teams that ~~receive~~complete at least eight hours of ~~continuing education in~~ the continuing education specified at Team Building and ~~Annual~~Additional 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)

Verification

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

Reporting

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

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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~~complete a local district orientation session ~~within one year before or 120 days after the board member's election or appointment.~~. The purpose of ~~this~~the local 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.~~

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

The orientation shall:

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

Each board member should be made aware of the continuing education requirements of 19 Administrative Code 61.1 and those of the following: ~~Any sitting board member may attend or participate in the local district orientation.~~

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

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

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19 TAC 61.1(b)(1~~)(A~~)

Education Code Orientation

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

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

The orientation shall be ~~delivered by regional education service centers and shall be no less than~~at least three hours in length. Topics shall include, but not be limited to, Education Code Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction).

0.~~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~~

The orientation shall:

1. Be provided by an ESC.

~~1.~~2. Be open to any ~~sitting~~ board member who chooses to attend.

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

19 TAC 61.1(b)(2)

~~*19 TAC 61.1 (b)(1)(B)*~~

Legislative ~~Updates~~Update

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

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

The update shall be provided by an ESC or a ~~regional education service center or any~~ registered provider~~.~~ [see Registered Provider, below].

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

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

19 TAC 61.1(b)(~~1)(C~~3)

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

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

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

19 TAC 61.1(b)(4)

~~*19 TAC 61.1(b)(2)*~~

~~Annual~~Additional Continuing Education (Based on Assessed Needs)

In addition to the continuing education requirements ~~at Orientation and Team Building~~set out above, each board member shall ~~receive~~complete additional continuing education ~~on an annual basis in fulfillment of assessed needs and~~ based on the framework for governance leadership. [See BBD(EXHIBIT)]

The purpose of continuing education ~~may be provided by a regional education service center or other registered provider. *19 TAC 61.1(b)(3)*~~is to address the continuing education needs referenced at Team Building above.

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The continuing education shall be completed annually.

At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with ~~a~~the board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials. ~~*19 TAC 61.1(h)*~~

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

~~*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~~ The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. ~~*19 TAC 61.1(b)(3)(B)*~~

First Year

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

Subsequent Years

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

Board President

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

19 TAC 61.1(b)(~~3)(C~~5)

Evaluating Student Academic Performance

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

The purpose of the training on evaluating student academic performance is to provide research-based information to board members

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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*~~

~~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)*~~

~~*Contents*~~

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

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

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

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

1. Instruction in school board behaviors correlated ~~to~~with improved student outcomes with emphasis on~~ inputs, outcomes, and collaborative~~:

   a. Setting specific, quantifiable student outcome ~~goal setting;~~goals; and

   b. Adopting plans to improve early literacy and numeracy and college, career, and military readiness for applicable student groups evaluated in the Closing the Gaps domain of the state accountability system established under Education Code Chapter 39;

~~1.~~2. Instruction in progress monitoring ~~to improve student outcomes with emphasis on progress monitoring~~ practices~~, formative assessments, interim assessments, and summative assessments~~ to improve student outcomes; and

~~2.~~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 established under Chapter 39.

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

If the training is attended by an entire board and its superintendent, includes a review of local school district data on student achievement, and otherwise meets the requirements described at Team Building above, the training may serve to meet a board member's obligation to ~~receive~~complete 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~~6)

Identifying and Reporting Abuse

~~The SBOE~~Each board member shall ~~require a trustee to~~ complete ~~every two years at least one hour of training~~continuing education on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children~~.~~ in accordance with Education Code 11.159(c)(2).

~~Time for Completion~~

A candidate for school board may complete the training ~~on evaluating student academic performance or identifying and reporting abuse~~ up to one year before ~~the candidate~~he or she is elected~~.~~ or appointed. A ~~new trustee shall~~ newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after ~~the date of the trustee's~~ election or appointment.

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

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

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

1. Instruction in best practices of identifying potential victims of child abuse, human trafficking, and other maltreatment of children;

2. Instruction in legal requirements to report potential victims of child abuse, human trafficking, and other maltreatment of children; and

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3. Instruction in resources and organizations that help support victims and prevent child abuse, human trafficking, and other maltreatment of children.

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

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

19 TAC 61.1(b)(7)

Training Provider

Registered Provider

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

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

19 TAC 61.1(c)

Authorized Provider

~~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)*~~

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

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

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

19 TAC 61.1(d)

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

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

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School Health Advisory Council

~~A~~The board shall establish a local School Health Advisory Council (SHAC) to assist ~~a~~the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See EHAA regarding duties of the SHAC.]

The SHAC shall meet at least four times each year. *Education Code 28.004(d-1)*

Composition

~~A~~The board shall appoint at least five members to the SHAC. A majority of members must be persons who are parents of students enrolled in the district and ~~must~~who are not ~~be~~ employed by the district. One of those members shall serve as chair or co-chair of the SHAC.

~~A~~The board ~~may~~ also may appoint one or more persons from each of the following groups or a representative from a group other than a group specified:~~public school~~

1. Classroom teachers~~, public~~ employed by the district;
2. School counselors certified under Education Code Chapter 21, Subchapter B, employed by the district;
3. School administrators~~,~~ employed by the district;
4. District students~~,~~;
5. Health-care professionals~~, members of~~ licensed or certified to practice in this state, including medical or mental health professionals;
6. The business community~~,~~;
7. Law enforcement ~~representatives,~~;
8. Senior citizens~~,~~;
9. The clergy~~, representatives of~~;
10. Nonprofit health organizations~~, representatives of~~; and

~~1.~~11. Local domestic violence programs~~, or representatives of another group~~.

Education Code 28.004(d)

Physical Activity and Fitness Planning Subcommittee

The SHAC shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students. *Education Code 28.004(l-1)*

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Annual Report

In addition to its other duties, the SHAC shall submit to the board, at least annually, a written report that includes:

1. Any SHAC recommendation concerning the district's health education curriculum and instruction or related matters that the SHAC has not previously submitted to the board;
2. Any suggested modification to a SHAC recommendation previously submitted to the board;
3. A detailed explanation of the SHAC's activities during the period between the date of the current report and the date of the last prior written report; and
4. Any recommendations made by the physical activity and fitness planning subcommittee.

Education Code 28.004(m)

Changes in Curriculum

A district must consider the recommendations of the local SHAC before changing the district's health education curriculum or instruction. *Education Code 28.004(b)*

Public Statement

A district shall publish in the student handbook and post on the district's internet website, if the district has an internet website, a statement of:

1. ~~District~~The policies and procedures adopted to promote the physical health and mental health of students, the physical health and mental health resources available at each campus, contact information for the nearest providers of essential public health services under Health and Safety Code Chapter 121, and the contact information for the nearest local mental health authority;

~~1.~~2. The policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Education Code 28.002(l) [see EHAB and EHAC];

~~2.~~3. The number of times during the preceding year the SHAC has met;

~~3.~~4. Whether the district has adopted and enforces policies to ensure ~~compliance~~that district campuses comply with the Texas Education Agency's vending machine and food service guidelines for restricting student access to vending machines;

~~4.~~5. Whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined ~~at~~by Education Code 38.006, and tobacco

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products by students and others on school campuses or at school-sponsored or school-related activities [see DH and GKA]; ~~and~~

~~5.~~6. Notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year [see FFAA~~].~~]; and

7. Whether each campus in the district has a full-time nurse or full-time school counselor.

Education Code 28.004(k)

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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]

Availability to TEA

A district's plan for the improvement of student performance is not filed with the Texas Education Agency (TEA), but the district must

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make the plan available to TEA on request. *Education Code 11.252(b)*

Required Provisions

The district improvement plan must include provisions for:

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~~Evidence-based practices that address the needs of students for special programs, including:

      (1) Suicide prevention programs, in accordance with ~~Health and Safety~~Education Code Chapter ~~161~~38, Subchapter ~~O-1~~G, which include a parental or guardian notification procedure [see ~~FFB~~FFEB];

      (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. Positive behavior interventions and support, including interventions and support that integrate best practices on grief-informed and trauma-informed care.

   ~~e.~~f. Staff development for professional staff of a district.

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~~f.~~g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.

~~g.~~h. Accelerated education.

i. Implementation of a comprehensive school counseling program under Education Code 33.005. [See FFEA]

4. Strategies for providing to elementary school, middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:

   a. Higher education admissions and financial aid opportunities, including state financial aid opportunities such as the TEXAS grant program and the Teach for Texas grant program.

   b. The need for students to make informed curriculum choices to be prepared for success beyond high school.

   c. 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 policy under Education Code 38.0041 addressing sexual abuse and other maltreatment of children. [See FFG]

~~9.~~10. The trauma-informed care policy required under Education Code 38.036. [See FFBA]

Education Code 11.252(a)

Law Enforcement Duties

The law enforcement duties of peace officers, school resource officers, and security personnel~~.~~ must be included in the district improvement plan. *Education Code 37.081(d)(1)* [See CKE]

Discipline Management

A district shall adopt and implement a discipline management program ~~providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and~~

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~~other forms of bullying in schools, on school grounds, and in school vehicles.~~to be included in the district improvement plan. *Education Code 37.083(a)* [See FNC]

Dating Violence

~~1.~~ A district shall adopt and implement a dating violence policy to be included in the district improvement plan. ~~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 to be included 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, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.~~

Education Code 37.0831 [See FFH]

~~2. 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*~~

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~~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.~~

Mental Health, Substance Abuse, and Suicide

The practices and procedures developed under Education Code 38.351(i) (mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention) must be included in the district improvement plan. *Education Code 38.351(k)(2)* [See FFEB]

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.
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 timelines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Include goals and methods for violence prevention and intervention on campus.
9. Provide for a program to encourage parental involvement at the 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:

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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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Committee

A district's policy and procedures shall establish a district level planning and decision-making committee as provided by Education Code 11.251(b)–(e).

The committee shall include representative professional staff, parents of students enrolled in the district, business representatives, and community members. *Education Code 11.251(b)*

Professional Staff

A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff to nominate and elect the professional staff representatives who shall serve on the district-level committee. If practicable, the committee shall include at least one professional staff representative with the primary responsibility for educating students with disabilities.

At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members.

Education Code 11.251(e)

Parents

Board policy shall provide procedures for the selection of parents to the district-level committee.

For purposes of establishing the composition of the committee:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of a district is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.

Education Code 11.251(c), (e)

Business Representatives and Community Members

Board policy must provide procedures for the selection of community members and business representatives to serve on the district-level committee in a manner that provides for appropriate representation of the community's diversity.

The committee shall include a business representative without regard to whether the representative resides in the district or whether the business the person represents is located in the district.

Community members must reside in the district and must be at least 18 years of age.

Education Code 11.251(b), (c), (e)

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Meetings

A board shall establish a procedure under which the district-level committee holds regular meetings. The board or designee shall periodically meet with the district-level committee to review the committee's deliberations. *Education Code 11.251(b)*

Public Meetings

The district-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from TEA for the purpose of discussing the performance of a district and the district performance objectives. *Education Code 11.252(e)*

Communications

District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the district-level committee. *Education Code 11.252(e)*

Consultation

A superintendent shall regularly consult the district-level committee in the planning, operation, supervision, and evaluation of the district educational program. *Education Code 11.252(f)*

Responsibilities

District Plan

The district-level committee shall assist the superintendent with the annual development, evaluation, and revision of the district improvement plan. *Education Code 11.252(a)* [See District Improvement Plan at BQ(LEGAL)]

Each school district and campus shall use the results from the teaching and learning conditions survey required by Education Code 7.065(a~~), conducted biennially,~~) to review and revise, as appropriate, the district-level or campus-level improvement plan, and for other purposes, as appropriate to enhance the district and campus learning ~~environment~~environments. *Education Code 7.065(e)*

Dropout Prevention Review

A district-level committee of a district with a junior high, middle, or high school campus shall analyze information related to dropout prevention, including:

1. The results of the audit of dropout records;
2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade 9;
3. The number of students who enter a high school equivalency certificate program and:
    a. Do not complete the program,
    b. Complete the program but do not take the high school equivalency examination, or

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c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;

4. For students enrolled in grades 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and

5. The results of an evaluation of each school-based dropout prevention program in a district.

Each district-level committee shall use the information in developing the district improvement plan.

Education Code 11.255

Staff Development

For staff development under Education Code 21.451(a), a district may use district-wide staff development developed and approved through the district-level decision process. *Education Code 21.451(c)* [See DMA]

Note: See BF for information on the committee's role in requesting waivers.

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A district shall maintain policies and procedures to ensure that effective planning and site-based decision making occur at each campus to direct and support the improvement of student performance for all students. *Education Code 11.253(a)*

Committees

A district's policy and procedures shall establish campus-level planning and decision-making committees as provided by Education Code 11.251(b)–(e).

The committees shall include representative professional staff, parents of students enrolled in a district, business representatives, and community members.

Education Code 11.251(b), .253(b)

Professional Staff

A board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff to nominate and elect the professional staff representatives who shall serve on the campus-level committees. If practicable, a committee shall include at least one professional staff representative with the primary responsibility for educating students with disabilities.

At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and district-level professional staff members.

Education Code 11.251(e)

Parents

Board policy shall provide procedures for the selection of parents to the campus-level committees.

For purposes of establishing the composition of committees:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of a district is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.

Education Code 11.251(c), (e)

Business Representatives and Community Members

Board policy must provide procedures for the selection of community members and business representatives to serve on the committee in a manner that provides for appropriate representation of the community's diversity.

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A committee shall include a business representative without regard to whether the representative resides in the district or whether the business the person represents is located in the district.

Community members must reside in the district and must be at least 18 years of age.

Education Code 11.251(b), (c), (e)

Meetings

A board shall establish a procedure under which campus-level committees hold regular meetings. *Education Code 11.251(b)*

Public Meeting

Each campus-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from TEA to discuss the performance of the campus and the campus performance objectives. *Education Code 11.253(g)*

Communications

District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus-level committees. *Education Code 11.253(g)*

Consultation

A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. *Education Code 11.253(h)*

Responsibilities

In accordance with the administrative procedures established under Education Code 11.251(b) [see BQ], the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. *Education Code 11.251(d)*

Campus Improvement Plan

Each school year, the campus-level committee shall assist the campus principal with the development, review, and revision of the campus improvement plan. *Education Code 11.253(c)* [See Campus-Level Plan at BQ(LEGAL)]

Each school district and campus shall use the results from the teaching and learning conditions survey required by Education Code 7.065(a~~), conducted biennially,~~) to review and revise, as appropriate, the district-level or campus-level improvement plans, and for other purposes, as appropriate to enhance the district and campus learning ~~environment~~environments. *Education Code 7.065(e)*

Staff Development

The campus-level committee must approve the portions of the campus plan addressing campus staff development needs. *Education Code 11.253(e)*

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The staff development described by Education Code 21.451(a) must be predominantly campus-based, related to achieving campus performance objectives established under Education Code 11.253, and developed and approved by the campus-level committee. *Education Code 21.451(b)* [See DMA]

Dropout Prevention Review

A campus-level committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:

1. The results of the audit of dropout records;
2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade 9;
3. The number of students who enter a high school equivalency certificate program and:
   a. Do not complete the program;
   b. Complete the program but do not take the high school equivalency examination; or
   c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grades 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in the district.

A campus-level committee shall use the information in developing the campus improvement plan.

Education Code 11.255

Principal Performance Incentives

A performance incentive awarded to a principal shall be distributed to the principal's school. The campus-level committee shall determine the manner in which the performance incentive shall be distributed and used, in accordance with Education Code 39.264(a). *Education Code 21.357(c)*

Note: See BF for information on the committee's role in requesting waivers.

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The Texas Education Agency (TEA) may enter into an agreement with a federal agency concerning a project related to education, including provision of school lunches and construction of school buildings. TEA, or another state agency designated by the governor, shall coordinate the actions of a district participating in a federal financial assistance program. *Education Code 7.021(b), (c); Gov't Code 742.003*

Retirement and Insurance Contributions

Under the Texas Public School Retired Employees Group Benefits Act, Insurance Code Chapter 1575, a district that applies for money provided by the United States or a privately sponsored source shall, if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Insurance Code Chapter 1575, Subchapter E. *Insurance Code 1575.252*

Such district must comply with the requirements of Insurance Code Chapter 1575, Subchapter F. *Insurance Code 1575.252(2)–.257*

Under the Teacher Retirement System, Government Code, Title 8, Subtitle C, if a district applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the district shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201. *Gov't Code 825.406(a)*

Such district must comply with the requirements of Government Code 825.406.

Block Grant Funds

If a district receives more than $5,000 in block grant funds to be used as the district determines is appropriate, it shall provide evidence to TEA that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds received by the district. The board may hold this meeting or hearing in conjunction with another board meeting or hearing if the meeting or hearing to consider block grant funds is clearly noted in an announcement of the other meeting or hearing. *Gov't Code 2105.058*

Education Department General Administrative Regulations (EDGAR)

Note: For information regarding procurement under state law, see the CH policy series regarding Purchasing and Acquisition and the CV series regarding Facilities Construction.

For additional legal requirements applicable to school nutrition procurement, see COA.

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EDGAR means the Education Department General Administrative Regulations (34 C.F.R. 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99). *34 C.F.R. 77.1(c)*

Uniform Guidance (2 C.F.R. 200)

The Department of Education (DOE) adopts the Office of Management and Budget (OMB) Guidance in 2 C.F.R. Part 200 Uniform Guidance, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Chapter XXXIV, Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the DOE. *2 C.F.R. 3474.1*

The Uniform Guidance establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, including school districts. *2 C.F.R. 200.64(j), .69, .100*

Note: The Uniform Guidance applies to all new grant awards and non-competing continuations (NCCs) made on or after December 26, 2014 (see 2 C.F.R. 200.110).

For more information on EDGAR, the Uniform Guidance, and the federal regulations that apply to federal education grant awards, visit TEA's EDGAR Materials and Resources[1] and the DOE's EDGAR website,[2] Uniform Guidance website,[3] and FAQs.[4]

General Compliance

A district is responsible for complying with all requirements of the federal award. *2 C.F.R. 200.300(b)*

Disclosures

Conflicts

A district must disclose in writing any potential conflict of interest to the federal awarding agency (e.g., DOE) or pass-through entity (e.g., TEA) in accordance with applicable federal awarding agency policy. *2 C.F.R. 200.112*

Crimes

A district must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.338 (Remedies for Noncompliance), including suspension or debarment. *2 C.F.R. 200.113*

Procurement Standards

District Procedures

The district must use its own documented procurement procedures [see below at Competition] which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in the Uniform Guidance.

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Oversight

The district must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

Conflicts of Interest

The district must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the district must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, districts may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the district. [See BBFA, CAA(LOCAL), CB(LOCAL), DBD]

Records

The district must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. [See Pre-procurement Review and Contract Cost and Price, below]

2 C.F.R. 200.318

Financial Management

The district's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award.

The district's financial management system must comply with 2 C.F.R. 200.302(b).

2 C.F.R. 200.302 [see also 2 C.F.R. 200.333 (Retention Requirements for Records), .334 (Requests for Transfer of Records), .335 (Methods for Collection, Transmission and Storage of Information),

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.336 (Access to Records), and .337 (Restrictions on Public Access to Records)]

Internal Controls

The district must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the district is managing the award in compliance with federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States or the "Internal Control Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
2. Comply with federal statutes, regulations, and the terms and conditions of the award.
3. Evaluate and monitor the district's compliance with statutes, regulations and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the district considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. 200.303

"Internal controls" means a process, implemented by a district, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of reporting for internal and external use; and
3. Compliance with applicable laws and regulations.

2 C.F.R. 200.61

Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work,

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or invitations for bids or requests for proposals must be excluded from competing for such procurements.

The district must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this provision preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The district must have written procedures for procurement transactions. These procedures must ensure that all solicitations meet the requirements of 2 C.F.R. 200.319(c). [See Procurement Standards, above]

The district must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the district must not preclude potential bidders from qualifying during the solicitation period.

2 C.F.R. 200.319

Procurement Methods

The district must use one of the following methods of procurement. *2 C.F. R. 200.320*

Note: For information on the amounts of the micro-purchase threshold and the simplified acquisition threshold, see OMB Memorandum M-18-18,[5] TEA's To the Administrator Addressed letter[6] (August 28, 2018), and New TEA Guidance on Micro-Purchase Flexibility Under EDGAR.[7] For information regarding these thresholds and school nutrition purchases, see the Texas Department of Agriculture (TDA) Food and Nutrition Division's *Administrator's Reference Manual*,[8] Section 17, and USDA Memo SB20-2019; CACFP07-2019; SFSP06-2019.[9] (Revised October 30, 2019).

Micro-Purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, the district must distribute micro-purchases equitably among qualified suppli-

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ers. Micro-purchases may be awarded without soliciting competitive quotations if the district considers the price to be reasonable. *2 C.F.R. 200.320(a)*

"Micro-purchase" means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a district's small purchase procedures. The district uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1 Definitions. *2 C.F.R. 200.67*

Small Purchases

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. *2 C.F.R. 200.320(b)*

Simplified Acquisition Threshold

"Simplified acquisition threshold" means the dollar amount below which a district may purchase property or services using small purchase methods. Districts adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1 Definitions and in accordance with 41 U.S.C. 1908. *2 C.F.R. 200.88*

Sealed Bids

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions set out below apply.

In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

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1. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids, for local governments, the invitation for bids must be publicly advertised;

2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

3. All bids will be opened at the time and place prescribed in the invitation for bids, and for local governments, the bids must be opened publicly;

4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

5. Any or all bids may be rejected if there is a sound documented reason.

2 C.F.R. 200.320(c)

Competitive Proposals

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;

2. Proposals must be solicited from an adequate number of qualified sources;

3. The district must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;

4. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and

5. The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering

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(A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

2 C.F.R. 200.320(d)

Sole Source

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source;
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or
4. After solicitation of a number of sources, competition is determined inadequate.

2 C.F.R. 200.320(f)

Cooperative Purchasing

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the district is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. *2 C.F.R. 200.318(e)*

Affirmative Steps

The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by

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small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in ~~paragraphs (~~items 1~~)~~ through ~~(~~5~~)~~ above.

2 C.F.R. 200.321

Pre-procurement Review

The district must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The district's procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;

2. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

3. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;

4. The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

2 C.F.R. 200.324(b)

Contract Cost and Price

The district must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the district must make independent estimates before receiving bids or proposals.

The district must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all

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cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the district under 2 C.F.R. Part 200, Subpart E—Cost Principles. The district may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.323

Contract Provisions

The district's contracts must contain the applicable provisions described in 2 C.F.R. Part 200, Appendix II—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. *2 C.F.R. 200.326*

Suspension and Debarment

Non-federal entities are subject to non-procurement debarment and suspension regulations at 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.213*

Remedies for Noncompliance

If a district fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.207 (Specific Conditions). If the federal awarding agency or pass-through entity determines that noncompliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the district or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.

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4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency).

5. Withhold further federal awards for the project or program.

6. Take other remedies that may be legally available.

2 C.F.R. 200.338

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the district. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the district's non-federally funded activities and in accordance with the district's written travel reimbursement policies.

In the absence of an acceptable, written district policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11 (Travel and Subsistence Expenses; Mileage Allowances), or by the administrator of general services, or by the president (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under federal awards [48 C.F.R. 31.205–46(a)].

2 C.F.R. 200.474(a), (d)

Property Standards

Federally Owned Property

Title to federally owned property remains vested in the federal government. The district must submit annually an inventory listing of federally owned property in its custody to the federal awarding agency. Upon completion of the federal award or when the property is no longer needed, the district must report the property to the federal awarding agency for further federal agency utilization.

"Exempt federally owned property" means property acquired under a federal award where the federal awarding agency has chosen to vest title to the property to the district without further obligation to the federal government, based upon the explicit terms and conditions of the federal award.

2 C.F.R. 200.312(a), (c)

Property Trust Relationship

Real property, equipment, and intangible property that are acquired or improved with a federal award must be held in trust by the district as trustee for the beneficiaries of the project or program under

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which the property was acquired or improved. The federal awarding agency may require the district to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. *2 C.F.R. 200.316*

Real Property

Subject to the obligations and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the district.

Except as otherwise provided by federal statutes or by the federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the district must not dispose of or encumber its title or other interests.

When real property is no longer needed for the originally authorized purpose, the district must obtain disposition instructions from the federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(1).
2. Sell the property and compensate the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(2).
3. Transfer title to the federal awarding agency or to a third party designated/approved by the federal awarding agency. The district is entitled to be paid an amount calculated by applying the district's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

2 C.F.R. 200.311

Equipment

Title and Use

Subject to the obligations and conditions set forth in 2 C.F.R. 200.313, title to equipment acquired under a federal award will vest upon acquisition in the district. Unless a statute specifically authorizes the federal agency to vest title in the district without further obligation to the federal government, and the federal agency elects to do so, the title must be a conditional title. Title must vest in the district subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
2. Not encumber the property without approval of the federal awarding agency or pass-through entity.

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3. Use and dispose of the property in accordance with the provisions below.

Equipment must be used by the district in the program or project for which it was acquired in accordance with 2 C.F.R. 200.313(c).

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the requirements of 2 C.F.R. 200.313(d).

Disposition

If the district is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

When original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, except as otherwise provided in federal statutes, regulations, or federal awarding agency disposition instructions, the district must request disposition instructions from the federal awarding agency if required by the terms and conditions of the federal award. Disposition of the equipment will be made as prescribed in 2 C.F.R. 200.313(e), in accordance with federal awarding agency disposition instructions.

2 C.F.R. 200.313

Supplies

Title to supplies will vest in the district upon acquisition. If there is a residual inventory of unused supplies exceeding $5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the district must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2). *2 C.F.R. 200.314(a)*

Intangible Property

Title to intangible property acquired under a federal award vests upon acquisition in the district. The district must use that property for the originally-authorized purpose, and must not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. 200.313(e). *2 C.F.R. 200.315(a)*

Direct Grant Programs

The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the DOE. *34 C.F.R. 75.1*

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State-Administered Programs

The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the DOE. *34 C.F.R. 76.1*

General Education Provision Act

The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the DOE and implement Part E of the General Education Provisions Act (GEPA). *34 C.F.R. 81.1*

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[1] TEA EDGAR Materials and Resources: https://tea.texas.gov/Finance_and_Grants/Grants/EDGAR_Materials_and_Resources/
[2] DOE EDGAR website: https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html
[3] DOE Uniform Guidance website: https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html
[4] DOE Uniform Guidance FAQs: https://www2.ed.gov/policy/fund/guid/uniform-guidance/edfaqs1216.pdf
[5] OMB Memorandum M-18-18: https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf
[6] TEA *To the Administrator Addressed* letter (August 28, 2018): https://tea.texas.gov/about-tea/news-and-multimedia/correspondence/taa-letters/implementing-statutory-changes-to-micro-purchase-and-the-simplified-acquisition-thresholds-under-the-education-department-general-administrative-regulations-edgar
[7] New TEA Guidance on Micro-Purchase Flexibility Under EDGAR: https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/New_TEA_Guidance_on_Micro-Purchase_Flexibility_Under_EDGAR/
[8] TDA Food and Nutrition Division's *Administrator's Reference Manual*: http://squaremeals.org/Publications/Handbooks.aspx
[9] USDA Memo SB20-2019; CACFP07-2019; SFSP06-2019: https://files.constantcontact.com/884733b0501/37aa4af8-6f12-4d92-a163-27dffdc08993.pdf

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Bonds and Bond Taxes

The board may issue bonds for:

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

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

Education Code 45.001(a)

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

Limitation

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

Use of Proceeds for Utilities

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

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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 (limitation on the guaranteed amount) and 46.006 (shortage or excess of appropriated funds), a district is guaranteed a specified amount per student in state and local funds for each cent of tax effort, up to the statutory maximum in Education Code 46.003(b), to pay the principal of and interest on eligible bonds issued to construct, acquire, renovate or improve an instructional facility. *Education Code 46.003(a); 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
   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:

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(1) A purpose other than to retire the bonds; and

(2) The purpose specified at the time the vote is taken.

In addition to other requirements, notice of a public meeting held under this provision must include a statement that the board will consider the use of unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized. A public meeting held under this provision must provide the public an opportunity to address the board on the question of using the unspent bond proceeds for a purpose other than the specific purposes for which the bonds were authorized.

Education Code 45.1105

Capital Appreciation Bonds

For purposes of the following policy provisions, a "capital appreciation bond" is a bond that accrues and compounds interest from its date of delivery, the interest on which by its terms is payable only upon maturity or prior redemption.

Limitation on Issuance

A school district may not issue capital appreciation bonds that are secured by ad valorem taxes unless:

1. The bonds have a scheduled maturity date that is not later than 20 years after the date of issuance;
2. The board has received a written estimate of the cost of the issuance, including:
   a. The amount of principal and interest to be paid until maturity;
   b. The amount of fees to be paid to outside vendors, including vendors who sell products to be financed by the bond issuance;
   c. The amount of fees to be paid to each financing team member; and
   d. The projected tax impact of the bonds and the assumptions on which the calculation of the projected tax impact is based;
3. The board has determined in writing whether any personal or financial relationship exists between the members of the board and any financial advisor, bond counsel, bond underwriter, or other professional associated with the bond issuance and submitted the determination to the Ethics Commission; and
4. The board posts prominently on the district's internet website and enters in the minutes of the board:

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a. The total amount of the proposed bonds;

b. The length of maturity of the proposed bonds;

c. The projects to be financed with bond proceeds;

d. The intended use of bond proceeds not spent after completion of the projects identified;

e. The total amount of the district's outstanding bonded indebtedness at the time of the election on the bonds, including the amount of principal and interest to be paid on existing bond indebtedness until maturity;

f. The total amount of the district's outstanding bonded indebtedness, including the amount of principal and interest to be paid until maturity; and

g. The information received at item 2 above and determined under item 3 above.

The board shall regularly update the debt information posted on the district's internet website under item 4.f above to ensure that the information is current and accurate.

Limitation on Use of Proceeds

Capital appreciation bond proceeds may not be used to purchase the following items, unless an item has an expected useful life that exceeds the bond's maturity date:

1. Items more regularly considered maintenance items, including replacement HVAC units, upgraded plumbing, or similar items; or

2. Transportation-related items, including buses.

Unspent Proceeds

Capital appreciation bond proceeds unspent after completion of the project identified as the proceeds' intended use may be used only for a use identified on the district's website as required above, unless another use is approved by the voters of the district at an election held for that purpose.

Total Amount of Capital Appreciation Bonds

The total amount of capital appreciation bonds may not exceed 25 percent of the district's total outstanding bonded indebtedness at the time of the issuance, including the amount of principal and interest to be paid on the outstanding bonds until maturity.

Extension

A district may not extend the maturity date of an issued capital appreciation bond, including through the issuance of refunding bonds that extend the maturity date, unless:

1. The extension of the maturity date will decrease the total amount of projected principal and interest to maturity; or

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2. The maximum legally allowable tax rate for indebtedness has been adopted and TEA certifies in writing that the solvency of the permanent school fund's bond guarantee program would be threatened without the extension.

Gov't Code 1201.0245

The foregoing provisions of Government Code 1201.0245 do not apply to the issuance of refunding bonds under Government Code Chapter 1207 or capital appreciation bonds for the purpose of financing transportation projects. *Gov't Code 1201.0245(j)*

Bond Elections

Bonds may not be issued and taxes may not be levied unless authorized by a majority of the qualified voters of the district, voting at an election held for such purpose, at the expense of the district, in accordance with the Election Code, except as provided by Education Code 45.003. The election shall be called by resolution or order of the board. The resolution or order must state the date of the election, the proposition or propositions to be submitted and voted on, the polling place or places, and any other matters considered necessary or advisable by the board. *Education Code 45.003(a)*

Each special election in this state shall be held on one of the following dates:

1. The first Saturday in May; or
2. The first Tuesday after the first Monday in November.

Election Code 41.001(a) [See BBB]

Call for Election

For an election to be held on a uniform election date, the election shall be ordered not later than the 78th day before election day. *Election Code 3.005* [See BBBA]

Election Order

In addition to other legal requirements regarding the election order [see BBBA(LEGAL)], the document ordering an election to authorize a district to issue debt obligations must distinctly state:

1. The proposition language that will appear on the ballot;
2. The purpose for which the bonds are to be authorized;
3. The principal amount of the bonds to be authorized;
4. That taxes sufficient to pay the principal of and interest on the bonds may be imposed;
5. The estimated tax rate if the bonds are authorized or the maximum interest rate of the bonds or any series of the bonds, based on the market conditions at the time of the election order;

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6. The maximum maturity date of the bonds to be authorized or that the bonds may be issued to mature over a specified number of years not to exceed the maximum number of years authorized by law;

7. The aggregate amount of the outstanding principal of the district's debt obligations as of the date the election is ordered;

8. The aggregate amount of the outstanding interest on the district's debt obligations as of the date the election is ordered, which may be based on the district's expectations relative to variable rate debt obligations; and

9. The district's ad valorem debt service tax rate at the time the election is ordered, expressed as an amount per $100 valuation of taxable property.

Election Code 3.009(b)

Posting

The election order must be posted:

1. On election day and during early voting by personal appearance, in a prominent location at each polling place;

2. Not later than the 21st day before the election in three public places in the boundaries of the district; and

3. During the 21 days before the election, on the district's internet website, prominently and together with the notice of the election, the contents of the proposition, and any sample ballot prepared for the election, if the district maintains an internet website.

Election Code 4.003(f) [See Voter Information, below]

Election Notice

The notice of election must comply with Election Code Chapter 4. [For specific requirements regarding contents of the election notice, see BBBA(LEGAL).]

Publication and Posting

The notice of election must be published and posted in accordance with Election Code requirements. [For specific requirements regarding publication and posting, see BBBA(LEGAL).]

Notice to Election Officials

Notice must be given to the county clerk, voter registrar, and election judge in accordance with Election Code Chapter 4. [For specific requirements, see BBBA(LEGAL).]

Propositions

A proposition submitted to authorize the issuance of bonds must include the question of whether the board may levy, pledge, assess, and collect annual ad valorem taxes, on all taxable property in the district, either:

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1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or

2. Sufficient to pay the principal of and interest on the bonds, provided that the annual aggregate bond taxes in the district may never be more than the rate stated in the proposition.

The ballot proposition must include the following statement: "THIS IS A PROPERTY TAX INCREASE."

Education Code 45.003(b), (b-1)

A district that submits to the voters a proposition for the approval of the issuance of debt obligations shall prescribe the wording of the proposition that is to appear on the ballot in accordance with the requirements of Government Code Chapter 1251, Subchapter B. *Election Code 52.072(f)*

The district shall assign a letter to each measure on the ballot that corresponds to its order on the ballot. Each proposition on the ballot must identify the name of the authority ordering the election on the measure. *Election Code 52.095*

Ballot Contents

The ballot for a measure seeking voter approval of the issuance of debt obligations by a district shall specifically state:

1. A plain language description of the single specific purposes for which the debt obligations are to be authorized;

2. The total principal amount of the debt obligations to be authorized; and

3. That taxes sufficient to pay the principal of and interest on the debt obligations will be imposed.

Each single specific purpose for which debt obligations requiring voter approval are to be issued must be printed on the ballot as a separate proposition. A proposition may include as a specific purpose one or more structures or improvements serving the substantially same purpose and may include related improvements and equipment necessary to accomplish the specific purpose.

Gov't Code 1251.052(a)–(a-1)

Exception

Notwithstanding the requirements at Ballot Contents, above, the question of whether to approve the issuance of bonds for the construction, acquisition, and equipment of school buildings in the district, the purchase of new school buses, and the purchase of necessary sites for school buildings may be submitted to the voters in a single ballot proposition, except that bonds for each of the following purposes must be stated in a separate proposition:

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1. The construction, acquisition, or equipment of:

   a. A stadium with seating capacity for more than 1,000 spectators;

   b. A natatorium;

   c. Another recreational facility other than a gymnasium, playground, or play area;

   d. A performing arts facility;

   e. Housing for teachers as determined by the district to be necessary to have a sufficient number of teachers for the district; and

2. An acquisition or update of technology equipment, other than equipment used for school security purposes or technology infrastructure integral to the construction of a facility.

The question of whether to approve the issuance of bonds for a building described by items 1a–e above must be printed on the ballot as a separate ballot proposition regardless of whether that building is proposed as part of the same complex or building that contains traditional classroom facilities. Each separate ballot proposition must state the principal amount of the bonds to be issued that constitutes the cost for construction of that portion of the building or complex attributable to the building described by items 1a–e above or to the traditional classroom facilities, as applicable.

Education Code 45.003(g)–(h)

Definition

"Debt obligation" means a public security, as defined by Government Code 1201.002, secured by and payable from ad valorem taxes. The term does not include public securities that are designated as self-supporting by the political subdivision issuing the securities. *Gov't Code 1251.051(1)*

Voter Information

A district with at least 250 registered voters on the date the board adopts the debt obligation election order must prepare a voter information document for each proposition to be voted on at the election.

Posting Requirements

The district shall post the voter information document in the same manner as a debt obligation election order is required to be posted under Election Code 4.003(f) [see Posting, above] and may include the voter information document in the debt obligation election order.

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A district that maintains an internet website shall provide the information described at Contents, below, on its website in an easily accessible manner beginning not later than the 21st day before election day and ending on the day after the date of the debt obligation election.

Contents

The voter information document must distinctly state:

1. The language that will appear on the ballot;
2. The following information formatted as a table:
    a. The principal of the debt obligations to be authorized;
    b. The estimated interest for the debt obligations to be authorized;
    c. The estimated combined principal and interest required to pay on time and in full the debt obligations to be authorized; and
    d. As of the date the district adopts the debt obligation election order:
        (1) The principal of all outstanding debt obligations of the district;
        (2) The estimated remaining interest on all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations; and
        (3) The estimated combined principal and interest required to pay on time and in full all outstanding debt obligations of the district, which may be based on the district's expectations relative to the interest due on any variable rate debt obligations;
3. The estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the district with an appraised value of $100,000 to repay the debt obligations to be authorized, if approved, based upon assumptions made by the board; and
4. Any other information that the board considers relevant or necessary to explain the information required by these provisions.

Assumptions

The board shall identify in the voter information document the major assumptions made in connection with the statement required by item 3 above, including:

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1. The amortization of the district's debt obligations, including outstanding debt obligations and the proposed debt obligations;

2. Changes in estimated future appraised values within the district; and

3. The assumed interest rate on the proposed debt obligations.

Gov't Code 1251.052(b)–(d)

Electioneering and Political Advertising

For additional information and prohibitions related to electioneering and political advertising, see BBBD(LEGAL).

50 Cent Test for New Debt

Before issuing bonds, a district must demonstrate to the attorney general that, with respect to the proposed issuance, the district has a projected ability to pay the principal of and interest on the 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 46 or 48 that may be lawfully used for the payment of bonds.

Future Taxable Value

A district may demonstrate the ability to comply with the 50 Cent Test by using a projected future taxable value of property in the district anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the district is entitled under Education Code Chapter 46 or 48 that may be lawfully used for the payment of bonds.

The district must submit to the attorney general a certification of the district's projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.

The certification of a district's projected taxable value must be signed by the superintendent. The attorney general must base a determination of whether a district has complied with the 50 Cent Test on a taxable value that is equal to 90 percent of the value certified.

Education Code 45.0031

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Attorney General Review and Approval

Unless exempt under Government Code 1202.007, before the issuance of a public security, the issuer shall submit the public security and the record of proceedings to the attorney general. *Gov't Code 1202.003(a); see, e.g., 1 TAC 53.3 (Content of Transcripts), 53.16 (Submission and Approval of Transcripts), and 53.61 (School District Tax Bond Elections)*

Refunding Bonds

A board may refund or refinance all or any part of any of the district's outstanding bonds and matured or unmatured but unpaid interest on those bonds payable from ad valorem taxes by issuing refunding bonds payable from ad valorem taxes. *Education Code 45.004; Gov't Code Ch. 1207*

Instructional Facilities Allotment for Refunding Bonds

A district may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:

1. Are issued to refund bonds eligible under Education Code 46.003;
2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded; and
4. Result in a present value savings as defined in Education Code 46.007(4).

Education Code 46.007

Authorized Unissued Bonds

If a district has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, a board may order an election [see BBBA] to submit to the qualified voters of the district the proposition of whether or not the authorized but unissued bonds may be issued, sold, and delivered for other and different purposes specified in the election order and notice. The election shall be ordered, held, and conducted in the same form and manner as that at which the bonds were originally authorized. If a majority of those voting at the election vote in favor of the sale and delivery of the unissued bonds for the purposes specified in the election order and notice, the board may issue, sell, and deliver the bonds and use the proceeds for the purposes authorized at the election. *Education Code 45.110*

Bond Guarantee Program

Eligibility

A district seeking guarantee of eligible bonds under the Bond Guarantee Program shall apply to the commissioner of education using a form adopted by the commissioner. To be eligible for approval, district bonds must be issued under Education Code Chapter 45,

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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.

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.

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The credit enhancement remains in effect until the date the bonds mature or are defeased in accordance with state law.

Education Code 45.252

Eligibility

To be eligible for approval by the commissioner for credit enhancement:

1. Bonds must be issued in the manner provided by Education Code 45.054;
2. Payments of all of the principal of the bonds must be scheduled during the first six months of the state fiscal year;
3. The district's lowest credit rating from any credit rating agency may not be the same as or higher than that of the School District Bond Enhancement Program;
4. The bonded debt for which the credit enhancement is sought must be structured so that no single annual debt service payment exceeds two times the quotient produced by dividing the total proposed annual debt service, as defined in 19 Administrative Code 61.1038(b)(10), for the term of the bonds by the number of years in the amortization schedule; and
5. The district must agree in its application that the total annual debt service on bonds approved for the credit enhancement will be paid on or before August 15 of each state fiscal year.

Education Code 45.254; 19 TAC 61.1038(f)

Application

A district seeking credit enhancement of eligible bonds shall apply to the commissioner using a form adopted by the commissioner for the purpose. The application must:

1. Include the information required by Education Code 45.055(b), at Bond Guarantee Program—Application, above; and
2. Be accompanied by a fee set by the State Board of Education. *19 TAC 61.1038(d)(1)*

Education Code 45.255

The district may not submit an application for a guarantee or credit enhancement before the successful passage of an authorizing proposition.

If a district does not receive a credit enhancement or for any reason does not receive approval of the bonds from the attorney general within the specified time period, the district may reapply in a

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subsequent month. Applications that were denied a credit enhancement will not be retained for consideration in subsequent months.

A district may not represent the bonds as approved for credit enhancement for the purposes of pricing or marketing the bonds before the date of the letter granting approval for the credit enhancement.

19 TAC 61.1038(e)(1), (8), (10)

Authority to Contract for Services

An issuer has exclusive authority to select, contract with, and determine the basis for compensation of a person to provide legal and other services as may be determined by the issuer to be necessary in connection with the issuer's issuance of public securities or administration of its affairs that pertain to the issuance of public securities. The selection of legal counsel shall be made in accordance with the provisions of Government Code Chapter 2254, Subchapter A, applicable to the selection by a governmental entity of a provider of professional engineering services. *Government Code 1201.027(a)* [See CH(LEGAL) regarding contingent fee contracts for legal services and Government Code 2254.102(e) for additional requirements.]

Federal Securities Law

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 Exchange Commission (SEC~~).~~) (SEC Rule 15c2-12(b~~)~~)). *17 C.F.R. 240.15c2-12* [See Note, below]

Continuing Disclosure after Issuing Bonds

Except for exempt offerings, SEC Rule 15c2-12(b) requires underwriters to obtain a continuing disclosure agreement (CDA) from the district when the district issues bonds. A CDA obligates the district to prepare and file continuing disclosures of financial information and operating data annually after the bonds are issued. A CDA also requires filing notice regarding the occurrence of events listed under SEC Rule 15c2-12(b)(5)(i)(C) within 10 business days following the occurrence of any such event. *17 C.F.R. 240.15c2-12* [See Note, below]

Liability under Federal Securities Law

School districts, board members, and certain employees of the district are subject to liability under the ~~"~~antifraud provisions~~"~~ of the federal securities laws contained in Section 17(a) of the Securities Act of 1933 (the "Securities Act"), Section 10(b) of the Securities Exchange Act of 1934 (the "Exchange Act") and Rule 10b-5 of the SEC. The antifraud provisions generally prohibit false or misleading

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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~~SEC Rule 15c2-12(b) after a district's bonds are issued. [See Continuing Disclosure after Issuing Bonds, ~~below~~above] *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)~~29*

Note: In preparing an official statement, a district may reasonably rely on the advice of outside professionals who are also subject to the antifraud provisions, but a district is primarily liable for the content of its official statement and other disclosures. *SEC Exchange Act Release No. 36761 (Jan. 24, 1996)*

A district may engage qualified consultants, including qualified disclosure or securities counsel and a financial adviser, to assist with preparing an official statement and other primary disclosures relating to a bond offering. Creation of internal procedures may help to insulate a district against criticism or liability under federal securities laws.

Districts may also engage disclosure counsel and/or other professionals to assist with secondary disclosure, including advice and assistance ensuring that (1) reporting requirements imposed by a CDA are satisfied and (2) information disclosed in periodic and occasional reports is accurate and complete.

Internal procedures may provide for (1) appointment of, and disclosure training for, district officials and employees who will be part of the financing team, (2) a procedure of accountability for review of the disclosures, and (3) ensuring that any procedures established are in fact followed.

[See SEC Report on the Municipal Securities Market (July 31, 2012)]

~~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~~

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~~and operating data after the bonds are issued. *SEC Rule 15c2-12(b)(5)* [See Note, below]~~

~~***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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Table of Contents

Tax Rate Adoption 2
Maintenance Taxes 2
Assessor and Collector 4
Certified Estimate of Values 5
Appraisal Roll 5
Designated Employee/Officer to Calculate Rates 6
Truth-in-Taxation Requirements 6
Tax Rate Adoption Requirements 8
Adoption of Tax Roll 9
Failure to Adopt Tax Rate 10
Taxpayer Injunction 10
Tax Information to County 10
Appraisal District Property Tax Database 10
Internet Posting of Tax Rate and Budget Information 11
Election to Approve Tax Rate 11
Efficiency Audit 11
Disaster Exception 12
Time for Election 12
Proposition 13
Election Outcome 13

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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~~maximum compressed rate, as determined under Education Code 48.~~255, multiplied by $1.00~~2551.

Maximum Compressed Rate

"MCR" is the district's maximum compressed rate, which is the tax rate for the current tax year per $100 of valuation of taxable property at which the district must levy a maintenance and operations tax to receive the full amount of the tier one allotment to which the district is entitled under Education Code Chapter 48. The Texas Education Agency (TEA) shall calculate and make available school districts' maximum compressed rates.

Education Code 48.2551

School districts' maximum compressed maintenance and operations tax rates shall be calculated using locally certified property values and adjusted to estimate for exclusions under Government Code 403.302(d).

TEA will open a data collection from 12:01 a.m. on July 18 through 11:59 p.m. on August 1 for districts. Districts must submit the data specified in 19 Administrative Code 61.1000(c). TEA will use any available data to calculate MCR absent data collection submissions from a school district.

19 TAC 61.1000(b), (c), (h)

TEA will calculate and make available preliminary maximum compressed tier one tax rates to each district on or before August 5. If TEA receives an appeal of a preliminary MCR, TEA will issue a final determination to the district no later than August 31. If TEA does not receive an appeal of a preliminary MCR, the preliminary MCR automatically becomes a final MCR ten calendar days following TEA's approval of the district's preliminary MCR. *19 TAC 61.1000(d)–(f)*

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A district may appeal its preliminary MCR through the following process:

1. The TEA division responsible for MCRs must receive a written appeal no later than ten calendar days after TEA's approval of the district's preliminary MCR. The appeal must include adequate evidence and additional information that supports the position of the district. Appeals received 11 calendar days or more after TEA approves a district's preliminary MCR will not be considered.

2. TEA will only consider appeals that would result in a change of the preliminary MCR.

19 TAC 61.1000(g)

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~~district's maximum compressed rate, as determined under Education Code 48.~~255, multiplied by $1.00~~2551.

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.

Education Code 45.003(d), (e)

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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 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)*

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.

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.

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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.

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 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.~~

~~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)*~~

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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 and Contents

The notice of public meeting to discuss and adopt the budget and the proposed tax rate may not be smaller than one-quarter page of a standard-size or a tabloid-size newspaper, and the 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)

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)*

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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 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 above. If a district adopts a tax rate under this provision, the no-new-revenue tax rate and the voter-approval tax rate of the district shall be calculated based on the certified estimate of taxable value. *Tax Code 26.05(g)*

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Tax Rate Adoption Requirements

Deadline

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] 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 no-new-revenue maintenance and operations tax rate and the district's current debt rate must be a record vote, and at least 60 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 no-new-revenue tax rate must be made in the following form: "I move that the property tax rate be increased

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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 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 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 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 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 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)."

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

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	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 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 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, no-new-revenue tax rate, no-new-revenue maintenance and operations rate, and 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)*
Appraisal District Property Tax 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)*

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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 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)*

[For information on conducting elections, see the BBB series.]

Efficiency Audit

"Efficiency audit" means an investigation of the operations of a district 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. 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 selected.

Before an election at which a district seeks voter approval to adopt a tax rate, the board must hold an open meeting to discuss the results of the efficiency audit. Not later than 30 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

Legislative Budget Board Guidelines

The Legislative Budget Board (LBB) shall establish guidelines identifying the scope and areas of investigation of an efficiency audit, including identification of resources being used effectively and efficiently and identification of cost savings or reallocations. The

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auditor selected by the board of a district must follow the guidelines established by the LBB under this provision. *Education Code 11.184(f)*

Efficiency Audit Guidelines[2] are found on the LBB website.

Disaster Exception

To Efficiency Audit Requirement

The board of a district all or part of which is 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 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)*

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. 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 the next uniform election date prescribed by Election Code 41.001 that occurs after the date of the election order and that allows sufficient time to comply with the requirements of other law. *Tax Code 26.08(b)*

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.

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

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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: "Ratifying the ad valorem tax rate of _____ (insert adopted tax rate) in (name of school district) for the current year, a rate that will result in an increase of _____ (insert percentage increase in maintenance and operations tax revenue under the adopted tax rate 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 current year as compared to the preceding year, which is an additional $_____ (insert dollar amount of increase in maintenance and operations tax revenue under the 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)(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 tax rate for the current year that exceeds the district's 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
[2] LBB Efficiency Audit Guidelines: http://www.lbb.state.tx.us/Documents/Publications/Policy_Report/6365_HB3_Efficiency_Audit_Guidelines.pdf

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Table of Contents

Exemptions 2
Homestead 2
Veteran Exemptions 4
Exemption for Subsequent Residence 5
Temporary Exemption for Property Damaged by Disaster 5
Optional Exemptions 6
Goods-in-Transit 6
Payment Options 7
Discounts 7
Split Payments 8
Installment Payments 8
Services in Lieu of Paying Taxes 9
Delinquent Taxes 10
Delinquency Date 10
Delinquent Tax Collection 10
Additional Penalties 10

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Note: For more information on property tax exemptions, see the Texas Comptroller's Property Tax Exemptions[1] website.

Exemptions

Homestead

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. *Tax Code 11.13(b)*

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 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, 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)*

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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

If an individual who qualifies for the exemption at Persons 65 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 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 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 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 65 or older is entitled to an exemption from taxation by a district of a portion of the appraised value of 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)

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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

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 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. *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)*

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 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.

Tax Code 11.131, .132

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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. *Tax Code 11.133* *Tex. Const. Art. VIII, Sec. 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 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)*
Temporary Exemption for Property Damaged by Disaster	A person is entitled to an exemption from taxation by a district of a portion of the appraised value of qualified property, as defined by Tax Code 11.35(a), that the person owns in an amount determined by the chief appraiser under Tax Code 11.35(h). *Tax Code 11.35(b)*
Automatic	A person who qualifies for an exemption under this provision must apply for the exemption not later than the 105th day after the date the governor declares the area in which the person's qualified property is located to be a disaster area. *Tax Code 11.43(s)*
Board-Adopted	Notwithstanding the provisions above, if the governor first declares territory in a district to be a disaster area as a result of a disaster on or after the date the district adopts a tax rate for the tax year in which the declaration is issued, a person is not entitled to the exemption for that tax year unless the board adopts the exemption in the manner provided by law for official action by the board. An exemption adopted by the board must: 1. Specify the disaster to which the exemption pertains; and 2. Be adopted not later than the 60th day after the date the governor first declares territory in the district to be a disaster area as a result of the disaster.

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Not later than the seventh day after the date the board adopts the exemption, the district shall notify the chief appraiser of each appraisal district in which the school district participates, the assessor for the school district, and the comptroller of the adoption of the exemption.

Tax Code 11.35(c)–(e)

A person who qualifies for an exemption adopted by the board under this provision must apply for the exemption not later than the 45th day after the date the board adopts the exemption. *Tax Code 11.43(s)*

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

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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-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.

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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)

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

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 31.04(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)*

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

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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 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*

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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*

Delinquent Taxes

Delinquency Date

Except as provided by Tax Code 31.02(b) (payment by certain eligible persons on active duty in the armed forces), 31.03 (split payments), and 31.04 (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)* [See CH(LEGAL) regarding contingent fee contracts for legal services and Government Code 2254.102(~~c~~e) 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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Table of Contents

Tax Increment Financing Act 2
Board of Directors 2
Tax Increments 2
Property Redevelopment and Tax Abatement Act 4
Reinvestment Zone for Chapter 313 4
Texas Economic Development Act 5
Definitions 5
School District Categories 10
Minimum Amounts of Qualified Investment 10
Eligibility 10
Application for Limitation on Appraised Value 11
Confidential Business Information 12
Action on Application 13
Fees 15
Approval 16
Continued Eligibility 17
Agreement 18
Compliance and Enforcement 22
Disclosure of Appraised Value Limitation Information 22
Accessibility of Documents 22

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Tax Increment Financing Act

Board of Directors

Except as provided at Large Municipality below, each district that levies taxes on real property in a reinvestment zone designated by a county or municipality in accordance with the Tax Increment Financing Act, Tax Code Chapter 311, may appoint one member of the reinvestment zone board of directors if the district has approved the payment of all or part of the tax increment produced by the district into the tax increment fund for the zone. A district may waive its right to appoint a director. *Tax Code 311.009(a), (b)*

Large Municipality

In a reinvestment zone designated by a municipality which is wholly or partially located in a county with a population of less than 1.8 million in which the principal municipality has a population of 1.1 million or more, each taxing unit that approves the payment of all or part of its tax increment into the tax increment fund is entitled to appoint a number of members to the board in proportion to the taxing unit's pro rata share of the total anticipated tax increment to be deposited into the tax increment fund during the term of the zone. *Tax Code 311.0091(a)–(c)*

Tax Increments

Amount

The amount of a district's tax increment for a year is the amount of property taxes levied and assessed by the district for that year on the captured appraised value of real property taxable by the district and located in a reinvestment zone or the amount of property taxes levied and collected by the district for that year on the captured appraised value of real property taxable by the district and located in a reinvestment zone. The board of the district shall determine which of the methods is used to calculate the amount of the district's tax increment.

"Captured Appraised Value"

The captured appraised value of real property taxable by a district for a year is the total taxable value of all real property taxable by the district and located in a reinvestment zone for that year less the tax increment base of the district.

"Tax Increment Base"

The tax increment base of a district is the total taxable value of all real property taxable by the district and located in a reinvestment zone for the year in which the zone was designated under Tax Code Chapter 311.

Tax Code 311.012

Collection and Deposit

Each district that taxes real property located in a reinvestment zone shall provide for the collection of its taxes in the zone as for any other property taxed by the district. Each district shall pay into the tax increment fund for the zone an amount equal to the tax increment produced by the district, less the sum of:

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1. Property taxes produced from the tax increments that are, by contract executed before the designation of the area as a reinvestment zone, required to be paid by the district to another political subdivision; and

2. A portion, not to exceed 15 percent, of the tax increment produced by the district as provided by the reinvestment zone financing plan or a larger portion as provided at Agreement Required below.

Tax Code 311.013(a)–(b)

Notwithstanding any termination of the reinvestment zone and unless otherwise specified by an agreement between the district and the municipality or county that created the zone, a district shall make the required payment not later than the 90th day after the later of the delinquency date for district property taxes or the date the municipality or county that created the zone submits to the district an invoice specifying the tax increment produced by the district and the amount the district is required to pay into the tax increment fund for the zone. A district is not required to pay into a tax increment fund the applicable portion of a tax increment attributable to delinquent taxes until those taxes are collected. *Tax Code 311.013(c), (i)*

A district whose taxable value is reduced under Government Code 403.302(d)(4) (determination of district property values by the comptroller) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, an amount equal to the amount by which the amount of taxes the district would have been required to pay into the fund in the current year if the district levied taxes at the rate the district levied in 2005 exceeds the amount the district is otherwise required to pay into the fund in the year of the reduction. This additional amount may not exceed the amount the district receives in state aid for the current tax year under Education Code 48.253 (additional state aid for tax increment financing payments). The district shall pay the additional amount after the district receives the state aid to which the district is entitled for the current tax year under Education Code 48.253. *Tax Code 311.013(n)*

Agreement Required

A district is not required to pay into the tax increment fund any of its tax increment produced from property located in a reinvestment zone designated under Tax Code 311.005(a) or in an area added to a reinvestment zone under Tax Code 311.007 unless the district enters into an agreement to do so with the governing body of the municipality or county that designated the zone. *Tax Code 311.013(f)*

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A district that participates in a zone is not required to increase the percentage or amount of the tax increment to be contributed by the district because of an amendment to the project plan or reinvestment zone financing plan for the zone unless the board by official action approves the amendment. *Tax Code 311.011(g)*

A district is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to the reinvestment zone under Tax Code 311.007(a) or (b) unless the board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(k)*

If the governing body of the municipality or county that designated a reinvestment zone extends the term of all or a portion of the zone, a district is not required to participate in the zone or portion of the zone for the extended term unless the district enters into a written agreement to do so. *Tax Code 311.007(c)*

Notwithstanding the designation of a later termination date under Tax Code 311.017(a), a district that taxes real property located in the reinvestment zone is not required to pay any of its tax increment into the tax increment fund for the zone after the termination date designated in the ordinance or order creating the zone unless the board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.017(a-1)*

Property Redevelopment and Tax Abatement Act

On or after September 1, 2001, a school district may not enter into a tax abatement agreement under Tax Code Chapter 312. *Tax Code 312.002(f)*

Reinvestment Zone for Chapter 313

Notwithstanding any other provision of Tax Code Chapter 312 to the contrary, the board, in the manner required for official action and for purposes of Tax Code Chapter 313, Subchapter B or C [see Texas Economic Development Act below], may designate an area entirely within the territory of the district as a reinvestment zone if the board finds that, as a result of the designation and the granting of a limitation on appraised value, for property located in the reinvestment zone, the designation is reasonably likely to:

1. Contribute to the expansion of primary employment in the reinvestment zone; or

2. Attract major investment in the reinvestment zone that would:

    a. Be a benefit to property in the reinvestment zone and to the district; and

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b. Contribute to the economic development of the region of this state in which the district is located.

The board may seek the recommendation of the commissioners court of each county and the governing body of each municipality that has territory in the district before designating an area as a reinvestment zone.

Tax Code 312.0025

Texas Economic Development Act

In implementing the Texas Economic Development Act, Tax Code Chapter 313, districts should strictly interpret the criteria and selection guidelines provided by Chapter 313 and approve only those applications for an ad valorem tax benefit that:

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas.

Tax Code 313.004(3)

Definitions

Agreement

"Agreement" means the written agreement between the board and the approved applicant on the form adopted by reference in 34 Administrative Code 9.1052 (Forms) to implement a limitation on the appraised value for district maintenance and operations ad valorem property tax purposes on an entity's qualified property, required by Tax Code 313.027(d).

Agreement Holder

"Agreement holder" means an entity that has executed an agreement with a district.

Applicant

"Applicant" means an entity that has applied for a limitation on appraised value for district maintenance and operations ad valorem property tax purposes on the entity's property, as provided by Tax Code Chapter 313.

Application

"Application" means an application for limitation of appraised value for district maintenance and operations ad valorem property tax purposes on an entity's qualified property on the form adopted by reference in 34 Administrative Code 9.1052 (Forms), the schedules attached thereto, and the documentation submitted by an entity for the purpose of obtaining an agreement for a limitation on appraised value from a district.

Application Review Start Date

"Application review start date" means the later date of either the date on which the district issues its written notice that an applicant has submitted a completed application or the date on which the

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comptroller issues its written notice that an applicant has submitted a completed application.

Completed Application

"Completed application" means an application in the form and number and containing all the information required pursuant to 34 Administrative Code 9.1053 (Entity Requesting Agreement to Limit Appraised Value), that has been determined by the district and the comptroller to include all minimum requirements for consideration.

Entity

"Entity" means any entity upon which a tax is imposed by Tax Code 171.001, including a combined group as defined by Tax Code 171.0001(7) or members of a combined group, provided, however, an entity does not include a sole proprietorship, partnership, or limited liability partnership.

34 TAC 9.1051(1), (2), (3), (7), (10), (12), (20)

Qualified Investment

"Qualified investment" means:

1. Tangible personal property that is first placed in service in this state during the applicable qualifying time period that begins on or after January 1, 2002, without regard to whether the property is affixed to or incorporated into real property, and that is:

    a. Described as Section 1245 property by Section 1245(a), Internal Revenue Code of 1986;

    b. Used in connection with the manufacturing, processing, or fabrication in a cleanroom environment of a semiconductor product, without regard to whether the property is actually located in the cleanroom environment, including integrated systems, fixtures, and piping; all property necessary or adapted to reduce contamination or to control airflow, temperature, humidity, chemical purity, or other environmental conditions or manufacturing tolerances; and production equipment and machinery, moveable cleanroom partitions, and cleanroom lighting;

    c. Used in connection with the operation of a nuclear electric power generation facility, including property, including pressure vessels, pumps, turbines, generators, and condensers, used to produce nuclear electric power; and property and systems necessary to control radioactive contamination;

    d. Used in connection with operating an integrated gasification combined cycle electric generation facility, including property used to produce electric power by means of a

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combined combustion turbine and steam turbine application using synthetic gas or another product produced by the gasification of coal or another carbon-based feedstock; or property used in handling materials to be used as feedstock for gasification or used in the gasification process to produce synthetic gas or another carbon-based feedstock for use in the production of electric power in the manner described herein;

e. Used in connection with operating an advanced clean energy project, as defined by Health and Safety Code 382.003; or

2. A building or a permanent, nonremovable component of a building that is built or constructed during the applicable qualifying time period that begins on or after January 1, 2002, and that houses tangible personal property described by items 1a–e above.

Tax Code 313.021(1)

Qualified Property

"Qualified property" means:

1. Land:

a. That is located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303;

b. On which a person proposes to construct a new building or erect or affix a new improvement that does not exist before the date the person submits a complete application for a limitation on appraised value under Tax Code Chapter 313, Subchapter B;

c. That is not subject to a tax abatement agreement entered into by a district under Tax Code Chapter 312; and

d. On which, in connection with the new building or new improvement described by item 1b above, the owner or lessee of, or the holder of another possessory interest in, the land proposes to:

(1) Make a qualified investment in an amount equal to at least the minimum amount required by Tax Code 313.023; and

(2) Create at least 25 new qualifying jobs, except as provided at Exception below;

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2. The new building or other new improvement described by item 1b above; and

3. Tangible personal property:

   a. That is not subject to a tax abatement agreement entered into by a district under Tax Code Chapter 312;

   b. For which a sales and use tax refund is not claimed under Tax Code 151.3186; and

   c. Except for new equipment described in Tax Code 151.318(q) or (q-1), that is first placed in service in the new building, in the newly expanded building, or in or on the new improvement described by item 1b above, or on the land on which that new building or new improvement is located, if the personal property is ancillary and necessary to the business conducted in that new building or in or on that new improvement.

Tax Code 313.021(2); see also 34 TAC 9.1051(16) (additional requirements for "Qualified Property")

Exception

For purposes of Tax Code Chapter 313, Subchapter C, applicable to certain rural districts, a property owner is required to create at least 10 qualifying jobs. *Tax Code 313.051(b)*

Qualifying Job

"Qualifying job" means a permanent full-time job that:

1. Requires at least 1,600 hours of work a year;

2. Is not transferred from one area in this state to another area in this state;

3. Is not created to replace a previous employee;

4. Is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

5. Pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

Tax Code 313.021(3); 34 TAC 9.1051(30)

To be eligible for a limitation on appraised value under Tax Code Chapter 313, the property owner must create the required number of new qualifying jobs and the average weekly wage for all jobs created that are not qualifying jobs must exceed the county average weekly wage for all jobs in the county where the jobs are located. *Tax Code 313.024(d)*

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Waiver of New Jobs Creation Requirement

Notwithstanding any other provision of Tax Code Chapter 313 to the contrary, the board may waive the new jobs creation requirement and approve an application if the board makes a finding that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application. *Tax Code 313.025(f-1)*

Qualifying Time Period

"Qualifying time period" means:

1. The period that begins on the date that a person's application for a limitation on appraised value under Tax Code Chapter 313 is approved by the board and ends on December 31 of the second tax year that begins after that date, except as provided by items 2 and 3 below or Tax Code 313.027(h);

2. In connection with a nuclear electric power generation facility, the first seven tax years that begin on or after the third anniversary of the date the district approves the property owner's application for a limitation on appraised value, unless a shorter time period is agreed to by the board and the property owner; or

3. In connection with an advanced clean energy project, the first five tax years that begin on or after the third anniversary of the date the district approves the property owner's application for a limitation on appraised value, unless a shorter time period is agreed to by the board and the property owner.

Tax Code 313.021(4)

Substantive Document

"Substantive document" means a document or other information or data in electronic media determined by the comptroller to substantially involve or include information or data significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Tax Code Chapter 313. The term includes, but is not limited to, any application requesting a limitation on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between applicant and the district and any subsequent amendments or assignments, any district written finding or report filed with the comptroller as required under 34 Administrative Code Chapter 9, Subchapter F; and any completed annual eligibility report (Form 50-772A) submitted to the comptroller. The term shall not include any employee names or other personal identifying information that is submitted to the comptroller. Positions can be described by job type, category, or general title. *34 TAC 9.1051(19)*

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School District Categories

For purposes of determining the required minimum amount of a qualified investment and the minimum amount of a limitation on appraised value, districts to which Tax Code Chapter 313, Subchapter B applies are categorized according to the taxable value of property in the district for the preceding tax year under Government Code Chapter 403, Subchapter M (comptroller's study of school district property values), as set out in Tax Code 313.022. *Tax Code 313.022(b); 34 TAC 9.1058(d)*

For purposes of determining the required minimum amount of a qualified investment and the minimum amount of a limitation on appraised value, districts to which Tax Code Chapter 313, Subchapter C applies are categorized according to the taxable value of industrial property in the district for the preceding tax year under Government Code Chapter 403, Subchapter M (comptroller's study of school district property values), as set out in Tax Code 313.052. *Tax Code 313.052; 34 TAC 9.1058(d)*

Minimum Amounts of Qualified Investment

For each category of district established by Tax Code 313.022, the minimum amount of a qualified investment is set out in Tax Code 313.023. *Tax Code 313.023*

For each category of district established by Tax Code 313.052, the minimum amount of a qualified investment is set out in Tax Code 313.053. *Tax Code 313.053*

Eligibility

Tax Code Chapter 313, Subchapters B and C apply only to property owned by an entity subject to franchise tax (Tax Code Chapter 171). To be eligible for a limitation on appraised value, the entity must use the property for a purpose stated in Tax Code 313.024.

Exception for Wind-Powered Energy Device

An owner of a parcel of land that is located wholly or partly in a reinvestment zone, a new building constructed on the parcel of land, a new improvement erected or affixed on the parcel of land, or tangible personal property placed in service in the building or improvement or on the parcel of land may not receive a limitation on appraised value for the parcel of land, building, improvement, or tangible personal property under an agreement under Tax Code Chapter 313, Subchapter B that is entered into on or after September 1, 2017, if, on or after that date, a wind-powered energy device is installed or constructed on the same parcel of land at a location that is within 25 nautical miles of the boundaries of a military aviation facility located in this state. This prohibition applies regardless of whether the wind-powered energy device is installed or constructed at a location that is in the reinvestment zone.

Tax Code 313.024

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Application for Limitation on Appraised Value

The owner or lessee of, or the holder of another possessory interest in, any qualified property may apply to the board for a limitation on the appraised value of the person's qualified property for district maintenance and operations ad valorem tax purposes. An application must be made on the form prescribed by the comptroller, must include the information required by the comptroller, and must be accompanied by:

1. The application fee established by the board;
2. Information sufficient to show that the real and personal property identified in the application as qualified property meets the applicable criteria established by Tax Code 313.021(2); and
3. Any information required by the comptroller for the purposes of Tax Code 313.026 (economic impact evaluation).

Tax Code 313.025(a)

Required Contents and Format

A completed application shall consist of, at a minimum, the items set forth in 34 Administrative Code 9.1053(a)(1) and shall be provided in the formats specified in 34 Administrative Code 9.1053(a)(2).

Optional Requests

An applicant may include in an application:

1. A request that the district waive the applicable requirement to create new jobs. In order for a completed application to include a job waiver request, the applicant shall submit the information specified in 34 Administrative Code 9.1053(b)(1); or
2. A request to begin the qualifying time period on a date that is after the date that the application is approved. In order for a completed application to include a qualifying time period deferral request, the applicant shall submit the information specified in 34 Administrative Code 9.1053(b)(2).

34 TAC 9.1053(a), (b)

Changes

At the request of the district or the comptroller, or with the prior approval of the district and the comptroller, the applicant may submit an application amendment or application supplement at any time after the submission of the initial application. In order to be considered as part of the application, the application amendment or supplement shall:

1. Be submitted in the same form or schedule and manner as the information was initially submitted or should have been initially submitted;

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2. Include a date for the submission and a sequential number identifying the number of submissions made by the applicant;

3. Have the signature of the authorized representative(s) by which the applicant confirms and attests to the truth and accuracy of the information submitted in the application amendment or supplement, as applicable, to the best knowledge and belief of the applicant and its representative(s); and

4. Be submitted before the 120th day after the application was accepted by the district or within another time period as provided in writing by the comptroller.

34 TAC 9.1053(c)

If a district receives an amended application or a supplemental application from an applicant after the district has prepared or sent written notice that the applicant has submitted a completed application, the district shall either:

1. Reject the amended application, supplemental application, or application, in whole or in part, and discontinue consideration of any submission by the applicant;

2. With the written concurrence of the comptroller, consider the completed application, as amended or supplemented, before the 151st day from the application review start date; or

3. Review the documents submitted by the applicant, issue an amended written notice of a completed application, and present the amended application to the board in the manner and time period authorized by 34 Administrative Code 9.1053(c)(5).

34 TAC 9.1054(e) [See Acting on Completed Application, below]

Confidential Business Information

Information provided to a district in connection with an application for a limitation on appraised value that describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application shall be segregated in the application from other information in the application and is confidential and not subject to public disclosure unless the board approves the application. Other information in the custody of a district or the comptroller in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under Tax Code Chapter 313, such as the nature and amount of the projected investment, employment, wages, and benefits, may not be considered confidential business information if the board agrees to consider the application. Information in the custody of a

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district or the comptroller if the board approves the application is not confidential under this provision. *Tax Code 313.028; 34 TAC 9.1055(a)(1)–(4)*

At the time that the applicant submits its application, application amendment, or application supplement, the applicant may request that all or parts of such document not be posted on the internet and not otherwise be publicly released. In order to make such request, the applicant shall:

1. Submit a written request that:
    a. Specifically lists each document or portion of document and each entry in any form prescribed by the comptroller that the applicant contends is confidential; and
    b. Identifies specific detailed reasons stating why the applicant believes each item listed should be considered confidential and identifies any relevant legal authority in support of the request;
2. Segregate the documents which are subject to the request from the other documents submitted with the application, application amendment, or application supplement that are not subject to the request; and
3. Adequately designate the documents subject to the request as "confidential."

34 TAC 9.1053(e)

Action on Application

Initial Review

Within seven days of receipt of each document, the district shall submit to the comptroller a copy of the application and the proposed agreement between the applicant and the district. If the applicant submits an economic analysis of the proposed project, the district shall submit a copy of the analysis to the comptroller. In addition, the district shall submit to the comptroller any subsequent revision of or amendment to any of those documents within seven days of receipt. *Tax Code 313.025(a-1); 34 TAC 9.1054(b)*

Acting on Completed Application

If the board by official action elects to consider an application and determines that the application received is a completed application, the district shall:

1. Provide written notice to the applicant and to the comptroller, with a copy to the appraisal district, that the district has received and will be considering a completed application. The notice shall include:
    a. The date on which the application was received;

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b. The date on which the board elected to consider the application; and

c. The date on which the district determined that applicant has submitted a completed application;

2. At the time the district provides notice of a completed application, deliver to the comptroller:

a. A copy of the completed application including all material required by 34 Administrative Code 9.1053(a), and if applicable (b), (Entity Requesting Agreement to Limit Appraised Value); and

b. A request to the comptroller to provide an economic impact evaluation;

3. If the district maintains a generally accessible internet web site, provide a clear and conspicuous link on its web site to the internet web site maintained by the comptroller where substantive documents for the value limitation application for such district are posted;

4. On request of the comptroller, provide such written documents containing information requested by the comptroller as necessary for the consideration of a limitation on appraised value pursuant to Tax Code Chapter 313 within 20 days of the date of the request.

34 TAC 9.1054(c)(1)–(4)

Economic Impact Evaluation and Certification

The board is not required to consider an application for a limitation on appraised value. If the board elects to consider an application, the board shall deliver a copy of the application to the comptroller and request that the comptroller conduct an economic impact evaluation of the proposed investment. The comptroller shall conduct or contract with a third person to conduct the economic impact evaluation, which shall be completed and provided to the board, along with the comptroller's certificate or written explanation of the decision not to issue a certificate, as soon as practicable but not later than the 90th day after the date the comptroller receives the application. The board shall provide to the comptroller or to a third person contracted by the comptroller to conduct the economic impact evaluation any requested information. The board shall provide a copy of the economic impact evaluation to the applicant on request. *Tax Code 313.025(b); 34 TAC 9.1055(d)*

Supplemental application information, amended application information, and additional information requested by the comptroller shall be promptly forwarded to the comptroller within 20 days of the

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date of the request. On request of the district or applicant, the comptroller may extend the deadline for providing additional information for a period of not more than ten working days. *34 TAC 9.1055(b)(1)(A)–(B)*

After receiving a copy of the application, the comptroller shall determine whether the property meets the requirements for eligibility for a limitation on appraised value. The comptroller shall notify the board of the comptroller's determination and provide the applicant an opportunity for a hearing before the determination becomes final. If the comptroller's determination becomes final, the comptroller is not required to provide an economic impact evaluation of the application or to submit a certificate for a limitation on appraised value of the property or a written explanation of the decision not to issue a certificate, and the board may not grant the application. *Tax Code 313.025(h), (i); 34 TAC 9.1055(b)(3), (c), (d), .1056*

Effect on Instructional Facilities

The comptroller shall promptly deliver a copy of the application to the Texas Education Agency (TEA). TEA shall determine the effect that the applicant's proposal will have on the number or size of the district's instructional facilities and submit a written report containing TEA's determination to the district. The board shall provide any requested information to TEA. Not later than the 45th day after the date TEA receives the application, TEA shall make the required determination and submit the written report to the board. *Tax Code 313.025(b-1)*

Fees

The board by official action shall establish reasonable nonrefundable application fees to be paid by property owners who apply to the district for a limitation on the appraised value of the person's property. The amount of an application fee must be reasonable and may not exceed the estimated cost to the district of processing and acting on an application, including any cost to the district associated with the required economic impact evaluation. *Tax Code 313.031(b); 34 TAC 9.1054(a)*

The total fee shall be paid at the time the application is submitted to the district. Any fees not accompanying the original application shall be considered supplemental payments. *34 TAC 9.1054(a)*

The comptroller may charge the applicant a fee sufficient to cover the costs of providing the economic impact evaluation. *Tax Code 313.025(b)*

Supplemental Payments

A person and the district may not enter into an agreement under which the person agrees to provide supplemental payments to a district or any other entity on behalf of a district in an amount that exceeds an amount equal to the greater of $100 per student per

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year in average daily attendance or $50,000 per year, or for a period that exceeds the period beginning with the qualifying time period and ending December 31 of the third tax year after the date the person's eligibility for a limitation under Tax Code Chapter 313 expires. This limit does not apply to amounts described below at item 4 at Contents, Required and item 1 at Contents, Optional. *Tax Code 313.027(i)*

Approval

The board shall approve or disapprove an application not later than the 150th day after the date the application is filed, unless the economic impact evaluation has not been received or an extension is agreed to by the board and the applicant. *Tax Code 313.025(b)*

The board may extend the time period to approve a completed application required only if:

1. Either:

   a. An economic impact analysis has not been submitted to the district by the comptroller; or

   b. By agreement with the applicant; and

2. Notice of the extension is provided to the comptroller within seven days of the decision to provide the extension.

34 TAC 9.1054(d)

Before approving or disapproving an application that the board elects to consider, the board must make a written finding as to any criteria considered by the comptroller in conducting the economic impact evaluation under Tax Code 313.026. The board shall deliver a copy of those findings to the applicant.

The board may approve an application only if the board finds that the information in the application is true and correct, finds that the applicant is eligible for the limitation on the appraised value of the person's qualified property, and determines that granting the application is in the best interest of the district and this state.

The board may not approve an application unless the comptroller submits to the board a certificate for a limitation on appraised value of the property.

Tax Code 313.025(d-1), (e), (f)

When presented a completed application for which the comptroller has submitted a certificate for a limitation, the board shall either:

1. By majority vote adopt a written resolution approving the application which shall include:

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a. Written findings:

(1) As to each criterion listed in 34 Administrative Code 9.1055(d)(3)(B)–(D) (Comptroller Application Review and Agreement to Limit Appraised Value);

(2) As to the criteria required by Tax Code 313.025(f-1) (waiver of new jobs creation requirement) if applicable;

(3) That the information in the application is true and correct; and

(4) That the applicant is eligible for the limitation on the appraised value of the entity's qualified property;

b. A determination that granting the application is in the best interest of the district and this state; and

c. Designate and direct a representative of the board to execute the agreement for property tax limitation presented by the approved applicant that complies with 34 Administrative Code Chapter 9, Subchapter F and Tax Code Chapter 313;

2. By majority vote disapprove the application; or

3. Take no official action and the application shall be considered disapproved on the 151st day after the application review start date.

34 TAC 9.1054(c)(5), (f)

In determining whether to approve an application, the board is entitled to request and receive assistance from the comptroller, the Texas Economic Development and Tourism Office, the Texas Workforce Investment Council, and the Texas Workforce Commission. The Texas Economic Development and Tourism Office or its successor may recommend that a district approve an application under Tax Code Chapter 313. In determining whether to approve an application, the board shall consider any recommendation made by the Texas Economic Development and Tourism Office or its successor. *Tax Code 313.025(c), (g)*

Continued Eligibility

In order to obtain and continue to receive a limitation on appraised value pursuant to Tax Code Chapter 313, an applicant shall:

1. Have a completed application approved by the board in compliance with 34 Administrative Code 9.1054(f) (School District Application Review and Agreement to Limit Appraised Value);

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2. At least ~~20~~30 days prior to the meeting at which the board is scheduled to consider the application, provide to the district and the comptroller a Texas Economic Development Act Agreement, as specified in 34 Administrative Code 9.1052(a)(6), with terms acceptable to the applicant;

3. If the applicant includes a combined group or members of the combined group, have the agreement executed by the authorized representative of each member of the combined group that owns a direct interest in property subject to the proposed agreement by which such members are jointly and severally liable for the performance of the stipulations, provisions, terms, and conditions of the agreement;

4. Comply with all stipulations, provisions, terms, and conditions of the agreement for a limitation on appraised value executed with the district, 34 Administrative Code Chapter 9, Subchapter F, and Tax Code Chapter 313;

5. Be and remain in good standing under the laws of this state and maintain legal status as an entity;

6. Owe no delinquent taxes to the state;

7. Maintain eligibility for limitation on appraised value pursuant to Tax Code Chapter 313; ~~and~~

8. Provide to the district, the comptroller, and the appraisal district any change to information provided in the application, including but not limited to changes of the authorized representative(s); changes to the location and contact information for the approved applicant including all members of the combined group participating in the limitation agreement; and copies of any valid assignments of the agreement and contact information for authorized representative(s) of any assignees~~.~~; and

9. Within 30 days after filing a completed application with the district, provide the comptroller with estimates of the gross tax benefit resulting from the requested limitation on appraised value for school district maintenance and operations ad valorem tax and future revenues from the qualified property.

34 TAC 9.1053(f)

Agreement

No later than 20 business days after receiving an agreement for limitation on appraised value acceptable to an applicant, the comptroller:

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1. Shall review the agreement for compliance with Tax Code Chapter 313 and the applicable rules (34 Administrative Code 9.1051–.1060), and consistency with the application submitted to the comptroller and as amended or supplemented;

~~1.~~2. May amend or withdraw the comptroller certificate for a limitation if the comptroller determines that the agreement as submitted by the applicant does not comply with Tax Code Chapter 313 or the applicable rules or that the agreement contains provisions that are not consistent with or represents information significantly different from that presented in the application as submitted~~, the comptroller may amend or withdraw the comptroller certificate for a limitation, and~~ to the comptroller; and ~~Provide written notification to the district of the actions taken.~~ ~~*34 TAC 9.1055(e)(2)–(3)*~~

3. Provide written notification to the district of the actions taken.

34 TAC 9.1055(e)

The board and the property owner shall enter into a written agreement for the implementation of the limitation on appraised value on the owner's qualified property. *Tax Code 313.027(d); 34 TAC 9.1054(g), .1060*

Limitation on Appraised Value

If the person's application is approved by the board, the appraised value for district maintenance and operations ad valorem tax purposes of the person's qualified property as described in the agreement between the person and the district may not exceed the lesser of:

1. The market value of the property; or

2. Subject to the minimum limitation amount below, the amount agreed to by the board.

Minimum Limitation

The amount agreed to by the board must be an amount in accordance with Tax Code 313.027(b), according to the category to which the district belongs. [See School District Categories, above] A district, regardless of category, may agree to a greater amount.

Tax Code 313.027(a), (b), (c)

For a district to which Tax Code Chapter 313, Subchapter C applies, the amount agreed to by the board must be an amount in accordance with Tax Code 313.054, according to the category to which the district belongs. [See School District Categories, above] A district, regardless of category, may agree to a greater amount. *Tax Code 313.054*

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Contents

The agreement must:

Required

1. Provide that the limitation applies for a period of ten years;
2. Specify the beginning date of the limitation, which must be January 1 of the first tax year that begins after the application date, the qualifying time period, or the date commercial operations begin at the site of the project;
3. Describe with specificity the qualified investment that the person will make on or in connection with the person's qualified property that is subject to the limitation; other property of the person that is not specifically described in the agreement is not subject to the limitation unless the board, by official action, provides that the other property is subject to the limitation;
4. Incorporate each relevant provision of Tax Code Chapter 313, Subchapter B, and, to the extent necessary, include provisions for the protection of future district revenues through the adjustment of the minimum valuations, the payment of revenue offsets, and other mechanisms agreed to by the property owner and the district;
5. Require the property owner to maintain a viable presence in the district for at least five years after the date the limitation on appraised value of the owner's property expires;
6. Provide for the termination of the agreement, the recapture of ad valorem tax revenue lost as a result of the agreement if the owner of the property fails to comply with the terms of the agreement, and payment of a penalty or interest, or both, on that recaptured ad valorem tax revenue;
7. Specify the ad valorem tax years covered by the agreement;
8. Be in a form approved by the comptroller; and
9. Disclose any consideration promised in conjunction with the application and the limitation.

Tax Code 313.027(a-1), (e), (f), (j)

Optional

The agreement may:

1. Provide that the property owner will protect the district in the event the district incurs extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project.

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2. Specify any conditions the occurrence of which will require the district and the property owner to renegotiate all or any part of the agreement.

3. Provide for a deferral of the date on which the qualifying time period for the project is to commence or, subsequent to the date the agreement is entered into, be amended to provide for such a deferral. The agreement may not provide for the deferral of the date on which the qualifying time period is to commence to a date later than January 1 of the fourth tax year that begins after the date the application is approved except that if the agreement is one of a series of agreements related to the same project, the agreement may provide for the deferral of the date on which the qualifying time period is to commence to a date not later than January 1 of the sixth tax year that begins after the date the application is approved.

Tax Code 313.027(f), (h)

If an agreement for limitation on appraised value includes a provision in which the qualifying time period starts more than one year after the date that the application is approved, no earlier than 180 days and no later than 90 days prior to the start of the deferred qualifying time period:

1. The district shall provide the comptroller:

   a. Copies of any documents or other information received from the applicant; and

   b. After reviewing documents and information provided by the applicant, either:

      (1) A written acknowledgment of receiving the application amendment or supplement; or

      (2) A statement that no such amendment or supplement has been submitted; and

2. If the comptroller provides:

   a. A comptroller certificate for a limitation with conditions different from the existing agreement, the board shall hold a meeting and determine whether to amend the agreement to include the conditions required by the comptroller or terminate the agreement; or

   b. A written explanation of the comptroller's decision not to re-issue a certificate, the district shall terminate the agreement.

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34 TAC 9.1054(h), .1055(g)

Compliance and Enforcement

The district shall provide to the comptroller any documents that reasonably appear to be substantive documents, and, within seven days of executing the agreement, a copy of the executed agreement and any attachments thereto. The district shall provide a copy of the executed agreement to the appraisal district.

The district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement for limitation of the appraised value, 34 Administrative Code Chapter 9, Subchapter F, and Tax Code Chapter 313. To determine and obtain compliance with each agreement, for each calendar year during the term of the agreement the district shall require the approved applicant to submit:

1. Either the information necessary to complete the annual eligibility report, or a completed annual eligibility report;
2. A completed job creation compliance report (Form 50-825); and
3. Any information required by the state auditor office or its designee.

34 TAC 9.1054(i)

Disclosure of Appraised Value Limitation Information

If a district maintains a generally accessible internet website, the district shall maintain a link on its internet website to the area of the comptroller's internet website where information on each of the district's agreements to limit appraised value is maintained. *Tax Code 313.0265(c)*

Accessibility of Documents

Any documents submitted in an electronic format (including searchable pdfs) to the comptroller must comply with the accessibility standards and specifications described in 1 Administrative Code Chapters 206 and 213. *34 TAC 9.1055(a)(5)*

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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 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.

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)*

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

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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.

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, 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.

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*

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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.

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.

Counties of 120,000 or More

Members of the board are appointed by the local administrative law judge under Government Code Chapter 74, Subchapter D in the county in which the appraisal district is established.

Tax Code 6.41

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. *Tax Code 6.414(a)*

Special Appraisal Review Board Panels

An appraisal district board for a district established in a county with a population of one million or more by resolution of a majority of the board's members shall increase the size of the district's appraisal review board to the number of members the board of directors considers appropriate to manage the duties of the appraisal review board, including the duties of each special panel established under Tax Code 6.425. *Tax Code 6.41(b-2)*

The appraisal review board for an appraisal district described above shall establish special panels to conduct protest hearings under Tax Code Chapter 41 relating to property described in Tax Code 6.425(b). *Tax Code 6.425(a)–(b)*

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Accounting System

A board must adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles. The accounting system must meet at least the minimum requirements prescribed by the commissioner of education, subject to review and comment ~~of~~by the state auditor. *Education Code 44.007(a), (b)*

The rules for financial accounting are described in the official ~~TEA~~ Texas Education Agency (TEA) publication, *Financial Accountability System Resource Guide*. *19 TAC 109.1, .41*

Report of Revenues and Expenditures

A record must be kept of all revenues realized and of all expenditures made during the fiscal year for which a budget is adopted. A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. ~~The report shall include management, cost accounting, and financial information in a format prescribed by the State Board and in a manner sufficient to enable the State Board to monitor the funding process and determine educational system costs by district, campus, and program.~~ *Education Code 44.007(c), (d)*

Financial Statement

The board shall prepare an annual financial statement ~~that shows the following~~showing for each fund subject to ~~its~~the board's authority during the fiscal year:

1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;
2. The total disbursements of the fund, itemized by the nature of the expenditure; and
3. The balance in the fund at the close of the fiscal year.

Local Gov't Code 140.005

Publication

The board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the district, the financial statement shall be published in a newspaper in each county in which the district or any part of the district is located. If a district is located in more than one county, the financial statement may be published in a newspaper that has general circulation in the district. If a newspaper is not published in the county, the financial statement may be published in a newspaper in an adjoining county.

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The statement shall be published in accordance with the accounting method required by TEA not later than the 150th day after the date the fiscal year ends. ~~*Local Gov't Code 140.006(c), (d)*~~

Local Gov't Code 140.006

Annual Local Debt Report

A district shall annually compile and report certain financial information ("Annual Local Debt Report") in the manner prescribed by Local Government Code 140.008 and 34 Administrative Code 10.1–.6. *Local Gov't Code 140.008(b); 34 TAC 10.2(a)*

The Annual Local Debt Report must include the following financial information:

1. Regarding total authorized debt obligations:
    a. The amount of all authorized debt obligations;
    b. The principal of all outstanding debt obligations;
    c. The combined principal and interest required to pay all outstanding debt obligations on time and in full;
    d. The amount of all authorized debt obligations secured by property taxes;
    e. The principal of all outstanding debt obligations secured by property taxes;
    f. The combined principal and interest required to pay all outstanding debt obligations secured by property taxes on time and in full;
    g. The amount of all authorized debt obligations secured by property taxes expressed as a per capita amount;
    h. The principal of all outstanding debt obligations secured by property taxes expressed as a per capita amount;
    i. The combined principal and interest required to pay all outstanding debt obligations on time and in full for all obligations secured by property taxes expressed as a per capita amount; and
    j. The current credit rating on total debt obligations given by any nationally recognized credit rating organization.
2. Regarding each authorized debt obligation:
    a. The principal of each outstanding debt;

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b. The principal of each outstanding debt obligation secured by property taxes expressed as a per capita amount;

c. The combined principal and interest required to pay each outstanding debt obligation on time and in full;

d. The combined principal and interest required to pay each outstanding debt obligation on time and in full expressed as a per capita amount;

e. The issued and unissued amounts, the spent and unspent amounts, the maturity date and the stated purpose for which each debt obligation was authorized; and

f. The current credit rating on each debt obligation given by any nationally recognized credit rating organization.

3. Any other information considered relevant or necessary to explain the above required data elements, such as explanations of payment sources for different kinds of debt or projections of per capita amounts of ad valorem taxation-secured obligations as of the last day of the maximum term of the most recent debt obligation issued by the district.

34 TAC 10.2; Local Gov't Code 140.008(b).

~~Form~~

Submission to Comptroller

The comptroller shall provide ~~an~~a location on the comptroller's internet website where a district may submit the financial information described above and any other related information required or requested by the comptroller for the Annual Local Debt Report ~~Form for use by a district.~~ .

The comptroller shall prescribe the form and manner in which financial information, financial documents, and related information must be submitted under these provisions. These instructions and other information related to local government debt reporting will be provided on the comptroller's internet website.

34 TAC 10.3

Reporting Requirement

On an annual basis and within 180 days of the end of the most recently completed fiscal year, a district shall, in accordance with the reporting requirements set forth under Local Government Code 140.008, either:

1. Submit ~~via upload to the comptroller's internet website the completed~~an Annual Local Debt Report ~~Form provided~~to the comptroller as described at Submission to Comptroller, above, in the form and in the manner prescribed by the comp-

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troller and, if the district maintains an internet website, continually maintain a link from its website to the location on the comptroller's website where the district's financial information may be viewed; or

2. Post its contact information and the information required in an Annual Local Debt Report on the district's own internet website and make the report available for inspection by any person in accordance with other law.

~~The board of~~ A district that elects to post a report of its ~~annual debt~~ financial information on its own internet website as described in item 2 above shall ~~take action~~provide upon request an electronic link to ~~ensure that:~~

~~3. This information is made available for inspection by any person and posted continuously~~the location on the district's website ~~until the district posts the next year's annual debt information; and~~

~~The main office is posted continuously on the website and such information includes a physical address, mailing address, main telephone number~~where the information can be viewed to facilitate compliance with the requirements of this provision and to enable the comptroller to maintain a searchable database of local debt information that is comprehensive, accurate, and ~~an email address~~complete.

34 TAC 10.4; Local Gov't Code 140.008(c), (d), (f)

Definitions

The phrases, words, and terms used in the foregoing provisions shall have the meanings set out in 34 Administrative Code 10.1, unless the context clearly indicates otherwise. *34 TAC 10.1*

Financial Management Report

Each district ~~must prepare~~is required to report information and ~~distribute an annual~~ financial ~~management report.~~accountability ratings to parents, taxpayers, and other stakeholders by implementing the reporting procedures below. *19 TAC 109.1001(q~~)(1)~~*

~~The district's annual financial management report must include a description of the district's financial management performance based on a comparison, provided by TEA, of the district's performance on the indicators in 19 Administrative Code 109.1001 to state established standards and the district's previous performance on the indicators. *Education Code 39.083(b)* [See CFC]~~

~~*Education Code 39.083(d); 19 TAC 109.1001(q)(2*~~)

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Report Requirements

~~The~~ Each district must prepare and distribute an annual financial management report in accordance with 19 Administrative Code 109.1001(q). *19 TAC 109.1001(q)(1)*

The annual financial management report for a district must include:~~shall~~

1. A description of its financial management performance based on a comparison, provided by TEA, of its performance on the indicators established by the commissioner and reflected in 19 Administrative Code 109.1001. The report will contain information that discloses:

   a. State-established standards; and

   b. The district's financial management performance under each indicator for the current and previous year's financial accountability ratings~~, and~~ [see CFC];~~Any descriptive information required by the commissioner, including:~~

~~1.~~2. Any descriptive information required by the commissioner, including:

   a. A copy of the superintendent's current employment contract or other written documentation of employment if no contract exists. This must disclose all compensation and benefits paid to the superintendent. The district may publish the superintendent's employment contract on ~~the district's~~its website instead of publishing it in the annual financial management report;

   b. A summary schedule for the fiscal year (12-month period) of expenditures paid on behalf of the superintendent and each board member and total reimbursements received by the superintendent and each board member. This includes transactions on ~~a~~the district's credit card(s), debit card(s), stored-value card(s), and any other similar instrument(s) to cover expenses incurred by the superintendent and each board member. The summary schedule must separately report reimbursements for meals, lodging, transportation, motor fuel, and other items. The summary schedule of total reimbursements should not include reimbursements for supplies and materials that were purchased for the operation of the district;

   c. A summary schedule for the fiscal year of the dollar amount of compensation and fees received by the superintendent from an outside school district or any other outside entity in exchange for professional consulting or

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other personal services. The schedule must separately report the amount received from each entity;

d. A summary schedule for the fiscal year of the total dollar amount of gifts that had a total economic value of $250 or more received by the executive officers and board members.

(1) This reporting requirement applies only to:

(a) Gifts received by the district's executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, Relationships by Consanguinity or by Affinity) from an outside entity that received payments from the district in the prior fiscal year, and

(b) Gifts from competing vendors that were not awarded contracts in the prior fiscal year~~.~~;

(2) This reporting requirement does not apply to reimbursement by an outside entity for travel-related expenses when the purpose of the travel was to investigate matters directly related to an executive officer's or board member's duties or to investigate matters related to attendance at education-related conferences and seminars with the primary purpose of providing continuing education~~; however,~~ (this exclusion does not apply to trips for entertainment purposes or pleasure trips~~.~~);

~~(2)~~(3) This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had a total economic value of less than $250 per executive officer or board member; and

e. A summary schedule for the fiscal year of the dollar amount received by board members for the total amount of business transactions with the district. This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by board members; and

~~2.~~3. Any other information the board of ~~a~~the district determines to be useful.

19 TAC 109.1001(q)(3)

Public Hearing — Each district must provide the public with an opportunity to comment on the report at a public hearing. *19 TAC 109.1001(q)(2)*

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The board ~~shall~~must hold a public hearing on the report~~. The public hearing must be held in the district's facilities~~ within two months after receiving a final financial accountability rating. The public hearing must be held at a location in the district's facilities.

At the hearing, the district must provide the annual financial management report to the attending parents and taxpayers.

~~Education Code 39.083(d);~~ 19 TAC 109.1001(q)(4), (5); Education Code 39.083(d)

Notice

The board must give notice of the hearing to owners of real property in the geographic boundaries of the district and to parents of district students.

In addition to other notice required by law, the board must provide notice of the hearing:

1. To a newspaper of general circulation in the geographic boundaries of the district in one posting prior to holding the public meeting, providing the time and place of the hearing. The notice in the newspaper may not be earlier than 30 days ~~prior~~ or later than ten days before the date of the hearing. If no newspaper is published in the county in which the district's central administration office is located, then the board must publish the notice in the county nearest to the county seat of the county in which the district's central administration office is located; and
2. Through electronic mail to the mass communication media serving the district, including, but not limited to, radio and television.

19 TAC 109.1001(q)(4); Education Code 39.083(d~~); 19 TAC 109.1001(q)(4~~)

Dissemination

After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner. *Education Code 39.083(e)*

Records Retention

The district must retain the annual financial management report for at least three years after the public hearing and make it available to parents and taxpayers upon request. *19 TAC 109.1001(q)(6)*

Corrective Action Plan

Each district that received an F rating must file a corrective action plan with TEA, prepared in accordance with instructions from the commissioner, within one month after the district's public hearing. *19 TAC 109.1001(q~~)~~)(7); Education Code 39.0824*

Projected Deficit

If the commissioner, based on the indicators adopted under Education Code 39.082 [see CFC], projects a deficit for a district general

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fund within the following three school years, TEA shall provide the district interim financial reports, including projected revenues and expenditures, to evaluate the district's current budget status.

TEA may require a district to submit additional information needed to produce a financial report. If a district fails to provide information requested or if the commissioner determines that the information submitted by a district is unreliable, the commissioner may order the district to acquire professional services under Education Code 39A.902 [see AIC].

Education Code 39.0823

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Annual Audit

The board shall have ~~a district's~~its district 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~~must be completed following the close of each fiscal year~~, and shall~~.

The independent audit must 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~~the 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*~~).~~) as adopted by reference in 19 Administrative Code 109.41.

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~~The 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:

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1. Be a member of the AICPA Governmental Audit Quality Center (GAQC);
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~~dated July 2019, which is adopted by reference as ~~the SBOE's~~TEA'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~~declines or refuses to approve ~~the audit~~its auditor's report, it shall nevertheless file with TEA a copy of ~~it~~the audit report with ~~TEA, accompanied by a~~its statement detailing ~~its~~ reasons for ~~failing~~failure 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~~]~~ that must be posted.]

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 of any district shall keep a full and separate itemized account ~~of~~with

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each of the different classes of its school funds ~~received,~~coming into the treasurer's hands. The treasurer's records of the district's itemized accounts and ~~these~~ records shall be available to audit. *Education Code 44.008(c)*

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)*~~ as required by Education Code 39.082.

~~Data Reviewed~~

~~TEA will use the following sources of data in calculating the financial accountability indicators for school districts:~~

~~4. 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].~~

~~5. PEIMS data submitted by a district.~~

~~6. Warrant holds as reported by the comptroller.~~

~~7. 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~~

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~~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~~b), (e), (l)

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~~.~~ (AFR). Instead, the district will receive an F rating for substandard achievement.

Appeals

A district may appeal its preliminary financial accountability rating through the appeals process described at 19 Administrative Code 109.1001(n).

If TEA receives an appeal of a preliminary rating ~~under 19 Administrative Code 109.1001(n),~~ TEA will issue a final rating to ~~a~~the 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~~the preliminary rating.

~~*19 TAC 109.1001(m)*~~

~~AppealsA 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~~

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~~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)*~~*19 TAC 109.1001(m)–(o)*

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Asbestos Hazard Emergency Response Act

The rules adopted under the Asbestos Hazard Emergency Response Act (AHERA~~),~~) (15 U.S.C. 2641-2656) require a district ~~shall~~to identify asbestos-containing material (ACM) in schools by visually inspecting school buildings for such materials ~~and implement an~~, sampling such materials if they are not assumed to be ACM, and having samples analyzed by appropriate techniques; submit management ~~plan~~plans; and implement the plans in a timely ~~manner.~~ fashion. Districts are required to use persons who have been accredited to conduct inspections, reinspections, develop management plans, or perform response actions. The rule includes recordkeeping requirements.

Delegation

Districts may contractually delegate their duties, but they remain responsible for the proper performance of those duties.

40 ~~CFR~~C.F.R. 763.80(a)

Duties

A district shall ~~ensure that~~:

1. ~~All~~Ensure that the activities of any persons who perform inspections, reinspections, and periodic surveillance, ~~who~~ develop and update management plans, and ~~who~~ develop and implement response actions ~~comply with federal and state law.~~, including operations and maintenance, are carried out in accordance with 40 C.F.R. 763.80–.99 and appendices (subpart E).

2. Ensure that all custodial and maintenance employees are properly trained as required by ~~law.~~subpart E and other applicable federal and/or state regulations (e.g., the Occupational Safety and Health Administration asbestos standard for construction, the Environmental Protection Agency [EPA] worker protection rule, or applicable state regulations).

3. Ensure that workers and building occupants, or their legal guardians, are informed ~~annually~~at least once each school year about inspections, response actions, and post-response action activities, including periodic reinspection and surveillance activities that are planned or in progress.

4. Ensure that short-term workers (e.g., telephone repair workers, utility workers, or exterminators) who may come in contact with asbestos in a school are informed of the locations of ~~"~~asbestos-containing building material~~"~~ (ACBM) and suspected ACBM assumed to be ~~"asbestos-containing material"~~ ~~(~~ACM~~).~~.

5. Ensure that warning labels are posted in accordance with 40 ~~CFR~~C.F.R. 763.95 (see Warning Labels, below).

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6. Ensure that management plans are available for inspection, and ~~notice~~notification of ~~their~~such availability has been provided as specified in the management plan under 40 ~~CFR~~C.F.R. 763.93(g).

7. ~~An asbestos coordinator, trained in accordance with 40 CFR 763.84(g)(2) is designated~~ Designate a person to ensure that ~~legal~~ requirements ~~are met~~under 40 C.F.R. 763.84 are properly implemented and ensure that the designated person receives adequate training to perform duties assigned.

8. Consider whether any conflict of interest ~~that~~ may arise from the interrelationship among accredited asbestos personnel ~~is considered, especially when selecting~~and whether that should influence the selection of accredited personnel to perform activities under subpart E.

40 ~~CFR~~C.F.R. 763.84

Management Plan

~~An~~ Each district shall develop an asbestos management plan ~~shall be developed~~ for each school, including all buildings that they lease, own, or otherwise use as school buildings, and ~~submitted~~ submit the plan to the Texas Department of State Health Services (TDSHS~~) for approval. This~~). Each district shall maintain and update its management plan to keep it current with ongoing operations and maintenance, periodic surveillance, inspection, reinspection and response action activities. All provisions required to be included in the management plan shall be retained as part of the management plan, as well as any information that has been revised to bring the plan up-to-date. *40 C.F.R. 763.93(a), (d)*

The management plan shall be developed by an accredited management planner ~~who may be required to sign a statement that the plan is in compliance with federal asbestos regulations. The plan~~and shall include:

1. A list of the name and address of each school building and whether it contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM.

2. Specific information ~~about inspections~~for each inspection conducted before December 14, 1987.

3. Specific information ~~about required inspections~~for each inspection and ~~reinspections~~reinspection conducted under 40 C.F.R. 763.85.

4. The name, address, and telephone number of the person designated ~~asbestos coordinator~~under 40 C.F.R. 763.84 to

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ensure that the duties of the district are carried out, and ~~details of his or her required~~ the course name, and dates and hours of training~~. The plan must also contain a true and correct statement signed~~ taken by ~~the coordinator certifying that the general district responsibilities have been met~~that person to carry out the duties.

5. The ~~written~~ recommendations ~~on~~ made to the district regarding response actions ~~from a district's accredited asbestos management planner(s), including~~ , under 40 C.F.R. 763.88(d), the name, signature, state of accreditation~~, and~~ of each person making the recommendations, and if applicable, his or her accreditation number~~, if applicable, of each planner~~.

6. A detailed description of preventive measures and response actions to be taken, including methods to be used, for any friable ACBM, the locations where such measures and action will be taken, reasons for selecting the response action or preventive measure, and a schedule for beginning and completing each preventive measure and response action.

7. ~~In regard to asbestos inspectors and~~With respect to the persons who inspected for ACBM and who will design or carry out response actions, ~~a statement that a district uses or will use person(s) who have been accredited by an Environmental Protection Agency (EPA)-approved course and licensed by TDSHS~~except for operations and maintenance, a statement regarding the person's accreditation.

8. A detailed description ~~of any material described~~ in ~~item 1~~the form of ~~this list~~a blueprint, diagram, or in writing of any ACBM or suspected ACBM assumed to be ACM that remains ~~after~~in the school once response actions are ~~taken. The~~undertaken pursuant to 40 C.F.R. 763.90. This description shall be updated ~~when~~as response actions are completed.

9. A plan for reinspection under 40 C.F.R. 763.85, a plan for operations and maintenance activities under 40 C.F.R. 763.91, a plan for periodic surveillance under 40 C.F.R. 763.92, a description of the management planner's recommendation regarding additional cleaning under 40 C.F.R. 763.91(c)(2) as part of an operation's maintenance program, and ~~a~~the district's response to that recommendation.

10. A description of steps taken to inform workers and building occupants, or their legal guardians, about inspections, reinspections, response actions, and post-response action activi-

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ties, ~~and the availability of management plans~~including periodic reinspection and surveillance activities that are planned or in progress.

11. An evaluation of the resources needed to complete ~~the~~ response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance, and training.

12. ~~The name of~~ With respect to each consultant ~~contributing~~who contributed to the management plan, the name of the consultant and a statement ~~that the consultant is accredited under another state's~~regarding the person's accreditation ~~plan or accredited by an EPA-approved course~~.

40 C.F.R. 763.93(e); Occupations Code 1954.101 (License Required for Certain Activities)

Plan Availability

Upon submission of a management plan to TDSHS for review, a district shall keep a copy of the plan ~~submitted to TDSHS shall be kept~~ in ~~a district's~~its administrative office ~~and~~. The management plans shall be available, without cost or restriction, for inspection by ~~the~~representatives of EPA~~,~~ and the state, ~~and~~ the public, including teachers, other school personnel~~, employee~~ and their representatives, and parents. The district may charge a reasonable cost to make copies of management plans.

~~Updated management plans for each school~~ Each school shall maintain in its administrative office a complete, updated copy of the management plan for that school. Management plans shall also be available for inspection ~~during normal business hours in the administrative office and at the school itself. Individual~~, without cost or restriction, to workers before work begins in any area of a school ~~plans~~building. The school shall ~~be made~~make management plans available for inspection to representatives of EPA and the state, the public, including parents, teachers, and other school personnel and their representatives, within ~~at least~~ five working days after receiving a request ~~is received~~for inspection. The school may charge a reasonable cost to make copies of the management plan.

Notice of Availability

~~Annually~~Upon submission of its management plan to TDSHS and at least once each school year, a district shall notify in writing parent, teacher, and employee organizations of the availability of the management plans and shall include in the management plan a description of the steps taken to notify such organizations, and a dated copy of the notification.

40 ~~CFR~~C.F.R. 763.93~~; Occupations Code 1954.101~~(g)

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Inspections	Each building leased~~, owned,~~ or acquired to be used as a school building shall be inspected ~~to determine~~in accordance with 40 C.F.R. 763.85(a)(3) and (4) prior to use as a school building. In the ~~locations~~event that emergency use of ~~friable and nonfriable ACBM.~~an uninspected building as a school building is necessitated, such buildings shall be inspected within 30 days after commencement of such use. At least once every three years after a management plan is in effect, ~~a~~each district shall conduct ~~reinspections. Inspectors shall collect samples of suspected ACBM material for analysis. The~~ a reinspection of all friable and nonfriable known or assumed ACBM in each school building that they lease, own, or otherwise use as a school building. For each inspection and reinspection, the district shall have an accredited inspector ~~shall~~ provide a written assessment of all friable known or assumed ACBM in the school building~~ for each inspection or reinspection.~~. *40 C.F.R. 763.85, .88*
Response Actions	The district shall select and implement in a timely manner the appropriate response actions in 40 C.F.R. 763.90 consistent with the assessment~~ shall meet all legal requirements and~~. The response actions selected shall be ~~signed and dated, with the inspector's accreditation information. A copy shall be sent to the coordinator for inclusion in the management plan within 30 days. *40 CFR 763.85, .88*~~sufficient to protect human health and the environment. The district may then select, from the response actions that protect human health and the environment, that action which is the least burdensome method. *40 C.F.R. 763.90(a)*
Periodic Surveillance	At least once every six months after the management plan is in effect, ~~a~~each district shall conduct ~~and document~~ periodic surveillance ~~on any~~ in each building that it leases, owns, or otherwise uses as a school building ~~containing~~that contains ACBM or is assumed to contain ACBM. ~~A record of this surveillance shall be submitted to the coordinator for inclusion in the management plan.~~ *40 ~~CFR~~C.F.R. 763.92(b)*
~~Response Actions~~	~~A district shall select and implement, consistent with the assessment, the least burdensome method of appropriate response actions from those that protect human health and the environment. *40 CFR 763.90*~~
Operations and Maintenance Training	The district shall ensure, prior to the implementation of operations and maintenance provisions of the management plan, that all members of the maintenance and custodial staff who may work in a building that contains ACBM receive awareness training of at least two hours, whether or not they are required to work with ACBM. New custodial and maintenance employees shall be

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trained within 60 days after commencement of employment. Training shall include information specified in 40 C.F.R. 763.92(a)(1)(i)–(v). The district shall ensure that all members of its maintenance and custodial staff who conduct any activities that will result in the disturbance of ACBM shall receive training described above and 14 hours of additional training that includes information specified in 40 C.F.R. 763.92(a)(2)(i)–(iv). *40 C.F.R. 763.92(a)*

~~An "asbestos-related activity" means the removal, encapsulation, or enclosure of asbestos; the performance of asbestos surveys; the development of management plans or response actions; the collection or analysis of asbestos samples; sponsorship of training courses necessary for asbestos licensure or registration; the transportation of ACMs from any facility for purposes of disposal; and any other activity required to be licensed under the *Occupations Code 1954.002, .101*~~

~~An asbestos-related activity shall be performed by a person (an individual, organization, or other legal entity recognized by law as the subject of rights and duties) licensed by TDSHS. TDSHS shall be notified not less than ten working days before an asbestos-related activity is initiated. *Occupations Code 1954.252, .101; 25 TAC 295.61*~~

~~**Records**~~

~~A district licensed to perform asbestos-related activities shall keep an appropriate record or records of each activity it performs in public buildings and shall make the record(s) available to TDSHS at any reasonable time. It shall also keep a copy of any violations issued against a district by the EPA or TDSHS. Records shall be maintained for at least 30 years, or as long as required by federal law or regulation. *Occupations Code 1954.251; 25 TAC 295.58(d)*~~

~~For each area where all ACBM has been removed, the required records shall be maintained for at least three years after each required reinspection or its equivalent in both the school and the central administration office. *40 CFR 763.94*~~

Warning Labels

The district shall attach a warning label ~~shall be attached~~immediately adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas at each school building. This shall include friable ACBM that was responded to by a means other than removal and ACBM for which no response action was carried out. All labels shall be prominently displayed in readily visible locations and shall remain posted until the ACBM that is labeled is removed. The warning label shall read, in print which is readily visible because of large size or bright color, as follows: CAUTION: ASBESTOS. HAZARDOUS. DO NOT DISTURB WITHOUT PROPER TRAINING AND EQUIPMENT. *40 C.F.R.~~40 CFR~~ 763.95*

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Texas Asbestos Health Protection Act

~~Operations / Maintenance Training~~

~~Members of the maintenance and custodial staff in buildings containing ACBM~~

A district shall ensure compliance with AHERA for all schools in its jurisdiction. *25 TAC 295.63*

Asbestos- Related Activity

~~receive~~An "asbestos-related activity" means the removal, encapsulation, or enclosure of asbestos; the performance of an asbestos survey; the development of an asbestos management plan or response action; the collection or analysis of an asbestos sample; or the performance of another activity for which a license is required ~~training, including~~under Occupations Code Chapter 1954 (the Texas Asbestos Health Protection Act). *Occupations Code 1954.002, .101 (License Required for Certain Activities)*

Notice of Certain Activities

A person engaged in removing asbestos from or encapsulating or enclosing asbestos in a public building shall notify TDSHS in writing at least ~~two hours of awareness training and an additional 14 hours of~~ ten days before the date the person begins the removal, encapsulation, or enclosure project according to applicable laws. A person may give the required notice orally if the removal, encapsulation, or enclosure project is of an emergency nature. *Occupations Code 1954.252*

Responsibility

It is the responsibility of the facility owner and/or operator to notify TDSHS under 25 Administrative Code 295.61. In a public building, this task may be delegated to the owner's agent such as a licensed asbestos abatement contractor or consultant and must be delegated in writing. In a demolition where a licensed abatement contractor or consultant is not required, the task may be delegated in writing to the demolition contractor or other agent. The notification must be filed on the form specified by TDSHS. The notification shall have all information completed with no blocks left blank. The facility owner, and the agent to whom the task of notification has been delegated, are jointly and severally responsible for the accuracy and timeliness of the notification. *25 TAC 295.61(b)*

Records

~~training if their work activities may result in the incidental disturbance of ACBM.~~Recordkeeping requirements are set out in 40 ~~*CFR*~~ U.S.C. 763.~~92~~94.

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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 Education Code Chapter 37, Subchapter C~~, relating to~~ (Law and Order~~.~~).

Jurisdiction

The jurisdiction of a peace officer, a school resource officer, or security personnel shall be determined by the board and may include all territory in the boundaries of the district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the district and the board that employ the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

Education Code 37.081(a)

Duties

The board shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

1. The district improvement plan under Education Code 11.252 [see BQ];
2. The student code of conduct adopted under Education Code 37.001 [see FO];
3. Any memorandum of understanding providing for a school resource officer; and
4. Any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

A district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and the property of the school district.

In determining the law enforcement duties, the board shall coordinate with district campus behavior coordinators and other district employees to ensure that district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

Education Code 37.081(d), (d-1), (d-4)

Prohibited Duties

A district may not assign or require as duties of a district peace officer, a school resource officer, or security personnel:

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1. Routine student discipline or school administrative tasks; or
2. Contact with students unrelated to the law enforcement duties of the peace officer, resource officer, or security personnel.

This provision does not prohibit a district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

1. The assigned duties of the officer or security personnel; or
2. An incident involving student behavior or law enforcement.

Education Code 37.081(d-2), (d-3)

Refusal or Removal from District Property

A school resource officer or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a); 19 TAC 103.1207* [See GKA]

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).

A district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Occupations Code 1701.263.

Education Code 37.0812

~~TCOLE shall require a~~School district peace ~~officer~~officers or school resource ~~officer to successfully complete an education and training program under Occupations Code 1701.263 before or~~officers providing law enforcement services at a district must obtain a school-based law enforcement proficiency certificate within 180 days of the officer's commission ~~by~~ or placement in the district or ~~a~~ campus of the district. *37 TAC 218.3(d)(5); Occupations Code 1701.263(b)*

Notice of Exposure to Communicable Disease

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice regarding work-related exposure to communicable disease in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

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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).

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 an open meeting of the board when the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization.

Att'y Gen. Op. GA-1051 (2014) (citing Education Code 11.151(b))

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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)*~~*Education Code 37.081(d), (d-1)* [See CKE(LEGAL)]

The board may authorize any officer commissioned by the board to enforce rules adopted by the board. Education Code Chapter 37, Subchapter D (protection of buildings and grounds) is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel. *Education Code 37.103*

In a peace officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Family Code Chapter 52 [see GRA] or Code of Criminal Procedure 45.058; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)(3)

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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)*

Reporting Appointment and Separation

Before a law enforcement agency may appoint a person licensed or seeking a license as a peace officer, the agency head or designee must comply with the requirements of 37 Administrative Code 217.7(a), including:

1. For a person's initial appointment, submit an appointment application (L1 Form) and receive an approval of the application before the person discharges any duties related to the license sought.

2. For current licensees, submit a Statement of Appointment (L1 Form) within seven days of the appointment.

37 TAC 217.7(a)(9)(B)(vi), (10)

When a person licensed by TCOLE separates from an agency, the agency shall, within 7 business days:

1. Submit a separation report (Form F5) to TCOLE; and

2. Provide a copy to the licensee in a manner prescribed by Occupations Code 1701.452 (Employment Termination Report).

37 TAC 217.7(b)

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An agency must retain records kept under these provisions while the person is appointed and for a minimum of five years after the licensee's separation date with that agency. The records must be maintained under the control of the agency head or designee in a format readily accessible to TCOLE. *37 TAC 217.7(d)*

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 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

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for a civil penalty in an amount not to exceed $5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

Each law enforcement agency that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling that complies with Code of Criminal Procedure 2.132(b). *Code of Criminal Procedure 2.132*

Mental Health Crisis or Substance Abuse Issue

A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence; and
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense.

This requirement does not apply to a person who is accused of specified offenses involving intoxication.

Code of Criminal Procedure 16.23

Administration of Epinephrine

A law enforcement agency may acquire and possess epinephrine auto-injectors and a peace officer may possess and administer an epinephrine auto-injector in accordance with Occupations Code Chapter 1701, Subchapter O. *Occupations Code 1701.702(a)* [See FFAC regarding district maintenance and administration of epinephrine auto-injectors.]

Officer-Involved Injury or Death

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must

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include all information required by Code of Criminal Procedure 2.139(b).

Code of Criminal Procedure 2.139

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

Failure to Report

A law enforcement agency that fails to submit the required report on or before the seventh day after the date the agency received notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of $1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day after the date of receiving notice of failure to report, a law enforcement agency that, in the five-year period preceding the date the agency received the notice, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of $10,000 for the first day and $1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*

Complaints Against Peace Officers

To be considered by the head of the district's police department, a complaint against a district peace officer must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed. Disciplinary action may not be taken against the officer unless a copy of the signed complaint is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code 614.021–.023; Colorado County v. Staff, 510 S.W.3d 435 (Tex. 2017); Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a law enforcement agency of a complaint ~~that alleges~~by an individual who believes that a peace officer employed by the ~~department~~agency has engaged in racial profiling with respect to ~~an~~the 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(b)(3), (f)*

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[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 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. 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 under Education Code 31.024;
3. Consumable instructional materials, including workbooks;
4. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
5. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;
6. Supplemental instructional materials, as provided by Education Code 31.035;
7. State-developed open education resource instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
8. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
9. Technological equipment 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
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 and for providing for access to technological equipment for instructional use; and

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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~~,~~ or 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.

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.

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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)

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)*

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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. 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 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

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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)*

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.

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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)

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.

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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:

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

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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 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)*

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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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Texas Department of Agriculture Authority

The Texas Department of Agriculture (TDA) administers federal and state nutrition programs, including the National School Lunch Program (NSLP) under 42 U.S.C. Section 1751 et seq., and the School Breakfast Program (SBP) under 42 U.S.C. Section 1773. *Agriculture Code 12.0025*

Note: Regulations applicable to federal nutrition programs are found at the following:

7 C.F.R. 210: National School Lunch Program

7 C.F.R. 215: Special Milk Program for Children

7 C.F.R. 220: School Breakfast Program

7 C.F.R. 225: Summer Food Service Program

7 C.F.R. 245: Free and Reduced Price Eligibility

Program Compliance

TDA shall require that school food authorities (SFAs) comply with the applicable provisions 7 C.F.R. Part 210. TDA shall ensure compliance through audits, administrative reviews, technical assistance, training guidance materials or by other means. *7 C.F.R. 210.19(a)(3)*

[For the definition of "school food authority," see COA(LEGAL).]

Administrative Review

TDA must conduct administrative reviews of all SFAs participating in the NSLP (including the Afterschool Snacks and the Seamless Summer Option) and SBP at least once during a 3-year review cycle, provided that each SFA is reviewed at least once every 4 years.

"Administrative reviews" means the comprehensive off-site and/or on-site evaluation of all SFAs participating in the specified programs. The term administrative review is used to reflect a review of both critical and general areas in accordance with 7 C.F.R. 210.18(g) and (h), as applicable for each reviewed program, and includes other areas of program operations determined by TDA to be important to program performance.

7 C.F.R. 210.18

Note: For recordkeeping and retention information, see TDA's School Nutrition Program (SNP) Records Retention List.[1]

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School Nutrition Professional Standards

An SFA that operates the NSLP or the SBP must establish and implement professional standards for school nutrition program directors, managers, and staff. *7 C.F.R. 210.30(a)*

Minimum Standards for Program Directors

Each SFA must ensure that all newly hired school nutrition program directors meet minimum hiring standards and ensure that all new and existing directors have completed the minimum annual training/education requirements for school nutrition program directors, as set forth in 7 C.F.R. 210.30. *7 C.F.R. 210.30(b)*

Note: All school nutrition program directors hired on or after July 1, 2015, must meet the required minimum educational requirements based on student enrollment. *See Summary of School Nutrition Program Director Professional Standards by Local Educational Agency Size chart, 7 C.F.R. 210.30(b)(2).*

Exempt Fundraisers

Schools that participate in the NSLP or SBP may sell food and beverages that do not meet nutritional standards outlined in 7 C.F.R. Parts 210 and 220 as part of a fundraiser, during the school day, for up to six days per school year on each school campus, provided that no specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during the meal service. *4 TAC 26.2*

Definitions

"School day" means the midnight before, to 30 minutes after the end of the official school day.

"School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

4 TAC 26.1

Unpaid Meal Charges

State Law

The board of a district that allows students to use a prepaid meal card or account to purchase meals served at schools in the district shall adopt a grace period policy regarding the use of the cards or accounts. The policy:

1. Must allow a student whose meal card or account balance is exhausted or insufficient to continue, for a period determined by the board, to purchase meals by:
   a. Accumulating a negative balance on the student's card or account; or
   b. Otherwise receiving an extension of credit from the district;

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2. Must require the district to notify the parent of or person standing in parental relation to the student that the student's meal card or account balance is exhausted;

3. May not permit the district to charge a fee or interest in connection with meals purchased under item 1, above; and

4. May permit the district to set a schedule for repayment on the account balance as part of the notice to the parent or person standing in parental relation to the student.

Education Code 33.908

Federal Law

An SFA operating a NSLP and/or SBP must:

1. Have a written and clearly communicated meal charge policy in order to ensure a consistent and transparent approach to the issue of how students who pay the full or reduced price cost of a reimbursable meal are impacted by having insufficient funds on hand or in their account to purchase a meal.

2. Include policies regarding the collection of delinquent meal charge debt in the written meal charge policy.

3. Ensure that the policy is provided in writing to all households at the start of each school year and to households that transfer to the school during the school year.

4. Provide the meal charge policy to all school or SFA-level staff responsible for policy enforcement, including school food service professionals responsible for collecting payment for meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspects of the meal charge policy.

Excerpts from *USDA Memo SP 46-2016, Unpaid Meal Charges: Local Meal Charge Policies*[2] *(July 8, 2016)*

Lauren's Law

A district may not adopt any rule, policy, or program under Education Code 28.002(a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

1. Children in the classroom of the child on the occasion of the child's birthday; or

2. Children at a school-designated function.

Education Code 28.002(l-3)(2)

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Donation of Food

A district may allow a campus to donate food to a nonprofit organization through an official of the nonprofit organization who is affiliated with the campus, including a teacher, counselor, or parent of a student enrolled at the campus. The donated food may be received, stored, and distributed on the campus. Food donated by the campus may include:

1. Surplus food prepared for breakfast, lunch, or dinner meals or a snack to be served at the campus cafeteria, subject to any applicable local, state, and federal requirements; or
2. Food donated to the campus as the result of a food drive or similar event.

The type of food donated may include packaged and unpackaged unserved food, packaged served food if the packaging is in good condition, whole uncut produce, wrapped raw produce, and unpeeled fruit required to be peeled before consumption.

Food donated to a nonprofit may be distributed at the campus at any time. Campus employees may assist in preparing and distributing as volunteers of the nonprofit organization.

A district may adopt a policy under which the district provides food at no cost to a student for breakfast, lunch, or dinner meals or a snack if the student is unable to purchase such meals or snack.

Education Code 33.907

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[1] TDA's School Nutrition Program (SNP) Records Retention List: http://www.squaremeals.org/Portals/8/FND%20Forms/Program%20Forms/SNP_RecordsList_List_V001_200423.pdf

[2] USDA Memo *Unpaid Meal Charges: Local Meal Charge Policies:* https://fns-prod.azureedge.net/sites/default/files/cn/SP46-2016os.pdf

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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~~.~~ to the material covered by a certification described at Certifications to the FCC, below, to which such certification relates. *47 U.S.C. 254(h)(7)(I)*

Universal Service Discounts (E-Rate)

An elementary or secondary school having computers with internet access may not receive universal service discount rates unless ~~a~~the 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 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 service support

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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 under 47 U.S.C. 254(h)(5)(B) is a certification that the district is:

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); 47 C.F.R. 54.520(c)(1)

With Respect to Adults

A ~~district must submit~~certification under 47 U.S.C. 254(h)(5)(C) is a certification that the district is:

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); 47 C.F.R. 54.520(c)(1)

Disabling for Adults

An administrator, supervisor, or other person authorized by ~~a~~the 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:

1. Access by minors to inappropriate matter on the internet and the World Wide Web;

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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); 47 C.F.R. 54.520(c)(1)(ii)

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~~the board or designee. *47 U.S.C. 254(l)(2)*

Noncompliance

A district that knowingly fails to submit required certifications shall not be eligible for discount services under the federal universal service support mechanism for schools until such certifications are submitted.

A district that knowingly fails to ensure the use of computers in accordance with the required certifications must reimburse any funds and discounts received under the federal universal service support mechanism for schools for the period in which there was noncompliance.

47 C.F.R. 54.520(d), (e); 47 U.S.C. 254(h)(5)(F)

ESEA Funding — No 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

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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~~An administrator, supervisor, or other person authorized by the 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

Uniform Electronic Transactions Act (UETA)

~~A district may agree with other parties~~ The UETA (Business and Commerce Code Chapter 322) applies to electronic records and electronic signatures relating to a transaction. *Business and Commerce Code 322.003(a)*

The UETA applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. ~~Any such~~The UETA does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. This right may not be waived by agreement. *Business and Commerce Code 322.005(a)–(c)*

Except as otherwise provided in Business and Commerce Code 322.012(f), the UETA does not require a district to use or permit the use of electronic records or electronic signatures. *Business and Commerce Code 322.017(c)*

Records Retention

If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which: ~~or transaction must be done~~

1. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

2. Remains accessible for later reference.

A record retained as an electronic record in accordance with the ~~Uniform~~ provisions above satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after January 1, 2002, specifically prohibits the use of an electronic record for the specified purpose.

Business and Commerce Code 322.012(a), (f)

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[For more information on records management, see CPC.]

Definitions

"Electronic ~~Transactions Act. *Business and Commerce Code Chapter 322; 1 TAC 203*~~record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Business and Commerce Code 322.002(7), (8), (15)

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~~;~~(b); 1 TAC 203*

"Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature. *Gov't Code 2054.060(e)(1)*

Interception of Communications

For information on the unlawful interception, use, or disclosure of communications, see the Electronic Communications Privacy Act (18 USC 2510–2523 [federal wiretap act] and 2701–2713 [Stored Communications Act]) and Penal Code 16.02 (state wiretap law) and 16.04 (Unlawful Access to Stored Communications).

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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~~board 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~~board under Government Code 551.021 [see BE].

Items 5 and 6 above do not apply to a district with a population of less than 5,000 in the district's boundaries and located in a county with a population of less than 25,000.

Gov't Code 2051.151–.152

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 campus intervention team must notify the public of the meeting for input for the development of a targeted improve-

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ment 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) and Education Code 39A.056. [See AIC]

~~7.~~8. 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]

~~8.~~9. A district shall notify stakeholders of their ability to review the completed campus turnaround plan and post the completed plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(~~d)(1~~e). [See AIC]

~~9.~~10. A district shall post an election notice required under Election Code 85.007. [See BBBA]

~~10.~~11. Each day early voting is conducted, the district shall post the branch daily register under Election Code 85.072. [See BBBA]

~~11.~~12. A district shall post early voting rosters under Election Code 87.121. [See BBBA]

~~12.~~13. 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]

~~13.~~14. 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]

~~14.~~15. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]

~~15.~~16. A district shall post the statements regarding activities to support and promote student health under Education Code 28.004. [See BDF]

~~16.~~17. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate

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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]

~~17.~~18. 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]

~~18.~~19. 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.~~20. 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]

~~20.~~21. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]

~~21.~~22. 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]

~~22.~~23. 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]

~~23.~~24. 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.~~25. 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]

~~25.~~26. 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]

~~26. 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).~~

27. ~~-~~A district shall continuously post its ~~annual financial~~contact information and Annual Local Debt Report under Local Government Code 140.008 and 34 Administrative Code 10.1–.6 on

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its website until the district posts the next annual report, or, as an alternative, the district may ~~post~~continually maintain a link to the comptroller's website where the district's financial information may be viewed. [See CFA]

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]

29. A district that is a service provider seeking to limit liability under the Digital Millennium Copyright Act must post information regarding its designated agent under 17 U.S.C. 512(c)(2). [See CY]

~~29.~~30. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]

~~30.~~31. 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.~~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 early childhood literacy and mathematics plans under Education Code 11.185. [See EA]

~~32.~~33. 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]

~~33.~~34. 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]

35. A district shall make available on the district or campus website by November 1 of each school year a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education, under 19 Administrative Code 102.1003(e). [See EHBG]

~~34.~~36. 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]

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~~35.~~37. 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]

~~36.~~38. 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]

~~37.~~39. 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]

~~38.~~40. A district shall post information regarding local programs and services, including charitable programs and services, available to assist students who are homeless, under Education Code 33.906. [See FDC]

~~39.~~41. 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.~~42. 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]

43. A district must prominently display the contact information required to be listed for the Title IX Coordinator and policy on its website, if any, under 34 C.F.R. 106.8(b). [See FFH]

44. A district must make all materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process publicly available on its website, if any, under 34 C.F.R. 106.45(b)(10)(i)(D). [See FFH]

~~41.~~45. 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]

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~~42.~~46. 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.~~47. 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.~~48. 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]

~~45.~~49. 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~~has the following options:

~~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]~~

~~2.~~1. A board may broadcast an open meeting over the internet, under Government Code 551.128. [See BE]

~~3.~~2. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(q)(3)(B)(i). [See CFA]

~~4.~~3. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]

~~5.~~4. 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]

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~~6.~~5. 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.~~6. A board may post a mailing address and email address designated for receiving written requests for public information on its website under Government Code 552.234(d). [See GBAA]

Geospatial Data Products

"Geospatial data product" means a document, computer file, or internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

Notice

A district shall include a notice on each geospatial data product that:

1. Is created or hosted by the district;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov't Code 2051.102

Exemption

A district is not required to include the notice on a geospatial data product that:

1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or

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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:~~

~~9. Intentionally intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire, oral, or electronic communication;~~

~~10. 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;~~

~~11. 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;

12. 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

13. 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:

14. By the person or entity providing a wire or electronic communications service;

15. By a user of that service with respect to a communication of or intended for that user; or

16. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(c)

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~~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:~~ ~~17. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and~~ ~~18. 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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Options

A district shall extend workers' compensation benefits to its employees by choosing one of the following options:

1. Becoming a self-insurer.
2. Providing insurance under workers' compensation insurance contracts or policies.
3. Entering into interlocal agreements with other political subdivisions providing for self-insurance.

Labor Code 504.011

Definition

For the purposes of this policy, "employee" means every person in the service of a district who has been employed as provided by law or for whom the district provides optional coverage. No person paid on a basis other than by the hour, day, week, month, or year shall be considered an "employee." *Labor Code 504.001, .014*

Optional Coverages

By majority vote of the board, a district may cover as employees an elected official or persons paid for service in the conduct of an election. *Labor Code 504.012(b)*

Notice

A district shall notify the Texas Department of Insurance (TDI) of the method by which district employees shall receive benefits, the approximate number of employees covered, and the estimated amount of payroll. Notice of the provision for workers' compensation benefits and the effective date of the coverage shall be given a district's employees. *Labor Code 504.018*

Report to Carrier

First Report of Injury

A district shall provide to the district's insurance carrier a report on each:

1. Death;
2. On-the-job injury that results in an employee's absence from work for more than one day; and
3. Occupational disease of which the district has received notice of injury or has knowledge. "Knowledge" means receipt of written or verbal information regarding diagnosis or diagnosis through examination or testing by a doctor employed by the district.

The report shall contain the information and be in the form, format, and manner prescribed by the TDI, and be filed no later than the eighth day after the employee's absence from work for more than one day or upon first knowledge of absence for more than one day. A district shall maintain a record of the date the report of injury is filed with the insurance carrier.

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Copy to Employee	A copy of the report of injury, including a summary of the employee's rights and responsibilities under the Texas Labor Code, shall be sent to the injured employee at the time the report is filed with the insurance carrier. The summary shall be written in plain language in English and Spanish, or in English and any other language common to the employee, and shall contain the words prescribed by the TDI.
Notice of Modified Duty Program	A district shall, on the written request of the employee, a doctor, the insurance carrier, or the TDI, notify the employee, the employee's treating doctor if known to the district, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the district. If those opportunities or that program exists, a district shall identify the district's contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options.
Supplemental Report of Injury	A supplemental report shall be filed with a district's insurance carrier and provided to the employee within ten days after: 1. The end of each pay period in which the employee has a change in earnings, including all post-injury earnings as defined in 28 Administrative Code Chapter 129 [see Offsetting Paid Leave Against Workers' Compensation Income Benefits, below], as a result of the injury; or 2. The employee resigns or is terminated. A district's duty to file supplemental reports continues until the employee reaches "maximum medical improvement" or is no longer employed by the district and the district has made the required report. For injuries that require the filing of a first report of injury, a district shall file the supplemental report with the district's insurance carrier and provide a copy to the employee within three days after: 1. The employee begins losing time from work as a result of the injury; 2. The employee returns to work; or 3. The employee, after returning to work, experiences an additional day of disability as a result of the injury. A district shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee. *Labor Code 409.005; 28 TAC 120.2, .3*

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Injury and Occupational Disease Report

A district's report of injury filed in accordance with Texas Labor Code 409.005 [see First Report of Injury, above] shall satisfy the district's requirement to file an injury and occupational disease report under Texas Labor Code 411.032. *28 TAC 160.3*

Wage Reports

A district is required to timely file a complete wage statement on a form prescribed by the TDI.

The wage statement shall be filed with the carrier, the claimant, and any claimant representative. The wage statement should be filed and received within 30 days of the earliest of:

1. The date a district is notified that the employee is entitled to income benefits; or
2. The date of the employee's death as a result of a compensable injury.

A subsequent wage statement shall be filed with the carrier, the claimant, and any claimant representative within seven days of a change in any wage information provided on the previous wage statement. A wage statement shall also be filed with TDI within seven days of receiving a request from TDI.

28 TAC 120.4(a)

Ombudsman Program

A district shall notify its employees, in the manner prescribed by the Office of Injured Employee Counsel, of the ombudsman program to assist injured workers and persons claiming death benefits in obtaining benefits under the Texas Workers' Compensation Act.

A district that employs first responders, as defined in Labor Code 504.055, or supervises volunteer first responders shall notify the first responders, in the manner prescribed by the Office of Injured Employee Counsel, of the first responder liaison who shall assist an injured first responder during a workers' compensation administrative dispute resolution process.

Labor Code 404.151, .1525, .153; 28 TAC 276.5

Reports of Safety Violations

A district shall notify its employees, in the manner prescribed by the TDI, of the 24-hour-a-day toll-free telephone system for reporting violations of an occupational health or safety law. A district shall not suspend, terminate, or otherwise discriminate against an employee for making a good faith report of a violation of an occupational health or safety law. *Labor Code 411.081, .082*

Relation to Paid Leave

Once temporary income benefits (TIBs) accrue, an injured employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the

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employee has a disability and has not reached maximum medical improvement.

"Lost wages" are the difference between the employee's gross average weekly wage (AWW) and the employee's gross post-injury earnings (PIE). If the employee's PIE equals or exceeds the employee's AWW, the employee has no lost wages.

"Post-injury earnings" include, among several other components:

1. The value of any full days of accrued sick or annual leave that the employee voluntarily elects to use after the date of injury; and
2. The value of any partial days of accrued or annual leave that the employee has voluntarily elected to use after the date of injury that, when combined with the employee's TIBs, exceeds the AWW.

28 TAC 129.2

Offsetting Paid Leave Against Workers' Compensation Income Benefits

A board may provide that while an employee is receiving workers' compensation benefits, the employee may elect to receive previously accrued sick leave benefits in an amount equal to the difference in the workers' compensation benefits and the weekly compensation the employee was receiving before the injury that resulted in the claim, with a proportionate deduction in the employee's sick leave balance. *Labor Code 504.052* [See DEC(LOCAL)]

Unless a board adopts the option provided by Labor Code 504.052, sick leave benefits and annual leave benefits shall not be offset against benefits paid under the Workers' Compensation Law. *Atty. Gen. Op. JC-0040 (1999)*

Prohibited Discrimination

A person may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Labor Code 451.001

A person who violates the above provision is liable for reasonable damages incurred by the employee as a result of the violation, and

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an employee discharged in violation of the above provision is entitled to reinstatement in the former position of employment. The burden of proof in a proceeding alleging violation of the above provision is on the employee. *Labor Code 451.002*

Claims by First Responder

A first responder, as defined in Government Code 421.095, who alleges a violation of Labor Code 451.001 [at Prohibited Discrimination, above] by a district that employs the first responder may sue the district for relief provided by Labor Code Chapter 451. Sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by Chapter 451. To the extent a person has official or individual immunity from a claim for damages, these provisions do not affect that immunity. *Labor Code 451.0025*

Note: A retaliatory discharge claim may not be brought against a school district without its consent. Except as stated above, current state law does not waive a school district's immunity and provide consent. *Labor Code 504.053(e); Travis Cent. Appraisal Dist. v. Norman, 342 S.W.3d 54 (Tex. 2011)*

Leaves of Absence

A district shall not terminate an employee who is on an unpaid leave of absence and receiving workers' compensation benefits, except when the termination is for a legitimate reason independent from the employee's workers' compensation claim. *Atty. Gen. Op. JM-227 (1984)*

~~A district that terminates an employee~~ [See DEC(LEGAL) for ~~violating a reasonable~~information on absence ~~-~~control~~ policy cannot be liable for prohibited discrimination as long as the rule is uniformly enforced. *Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996)* [See DEC].]

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Facilities Standards

All new facilities must meet the commissioner's standards for adequacy of school facilities to be eligible to be financed with state or local tax funds. *Education Code 46.008*

State Standards After January 1, 2004

The requirements for school facility standards set out in 19 Administrative Code 61.1036 ("section 61.1036") apply to projects for new construction or major space renovations approved by a board or its authorized representative on or after January 1, 2004. *19 TAC 61.1036(b)*

Definitions

"Major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration and/or function. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements of section 61.1036(d) and (e), but shall comply with applicable building codes under section 61.1036(f). *19 TAC 61.1036(a)(10)*

"Educational program" means a written document, developed and provided by a district, that includes the following information:

1. A summary of the school district's educational philosophy, mission, and goals; and
2. A description of the general nature of the district's instructional program in accordance with the 19 Administrative Code 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
    a. The learning activities to be housed, by instructional space;
    b. How the subject matter will be taught (methods of instructional delivery);
    c. The materials and equipment to be used and stored;
    d. Utilities and infrastructure needs; and
    e. The characteristics of furniture needed to support instruction.

19 TAC 61.1036(a)(2)

"Educational specifications" means a written document for a proposed new school facility or major space renovation that includes a description of the proposed project, expressing the range of issues

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and alternatives. School districts that do not have personnel on staff with experience in developing educational specifications shall use the services of a design professional or consultant experienced in school planning and design to assist in the development of the educational specifications. The school district shall allow for input from teachers, other school campus staff, and district program staff in developing the educational specifications. The following information should be included in the educational specifications:

1. The instructional programs, grade configuration, and type of facility;
2. The spatial relationships—the desired relationships for the functions housed at the facility:
    a. Should be developed by the school district to support the district's instructional program;
    b. Should identify functions that should be:
        (1) Adjacent to, immediately accessible;
        (2) Nearby, easily accessible; and
        (3) Removed from or away from; and
    c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.
3. Number of students;
4. A list of any specialized classrooms or major support areas, noninstructional support areas, outdoor learning areas, outdoor science discovery centers, living science centers, or external activity spaces;
5. A schedule of the estimated number and approximate size of all instructional and instructional support spaces included in the facility;
6. Estimated budget for the facility project;
7. School administrative organization;
8. Provisions for outdoor instruction;
9. Hours of operation that include the instructional day, extracurricular activities, and any public access or use;
10. The safety of students and staff in instructional programs, such as science and vocational instruction; and

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11. The overall security of the facility.

19 TAC 61.1036(a)(3)

Certification of Design and Construction

The school district shall notify and obligate the architect or engineer to provide the required certification.

"Certify" indicates that the architect or engineer has reviewed the standards contained in 19 Administrative Code Chapter 61 and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the state of Texas in executing the construction documents. The architect or engineer also certifies that these documents conform to the provisions of section 61.1036, except as indicated on the certification. The architect's or engineer's signature and seal on the construction documents shall certify compliance.

To ensure that facilities have been designed and constructed according to the provisions of section 61.1036, each involved party shall execute responsibilities as set forth in section 61.1036(c)(3).

19 TAC 61.1036(c)

Construction Quality

Districts with Building Codes

A district located in an area that has adopted local construction codes shall comply with those codes (including building, fire, plumbing, mechanical, fuel gas, energy conservation, and electrical codes). If the local building authority does not require a plan review, then a qualified, independent third party, not employed by the design architect or engineer, shall review the plans and specifications for compliance with the requirements of the adopted building code. If the local building authority does not conduct reviews and inspections during the course of construction of the facility, then a qualified, independent third party, not employed by the design architect or engineer or contractor, should perform a reasonable number of reviews and inspections during the course of construction for compliance with the requirements of the adopted building code. *19 TAC 61.1036(f)(1)(A), (D)*

Districts without Building Codes

A district located in an area that has not adopted local building codes shall adopt and use the building code and related fire, plumbing, mechanical, fuel gas, and energy conservation codes from the latest edition of the family of International Codes as published by the International Code Council (ICC); and the National Electric Code as published by the National Fire Protection Association (NFPA). As an alternative, a district may adopt the building code and related codes as adopted by a nearby municipality or county. A qualified, independent third party, not employed by the design architect or engineer, shall review the plans and specifications for compliance with the requirements of the adopted building

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code. A qualified, independent third party, not employed by the design architect or engineer or contractor, should perform a reasonable number of reviews and inspections during the course of construction for compliance with the requirements of the adopted building code. *19 TAC 61.1036(f)(2)(A), (D)*

International Energy Conservation Code

The International Energy Conservation Code as it existed on May 1, 2015, is adopted as the energy code for use in this state for all commercial construction. *Health and Safety Code 388.003(b); 34 TAC 19.53(b)*

Because a public school building is not a residential building, it falls within the scope of "commercial" construction for purposes of the International Energy Conservation Code and likely for purposes of Health and Safety Code Chapter 388. *Atty. Gen. Op. KP-148 (2017)*

Fire Protection

Fire alarms shall be provided. Districts should consider providing automatic sprinkler systems for fire protection, fire suppression, and life safety. *19 TAC 61.1036(f)(1)(B)–(C), (f)(2)(B)–(C)*

State Standards Before January 1, 2004

The requirements for school facility standards set out in 19 Administrative Code 61.1033 apply to projects for new construction and major space renovations approved by a board before January 1, 2004. *19 TAC 61.1033(b)*

Fire Escapes

School buildings of at least two stories shall be equipped with fire escapes as required by law. *Health and Safety Code 791.002, .035, .036*

Security Criteria

A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, appropriate security criteria. *Education Code 46.0081*

Accessibility

No qualified individual with a disability shall, because a district's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in or be denied the benefits of the services, programs, and activities of a district or be subject to discrimination. *42 U.S.C. 12132; 28 C.F.R. 35.149; 29 U.S.C. 794; 34 C.F.R. 104.21*

A district shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. A district is not required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

A district may comply with these requirements by:

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1. Redesigning or acquisitioning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 C.F.R. 104.23 and 28 C.F.R. 35.151.
8. Any other methods that result in making services, programs, and activities accessible to individuals with disabilities.

A district is not required to make structural changes in existing facilities when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, a district shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

28 C.F.R. 35.150; 34 C.F.R. 104.22

Review of Plans

All plans and specifications for construction or for the substantial renovation or modification of a building or facility that has an estimated construction cost of $50,000 or more shall be submitted to the Department of Licensing and Regulation for review and approval. A district as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, or modification of the building or facility to begin before the date the plans and specifications are submitted to the Department by the architect, interior designer, landscape architect, or engineer.

A district, as owner of each building or facility that has an estimated construction, renovation, or modification cost of at least $50,000, is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation or modification of the building or facility is completed. The inspection must be performed by the Department, an entity with whom the Commission contracts, or a person who holds a certificate of registration to perform inspections.

Gov't Code 469.101, .102(a), (c), .105

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Notice

A district shall adopt and implement procedures to ensure that interested persons, including persons with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. *34 C.F.R. 104.22(f)*

Relocatable Educational Facility

In this section, "relocatable educational facility" means a portable, modular building capable of being relocated, regardless of whether the facility is built at the installation site, that is used primarily as an educational facility for teaching the curriculum required under Education Code 28.002.

A relocatable educational facility that is purchased or leased on or after January 1, 2010, must comply with all provisions applicable to industrialized buildings under Occupations Code Chapter 1202.

Occupations Code 1202.004

Any portable, modular building capable of being relocated that is purchased or leased for use as a school facility by a district, whether that building is manufactured off-site or constructed on-site, must comply with all provisions of 19 Administrative Code 61.1036. *19 TAC 61.1036(a)(11), (f)(3)*

Playgrounds

Public funds may not be used to purchase or install:

1. Playground equipment that:
    a. Does not comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specification for Playground Equipment for Public Use," published by ASTM International; or
    b. Has a horizontal bare metal platform or a bare metal step or slide, unless the bare metal is shielded from direct sun by a covering provided with the equipment or by a shaded area in the location where the equipment is installed;
2. Surfacing for the area under and around playground equipment if the surfacing will not comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing," published by ASTM International.

Exception

Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 2009, even if the equipment or surfacing does not comply with the applicable specifications described above.

Health and Safety Code 756.061

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Outdoor Lighting

An outdoor lighting fixture may be installed, replaced, maintained, or operated using state funds only if it meets standards for state-funded outdoor lighting fixtures in Health and Safety Code Chapter 425.

Exceptions

The standards for state-funded outdoor lighting fixtures do not apply if:

1. A federal law, rule, or regulation preempts state law;
2. The fixture is used on a temporary basis:
3. Because emergency personnel temporarily require additional illumination for emergency procedures;
4. For nighttime work;
5. Special events or circumstances require additional illumination;
6. The fixture is used solely to enhance the aesthetic beauty of an object; or
7. A compelling safety interest cannot be addressed by another method.

Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

Health and Safety Code 425.002

Natural Gas Piping Pressure Testing

A district shall perform biennial pressure tests on the natural gas piping system in a school facility before the beginning of the school year. A district with more than one facility may perform the testing on a two-year cycle under which the district pressure tests the natural gas piping system in approximately one-half of the facilities each year. If a district operates the facilities on a year-round calendar, the pressure test in each of those facilities must be conducted and reported not later than July 1 of the year in which the pressure test is performed.

A natural gas piping pressure test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements.

Utilities Code 121.502; 16 TAC 8.230(c)(1), (4)

Requirements of Test

A district shall perform the pressure test to determine whether the natural gas piping downstream of a district facility's meter holds at

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least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be performed by a person authorized under Railroad Commission rules. At a district's request, the Railroad Commission shall assist the district in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

Notice

A district shall provide written notice to the district's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the district. *Utilities Code 121.504(a); 16 TAC 8.230(b)(1)*

Termination of Service

A supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

Utilities Code 121.505(a)

A supplier shall develop procedures for terminating service to a district if the supplier:

1. Receives notification of a hazardous natural gas leak in the school facility piping system; or
2. Does not receive written notification from the district specifying the completion date and results of the testing.

16 TAC 8.230(b)(2)

Reporting Leaks

An identified natural gas leakage in a district facility must be reported to the board. The firm or individual conducting the natural gas piping pressure test shall immediately report any hazardous natural gas leak in a district facility to the board and the natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-Gas Systems Testing

At least biennially, a district shall perform leakage tests on the LP-gas piping system in each district facility before the beginning of the school year. The district may perform the leakage tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If a district operates one or more district facilities on a year-round calendar, the leakage test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

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A test performed under a municipal code satisfies the testing requirements.

Natural Resources Code 113.352; 16 TAC 9.41

Requirements of Test

A district shall perform the leakage test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the Railroad Commission. The leakage test must be conducted in accordance with Railroad Commission rules at 16 Administrative Code 9.41. The leakage test shall be conducted by a person authorized under Railroad Commission rules. At a district's request, the Railroad Commission shall assist the district in providing for the certification of a district employee to conduct the test and in developing a procedure for conducting the test. *Natural Resources Code 113.353; 16 TAC 9.41(b)–(d)*

Notice

Before the introduction of any LP-gas into the LP-gas piping system, a district shall provide verification to its supplier that the piping has been tested.

Documentation

A district shall retain documentation specifying the date and the result of each leakage test or other inspection of each LP-gas piping system until at least the fifth anniversary of the date the test or other inspection was performed. The Railroad Commission may review a district's documentation of each leakage test or other inspection conducted by the district.

Natural Resources Code 113.354; 16 TAC 9.41(b)(~~2) (~~3)–(4)

Termination of Service

A supplier shall terminate service to a district facility if:

1. The supplier receives official notification from the district~~, the LP-gas licensee,~~ or the person conducting the test that there is leakage in a school LP-gas system;
2. The leakage test performed on a school LP-gas system was not performed as required; or
3. The supplier has not received a copy of the required form from the district verifying that the LP-gas system has been tested in accordance with 16 Administrative Code 9.41.

Natural Resources Code 113.355; 16 TAC 9.41(e)

Reporting Leaks

An identified school LP-gas leakage in a school district facility shall be reported to the board. The district shall immediately remove the affected school district facility from LP-gas service until repairs are made and it passes a subsequent school LP-gas system leakage test. If a district employee performs the initial test, then the subsequent test may not be performed by a district employee. *Natural Resources Code 113.356; 16 TAC 9.41(b)(~~1~~2)*

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Definitions

"School district facility" means each building or structure operated by a school district and equipped with a school LP-gas system, in which students receive instruction or participate in school sponsored extracurricular activities, excluding maintenance or bus facilities, vehicle fueling facilities, administrative offices, and similar facilities not regularly used by students.

"School LP-gas system" means all piping, fittings, valves, regulators, appliance connectors, equipment, and connections supplying fuel gas from the outlet of the shutoff valve at each LP-gas storage container or upstream of each meter to the shutoff valve(s) on each appliance in a school district facility.

16 TAC 9.41(a)(4)–(5)

Intrastate Pipeline Emergency Response Plan

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

1. On written request from a district, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:
    a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;
    b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;
    c. The designated emergency number for the pipeline facility operator;
    d. Information on the state's excavation one-call system; and
    e. Information on how to recognize, report, and respond to a product release; and
2. Mail a copy of the requested items by certified mail, return receipt requested, to the superintendent of the district in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled board meeting to explain the above items if requested by the board or district.

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The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to the board.

Natural Resources Code 117.012(k)–(m); 16 TAC 8.315

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Note: Copyright information can be found on the U.S. Copyright Office website.[1]

Copyright
~~**Copyrighted Material**~~

Copyright protection subsists, in accordance with United States ~~Copyright Law,~~Code Title 17 ~~U.S.C. 101–1332,~~(Title 17), in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

1. Literary works;
2. Musical works, including any accompanying words;
3. Dramatic works, including any accompanying music;
4. Pantomimes and choreographic works;
5. Pictorial, graphic, and sculptural works;
6. Motion pictures and other audiovisual works;
7. Sound recordings; and
8. Architectural works.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. 102

Ownership ~~of Copyright~~

Copyright in a work protected under ~~United States~~ copyright law vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work. *17 U.S.C. 201(a)*

Work for Hire

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of ~~United States~~ copyright law, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright. *17 U.S.C. 201(b)*

A "work made for hire" is:

1. A work prepared by an employee within the scope of his or her employment; or

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2. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

An "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

17 U.S.C. 101

Transfer ~~of Ownership~~

The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession. Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by 17 U.S.C. 106, may be transferred and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner. *17 U.S.C. 201(d)*

~~*17 U.S.C. 201(d)*~~

~~Registering a~~ Copyright Registration

At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by ~~registering in accordance with~~ delivering to the Copyright Office the deposit specified by 17 U.S.C. 408~~–~~, together with the application and fee specified by 17 U.S.C. 409 and 708. Such registration is not a condition of copyright protection. *17 U.S.C. 408(a)*

Exclusive Rights

Subject to 17 U.S.C. 107–122~~,~~ (limitations on and scope of exclusive rights), the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;

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2. To prepare derivative works based upon the copyrighted work;

3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;

5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and

6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

17 U.S.C. 106

Fair Use

~~An exception to the exclusive rights enjoyed by copyright owners is the doctrine of fair use.~~Notwithstanding the provisions of 17 U.S.C. 106 above and 106a (rights of authors of visual art works), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by ~~17 U.S.C. 106~~that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. ~~The following factors shall be considered~~ In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether ~~the~~such use is of a commercial nature or for nonprofit educational purposes.

2. The nature of the copyrighted work.

3. The amount and ~~importance~~substantiality of the portion used in relation to the copyrighted work as a whole.

4. The effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. 107

Performances and Displays

~~Additional exceptions related to~~Notwithstanding the provisions of 17 U.S.C. 106, certain performances and displays ~~include~~set out in

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17 U.S.C. 110 are not infringements of copyright, including performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made under ~~United States~~ Title 17~~Copyright Law~~, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110(1)*

~~*Guidelines*~~

~~Employees who wish to use copyrighted print material and sheet music shall follow the guidelines set forth in the "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" and "Guidelines for Educational Uses of Music." Those guidelines establish a minimum guaranteed fair use, not a maximum. Any use that falls within those guidelines is a fair use; any use that exceeds these guidelines shall be judged by the four factors stated above and may be subject to challenge. Any determination regarding whether a use that exceeds the guidelines is a fair use shall rest with an appropriate court of law.~~

~~*Prohibitions*~~

~~Notwithstanding the fair use guidelines, the following shall be prohibited:~~

~~1. Copying of print materials and sheet music to create or replace or substitute for anthologies, compilations, or collective works. This prohibition against replacement or substitution applies whether copies of various works or excerpts are accumulated, or reproduced and used separately.~~

~~2. Copying of or from works intended to be "consumable" in the course of study or teaching. These works include workbooks, exercises, standardized tests, test booklets, answer sheets, and like consumable material.~~

~~Copying shall not substitute for the purchase of books, publishers' reprints, or periodicals; be directed by higher authority; or be repeated with respect to the same item by the same teacher from term to term.~~

~~No charge shall be made to the student beyond the actual cost of the photocopying.~~

~~Additional prohibitions regarding the use of music are:~~

~~3. Copying for the purpose of performance, except as permitted under the "Guidelines for Educational Use of Music."~~

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4. Copying for the purpose of substituting for the purchase of music, except as permitted under the "Guidelines for Educational Use of Music."

5. Copying without inclusion of the copyright notice that appears on the printed copy.

Reference: "Agreement on Guidelines for Classroom Copying in Not-for-Profit Educational Institutions" and "Guidelines for Educational Use of Music" contained in the historical note following 17 U.S.C. 107.

Broadcast Programs

Broadcast programs, including commercial and public television and radio, shall not be videotaped or tape recorded for reuse without permission, except within the following guidelines:

6. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by a district for a period not to exceed the first 45 consecutive calendar days after date of recording. At the end of that retention period, off-air recordings shall be erased or destroyed.

7. Off-air recordings may be used once by individual teachers in the course of relevant teaching activities and repeated once only when instructional reinforcement is necessary during the first ten consecutive school days within the 45-calendar-day retention period. "School days" are actual days of instruction, excluding examination periods.

8. Off-air recordings shall be made at the request of and used by individual teachers and shall not be regularly recorded in anticipation of requests. No broadcast program shall be recorded off-air more than once at the request of the same teacher, regardless of the number of times the program is broadcast.

9. A limited number of copies may be reproduced from each off-air recording to meet the legitimate needs of teachers under these guidelines. Each such additional copy shall be subject to all provisions governing the original recording. All copies of off-air recordings shall include the copyright notice on the broadcast program as recorded.

10. After the first ten consecutive school days, off-air recordings may be used up to the end of the 45-calendar-day retention period only to determine whether or not to include the broadcast program in the teaching curriculum and shall not be used in a district for student exhibition or any other nonevaluative purpose without authorization.

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~~11. Off-air recordings need not be used in their entirety, but the recorded programs shall not be altered from their original content. Off-air recordings shall not be physically or electronically combined or merged to constitute teaching anthologies or compilations.~~

~~*17 U.S.C. 107 historical note*~~

Copyright Infringement

Anyone who violates any of the exclusive rights of the copyright owner as provided by 17 U.S.C. 106 through 122 or of the author as provided in 17 U.S.C. 106A(a~~)~~), or who imports copies or phonorecords into the United States in violation of 17 U.S.C. 602, is an infringer of the copyright or right of the author. The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of 17 U.S.C. 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it. ~~*17 U.S.C. 501(a)–(b)*~~

17 U.S.C. 501(a)–(b)~~Online~~

Note: For information on copyright issues and online distance learning, see the TEACH Act, 17 U.S.C. 110(2) and 112(f).

Digital Millennium Copyright ~~Infringement~~Act

Service Provider

"Service provider" means:~~Limitation of Liability~~

~~To the extent that a district is a "service provider" (regarding~~

1. As used in 17 U.S.C. 512(a) (item 1 at Limitation of Liability below), an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

2. As used in 17 U.S.C. 512, other than subsection (a), a provider of online services~~) under~~ or network access, or the operator of facilities therefor, and includes an entity described in item 1 above.

17 U.S.C. 512(k)~~ and meets other conditions in 17 U.S.C. 512, the district~~

Limitation of Liability

A service provider shall not be liable for monetary relief or~~ certain~~, except as provided in 17 U.S.C. 512(j), for injunctive or other equitable relief, ~~except as allowed under 17 U.S.C. 512(j),~~ for ~~copyright~~ infringement of copyright by reason of: ~~in certain online services (transitory communications,~~

1. The provider's transmitting, routing, or providing connections for material through a system ~~caching,~~or network controlled or

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operated by or for the service provider, or by reason of the intermediate and transient storage of ~~information~~that material in the course of such transmitting, routing, or providing connections, if 17 U.S.C. 512(a)(1)–(5) are satisfied.

2. The intermediate and temporary storage of material on ~~systems or networks~~a system or network controlled or operated by or for the service provider in a case in which:

   a. The material is made available online by a person other than the service provider;

   b. The material is transmitted from the person described above through the system or network to a person other than the person described above at the ~~instruction of~~direction of that other person; and

   c. The storage is carried out through an automatic technical process for the purpose of making the material available to users~~, and~~ of the system or network who, after the material is transmitted as described in item b, request access to the material from the person described in item a, if the conditions set forth in 17 U.S.C. 512(b)(2) are met.

3. The storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider:

   a. Does not have actual knowledge that the material or an activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

   b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

   c. Upon notification of claimed infringement as described at Notification below responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

~~5.~~4. The provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools~~) provided by the district. *17 U.S.C.*~~

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~~512~~, including a directory, index, reference, pointer, or hypertext link, if the service provider:

a. Does not have actual knowledge that the material or activity is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

c. Upon notification of claimed infringement as described at Notification, below, responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this provision, the information described in item 3 at Notification, below, shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

17 U.S.C. 512(a)–(d)

Designated Agent

The limitations on liability established in item 3 at Limitation of Liability, above, apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described at Notification, below, by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office (the Office), substantially the following information:

1. The name, address, phone number, and electronic mail address of the agent.

2. Other contact information which the Register of Copyrights may deem appropriate.

17 U.S.C. 512(c)(2); 37 C.F.R. 201.38

The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the internet, and may require payment of a fee by service providers to cover the costs of maintaining the directory. *17 U.S.C. 512(c)(2)*

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Amendment — All service providers must ensure the currency and accuracy of the information contained in designations submitted to the Office by timely updating information when it has changed. A service provider may amend a designation previously registered with the Office at any time to correct or update information.

Renewal — A service provider's designation will expire and become invalid three years after it is registered with the Office, unless the service provider renews such designation by either amending it to correct or update information or resubmitting it without amendment. Either amending or resubmitting a designation, as appropriate, begins a new three-year period before such designation must be renewed.

37 C.F.R. 201.38(c)(3)–(4)

Notification — To be effective, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
4. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

17 U.S.C. 512(c)(3)

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Disabling or Removing Access

Subject to the exceptions below, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

Exceptions

The provision above shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under item 3c at Limitation of Liability, unless the service provider:

1. Takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

2. Upon receipt of a counter notification described in 17 U.S.C. 512(g)(3), promptly provides the person who provided the notification under item 3c with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in ten business days; and

3. Replaces the removed material and ceases disabling access to it not less than ten, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under item 3c that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

17 U.S.C. 512(g)

Eligibility for Limitations on Liability

The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider's system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider's system or network who are repeat infringers; and

2. Accommodates and does not interfere with standard technical measures. The term "standard technical measures" means technical measures that are used by copyright owners to identify or protect copyrighted works and:

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a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

b. Are available to any person on reasonable and nondiscriminatory terms; and

c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

17 U.S.C. 512(i)

~~*Limited Liability*~~

~~Information Residing on Systems or Networks at Direction of Users~~

~~Generally, a service provider shall not be liable for monetary relief, or for injunctive or other equitable relief, for infringement of copyright by reason of the storage at the direction of a user of material that resided on a system or network controlled or operated by or for the service provider, if the service provider:~~

~~1. Does not have actual knowledge that the material or activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;~~

~~2. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity;~~

~~3. Upon notification of claimed infringement as described in 17 U.S.C. 512(c)(3), responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity; and~~

~~4. Has designated an agent to receive notifications of claimed infringement described in 17 U.S.C. 512(c)(3), by making available through its service, including on its Web site in a location accessible to the public, and by providing to the Copyright Office, certain contact information.~~

~~17 U.S.C. 512(c)(1), (2); 37 CFR *201.38*~~

~~Other Online Services~~

~~Generally, liability of a service provider for copyright infringement may also be limited upon certain conditions for transitory communications, system caching, and information location tools services.~~
~~*17 U.S.C. 512(a), (b), (d)*~~

~~*Disabling or Removing Access*~~

~~Generally, a service provider shall not be liable to any person for any claim based on the service provider's good faith disabling of access to, or removal of, material or activity claimed to be infring-~~

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~~ing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing. *17 U.S.C. 512(g)*~~

Note: Trademark information can be found on the U.S. Patent and Trademark Office (USPTO)~~U.S. Copyright Office~~ website.[2]

~~**Trademarked Material**~~

Trademark

The term "trademark" includes any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register established by United States Code Title 15, Chapter 22 to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown. *15 U.S.C. 1127*

~~Service Mark~~

~~The term "service mark" means any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use~~

Trademark Registration

The owner of a trademark used in commerce ~~and applies to register~~may request registration of its trademark on the principal register ~~to identify and distinguish~~by paying the ~~services of one person, including a unique service, from~~ prescribed fee and filing in the ~~services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.~~

~~Certification Mark~~

~~The term "certification mark" means any word, name, symbol, or device, or any combination thereof, used by a person other than its owner or which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files~~ USPTO an application ~~to register on the principal register to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of~~ and a verified statement, in such ~~person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.~~

~~Collective Mark~~

~~The term "collective mark" means a trademark or service mark used by the members of a cooperative, an association, or other collective group or organization or which~~ form as may be prescribed by the director of the USPTO, and such ~~cooperative, association, or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal~~

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~~register and includes marks indicating membership in a union, an association, or other organization.~~

~~*15 U.S.C. 1127*~~

~~Registering a Mark~~ ~~Trademarks, service marks, collective marks, and certification marks~~number of specimens or facsimiles of the mark as used as may be ~~registered in accordance with the Trademark Act of 1946,~~required by the director. *15 U.S.C. 1051–1142. 15 U.S.C. 1051–1054*(a)

Duration Each registration shall remain in force for ten years, except that the registration of any mark shall be canceled by the director unless the owner of the registration files in the USPTO affidavits that meet the requirements of 15 U.S.C. 1058(b) within the time periods specified in 15 U.S.C. 1058(a). *15 U.S.C. 1058*

Renewal Subject to 15 U.S.C. 1058 above, each registration may be renewed for periods of ten years at the end of each successive ten-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the director. Such application may be made at any time within one year before the end of each successive ten-year period for which the registration was issued or renewed, or it may be made within a grace period of six months after the end of each successive ten-year period, upon payment of a fee and surcharge prescribed therefor. *15 U.S.C. 1059(a)*

Assignment of Mark A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark ~~in accordance with 15 U.S.C. 1060.~~ *15 U.S.C. 1060(a)(1)*

~~Liability~~

Trademark Infringement

Any person shall be liable in a civil action by the registrant for the remedies provided in 15 U.S.C. 1114 if the person, without the consent of the registrant:

1. Uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or

2. Reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in

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connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

Under item 2 above, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to cause confusion, or to cause mistake, or to deceive.

15 U.S.C. 1114(1)

Note: Patent information can be found on the U.S. Patent and Trademark Office (USPTO)~~U.S. Patent and Trademark Office (USPTO)~~ website.[3]

~~Patents~~

~~Invention~~

~~The term "invention" means invention or discovery. *35 U.S.C. 100(a)*~~

~~Process~~

~~The term "process" means process, art or method, and includes a new use of a known process, machine, manufacture, composition of matter, or material. *35 U.S.C. 100(b)*~~

~~Obtaining a~~ Patent

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement, may obtain a patent, subject to the conditions and requirements of ~~35 U.S.C. 1-376.~~United States Code Title 35 (Title 35). *35 U.S.C. 101*

Assignment of Patent

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States. *35 U.S.C. 261*

Patent Infringement ~~of Patents~~

Except as otherwise provided in Title 35~~ U.S.C. 1-376~~, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States, or imports into the United States any patented invention during the term of the patent, infringes the patent.

Whoever actively induces infringement of a patent shall be liable as an infringer.

Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a

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staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

35 U.S.C. 271(a)–(c)

~~***Note:*** [4] can be found on the USPTO website.~~

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[1] U.S. Copyright Office: https://www.copyright.gov/
[2] USPTO on Trademarks: https://www.uspto.gov/trademark
[3] USPTO on Patents: https://www.uspto.gov/patent
[4] USPTO on Patents: https://www.uspto.gov/patent

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SECTION D: PERSONNEL

DA	EMPLOYMENT OBJECTIVES
DAA	Equal Employment Opportunity
DAB	Genetic Nondiscrimination
DAC	Objective Criteria for Personnel Decisions
DB	EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
DBA	Credentials and Records
~~DBAA~~	~~Criminal History and Credit Reports~~
DBAA	Pre-Employment Reviews
DBB	Medical Examinations and Communicable Diseases
DBD	Conflict of Interest
DBE	Nepotism
DC	EMPLOYMENT PRACTICES
DCA	Probationary Contracts
DCB	Term Contracts
DCC	Continuing Contracts
DCD	At-Will Employment
DCE	Other Types of Contracts
DE	COMPENSATION AND BENEFITS
DEA	Compensation Plan
DEAA	Incentives and Stipends
DEAB	Wage and Hour Laws
DEB	Fringe Benefits
DEC	Leaves and Absences
DECA	Family and Medical Leave
DECB	Military Leave
DED	Vacations and Holidays
DEE	Expense Reimbursement
DEG	Retirement
DF	TERMINATION OF EMPLOYMENT
DFA	Probationary Contracts
DFAA	Suspension/Termination During Contract
DFAB	Termination at End of Year
DFAC	Return to Probationary Status
DFB	Term Contracts
DFBA	Suspension/Termination During Contract
DFBB	Nonrenewal
DFC	Continuing Contracts
DFCA	Suspension/Termination
DFD	Hearings Before Hearing Examiner
DFE	Resignation

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SECTION D: PERSONNEL

DFF	Reduction in Force
DFFA	Financial Exigency
DFFB	Program Change
DFFC	Continuing Contracts
DG	EMPLOYEE RIGHTS AND PRIVILEGES
DGA	Freedom of Association
DGB	Personnel-Management Relations
DGBA	Employee Complaints/Grievances
DGC	Immunity
DH	EMPLOYEE STANDARDS OF CONDUCT
DHA	Gifts and Solicitations
DHB	Reports to State Board for Educator Certification
DHC	Reports to Texas Education Agency
DHE	Searches and Alcohol/Drug Testing
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

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

Student Loan Repayment

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

1. Denying the person's application for a license or license renewal;

2. Suspending the person's license; or

3. Taking other disciplinary action against the person.

Occupations Code 56.001, .003

Job Qualification

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

Employment Postings

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

Harassment of Employees

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

Retaliation

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

Notices

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

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Section 504 Notice

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

The notice shall state:

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

Methods of notification may include:

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

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

34 C.F.R. 104.8

Age Discrimination

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

Bona Fide Employee Benefit Plan

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

Sex Discrimination

Gender Stereotypes

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

Pregnancy

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

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

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Definition of Disability

"Disability" means:

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

2. A record of having such an impairment; or

3. Being regarded as having such an impairment.

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

"Regarded as" Having an Impairment

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

Transitory and Minor

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

Mitigating Measures

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

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

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

Other Definitions

"Physical or mental impairment" means:

Physical or Mental Impairment

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

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

29 C.F.R. 1630.2(h)

Major Life Activities

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

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

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

Qualified Individual

"Qualified individual" means an individual who:

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

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

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

Reasonable Accommodations

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

"Reasonable accommodation" includes:

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

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

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

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

Discrimination Based on Relationship

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

Illegal Drugs and Alcohol

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

Drug Testing

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

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

Alcohol Use

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

Qualification Standards

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

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

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

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

~~3.~~1. ~~Taking other disciplinary action against the person.~~

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

Age Discrimination in Employment Act

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

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Criminal History Reviews

Definitions

"Criminal history clearinghouse" (clearinghouse) means the electronic clearinghouse and subscription service established by the Department of Public Safety (DPS) to provide criminal history record information 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 the Texas Education Agency (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

Applicability

This section applies to a person participating in an internship consisting of student teaching to receive a teaching certificate.

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 or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
    a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
    b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or 2a, above.

Exception

However, a district is not required to refuse to hire an applicant if the person committed an offense under Title 5, Penal Code and:

1. The date of the offense is more than 30 years before the date the person's employment will begin; and

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2. The applicant for employment satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, the superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

SBEC may impose a sanction on an educator who does not refuse to hire an applicant for employment if the educator knew that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or knew or should have known, through a CHRI review, that the applicant has been convicted of or placed on deferred adjudication community supervision for an offense described above.

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the commissioner that the district had complied with Education Code 22.085. [See Certification to Commissioner, above]

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or misdemeanor involving moral turpitude that the employee did not disclose to SBEC or to the district. An employee so discharged is considered to have been discharged for misconduct for the purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DF]

Pre-employment Affidavit

An applicant for a certified or licensed position [see Professional Personnel at DBA(LEGAL)] with a school district, including a district of innovation, must submit, using a form adopted by TEA, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including, for a charge, whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if the district determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose required information is grounds for termination of employment.

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SBEC may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Education Code 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.

Education Code 21.009

Do Not Hire Registry

TEA shall develop and maintain an internet portal through which required reports may be confidentially and securely filed and TEA makes available:

1. The registry of persons who are not eligible to be employed in public schools; and

2. Information indicating that a person is under investigation.

Education Code 22.095

TEA shall maintain and make available through its internet portal a registry of persons who are not eligible to be employed by a 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.

The registry must list:

1. An employee of an open enrollment charter school determined by TEA under Education Code 22.0832 as a person who would not be eligible for educator certification based on their NCHRI;

2. A noncertified person determined by TEA to be not eligible for employment based on the person's CHRI, as provided by Education Code 22.0833 [see DBAA];

3. A person who is not eligible for employment based on CHRI received by TEA under Education Code 21.058(b) indicating that a certified employee is required to register as a sex offender;

4. A person whose certification or permit is revoked by SBEC on a finding that the person engaged in misconduct described by Education Code 21.006(b)(2)(A) or (A-1) [see DHB]; and

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5. A noncertified person who is determined by the commissioner under Education Code 22.094 to have engaged in misconduct described by Education Code 22.093(c)(1)(A) or (B) [see DHC].

Education Code 22.092

Commercial Driver License Drug and Alcohol Clearinghouse

The U.S. Department of Transportation (DOT) operates and maintains a national clearinghouse for records relating to alcohol and controlled substances testing of commercial motor vehicle operators in order to improve compliance with DOT's alcohol and controlled substances testing program applicable to commercial motor vehicle operators [see DHE] and to enhance the safety of roadways by reducing accidents and injuries involving the misuse of alcohol or use of controlled substances by operators of commercial motor vehicles. *49 U.S.C. 31306a*

Pre-employment Query Required

A district must not employ a driver subject to controlled substances and alcohol testing under 49 C.F.R. Part 382 to perform a safety-sensitive function without first conducting a pre-employment query of the federal Drug and Alcohol Clearinghouse to obtain information about the driver's previous test results.

Annual Query Required

A district must conduct a query of the federal Drug and Alcohol Clearinghouse at least once per year for information for all employees subject to controlled substance and alcohol testing under 49 C.F.R. Part 382 to determine whether information exists about those employees.

Prohibition

A district may not allow a driver to perform any safety-sensitive function if the results of a Clearinghouse query demonstrate that the driver has a prohibited test result.

Recordkeeping Required

A district must retain for three years a record of each query and all information received in response to each query made under this section.

49 C.F.R. 382.701

Consumer Credit Reports

Definitions

"Adverse action" includes a denial of employment or any other decision for employment purposes that adversely affects any current or prospective employee.

"Consumer report" includes any information from a consumer reporting agency that is used or expected to be used as a factor in establishing the person's eligibility for employment.

"Consumer reporting agency" is an agency that, for monetary fees, dues, or on a cooperative nonprofit basis, regularly assembles or

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evaluates consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties.

"Employment purposes" when used in connection with a consumer report means a report used for the purpose of evaluating a person for employment, promotion, reassignment, or retention as an employee.

15 U.S.C. 1681a

Obtaining Reports

A district may not procure a consumer report for employment purposes unless:

1. The district has provided the applicant or employee a written disclosure that a consumer report may be obtained for employment purposes; and
2. The applicant or employee has authorized in writing the procurement of the consumer report.

Adverse Action

Before taking any adverse action based on the consumer report, a district shall provide the applicant or employee a copy of the consumer report and a written description of the person's rights under the Fair Credit Reporting Act, as prescribed by the Federal Trade Commission.

15 U.S.C. 1681b(b)(2)

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

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Disposal of Records

A district must properly dispose of a consumer report by taking reasonable measures to protect against unauthorized access to or use of the information.

"Dispose" includes discarding or abandoning the consumer report, or selling, donating, or transferring any medium, including computer equipment, upon which the consumer report is stored.

Examples of reasonable measures include:

1. Burning, pulverizing, or shredding papers containing a consumer report so the information cannot practicably be read or reconstructed;
2. Destroying or erasing electronic media containing a consumer report so that the information cannot practicably be read or reconstructed; or
3. After due diligence, entering into and monitoring compliance with a contract with another party engaged in the business of record destruction to dispose of the consumer report.

16 C.F.R. 682.3

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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:~~

~~6. The registry of persons who are not eligible to be employed in public schools; and~~

~~7. 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:~~

~~8. 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);~~

~~9. 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];~~

~~10. 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;~~

~~11. 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~~

~~12. 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. *Education Code 21.401(a), (b)*

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 aca-

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demic 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.

A district that fails to attain a completed status for the monthly certified statement as required by 34 Administrative Code 31.2 shall

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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.

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.

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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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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~~DBAA] *Education Code 22.092*

Discharge of Convicted Employees

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a criminal history record information (CHRI) review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
   a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
   b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or 2a, above.

Exception

However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:

1. The date of the offense is more than 30 years before the date the person's employment will begin; and
2. The employee satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, a superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee

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when the employee was employed in a public school and on the registry of persons who are not eligible to be employed under Education Code 22.092 [see DBAA], if the educator knew that the employee had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or when the person knew or should have known, through a CHRI review, that the employee has been convicted of or placed on deferred adjudication community supervision for an offense described above.

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the commissioner that the district had complied with Education Code 22.085. [See Certification to Commissioner, above]

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DBAA for Refusal to Hire Convicted Applicants]

Certain Offenses Against Students

Mandatory Termination

If a district receives notice that SBEC has revoked the certificate of a person based on conviction of or placement on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender under Code of Criminal Procedure, Chapter 62, 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
    c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

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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:

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

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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 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]

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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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Note: The provisions of this policy apply to a district of innovation under Education Code, Chapter 12A. [See AF]

Definitions

"Abuse" has the meaning assigned by Family Code 261.001(1).

"Employee" means a person who is employed by a school district, district of innovation, charter school, service center, or shared services arrangement and does not hold a certification issued by the State Board for Educator Certification (SBEC) under Education Code, Chapter 21, Subchapter B.

19 TAC 153.1201(b), (d)

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)~~SBEC or a school district teaching permit.

Notice to TEA of Termination or Resignation

A person who serves as the superintendent shall notify the ~~Texas Education Agency (TEA) if~~ commissioner of education in writing by filing a report within seven business days of the date the person either receives a report from a principal or knew that an employee was terminated or resigned from employment and there is evidence that the employee committed any of the following acts:

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.

Principal Notification

A person who serves as principal must notify the superintendent no later than seven business days after an employee resigns or is terminated following an alleged incident of misconduct described above.

Investigation

A superintendent shall complete an investigation of an employee ~~that involves evidence that~~if there is reasonable cause to believe the employee may have engaged in misconduct described above, despite the employee's resignation from district 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 re-~~

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~~ceives 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.~~ include:

1. The name or names of ~~a~~any student or minor who is the victim of abuse or unlawful conduct by an employee ~~must be included in~~;

2. The factual circumstances requiring the report~~, but~~ and the subject of the report by providing the following available information:

   a. Name and any aliases and certificate number, if any, or social security number;

   b. Last known mailing address and home and daytime phone numbers;

   c. All available contact information for any alleged victim or victims;

   d. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;

   e. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and

   f. Involvement by a law enforcement or other agency, including the name of the agency.

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~~which 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; 19 TAC 153.1203

Solicitation of Sexual Conduct

"Solicitation of sexual conduct" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an employee of a relationship with a student that is sexual in nature. Solicitation of sexual conduct is often characterized by a strong emotional or sexual attachment and/or by patterns of exclusivity but does not include appropriate relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an employee of sexual conduct with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the employee's job duties and evidence a sexual intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the intent of such communications or behavior, include, without limitation:

    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 employee attempts to conceal the communications;

    f. If the employee claims to be counseling a student, the commissioner of education may consider whether the employee's job duties included counseling, whether the employee 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

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the employee reported the abuse or neglect to the appropriate authorities; and

g. Any other evidence tending to show the context of the communications between employee 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 employee;

7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party;

8. Inappropriate hugging, kissing, or excessive touching;

9. Providing the student with drugs or alcohol;

10. Violating written directives from school administrators regarding the employee'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; and

12. Any other acts tending to show that the employee solicited sexual conduct with a student.

19 TAC 153.1201(a)

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Searches—General Rule

Citizens, including district employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; Tex. Const. Art. I, Sec. 9*

A district may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and

2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

O'Connor v. Ortega, 480 U.S. 709 (1987); New Jersey v. T.L.O., 469 U.S. 325 (1985)

In addition, a district may search an employee's workplace for non-investigatory, work-related purposes, if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega, 480 U.S. 709 (1987)*

Drug/Alcohol Testing

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n, 489 U.S. 602 (1989)*

Random Drug Testing

A district may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n, 489 U.S. 602 (1989); Nat'l Treasury Employees Union v. Von Raab, 489 U.S. 656 (1989)*

Safety-Sensitive Positions

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and a board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. *Aubrey v. Sch. Bd. of LaFayette Parish, 148 F.3d 559 (5th Cir. 1998)*

Note: The following testing requirements apply to employees who operate commercial motor vehicles and are subject to commercial driver's license requirements in accordance with federal regulations.

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Testing of Drivers

A district shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation. *49 U.S.C. 31306; 49 C.F.R. Part 382*

Commercial Motor Vehicle Defined

A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:

1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. Has a gross vehicle weight rating of 26,001 or more pounds; or
3. Is designed to transport 16 or more passengers, including the driver.

49 C.F.R. 382.107

Testing Procedures

A district shall ensure that all alcohol or controlled substances testing conducted under 49 C.F.R. Part 382 complies with the procedures set forth in 49 C.F.R. Part 40. *49 C.F.R. 382.105*

U.S. Department of Transportation (DOT) tests must be completely separate from non-DOT tests in all respects. DOT tests must take priority and must be conducted and completed before a non-DOT test is begun. *49 C.F.R. 40.13*

Tests Required

Required DOT testing includes:

1. Pre-employment~~, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a~~ controlled substance tests required under 49 C.F.R. 382.301 [see DBAA];
2. Post-accident alcohol or controlled ~~substances test, a~~ substance tests required under 49 C.F.R. 382.303;
3. Random alcohol or controlled substances ~~test, a~~ tests required under 49 C.F.R. 382.305;
4. Reasonable suspicion alcohol or controlled ~~substances test, or a~~ substance tests required under 49 C.F.R. 382.307;
5. ~~1.~~ Return-to-duty alcohol or controlled substances tests required under 49 C.F.R. 382.309; or
6. Follow-up alcohol or controlled ~~substances~~ substance tests required under 49 C.F.R. 382.311.

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No Refusal

No driver shall refuse to submit to a required DOT test. A district shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. ~~*49 C.F.R. 382.211, .309*~~

49 C.F.R. 382.211

Education and Treatment

A district is not required to provide an evaluation by a substance abuse professional or any subsequent recommended education or treatment for an employee who has violated a drug and alcohol regulation of the DOT.

However, if a district offers an employee an opportunity to return to a safety-sensitive duty following a violation, the district must, before the employee again performs that duty, ensure that the employee receives an evaluation by a substance abuse professional and that the employee successfully complies with the professional's evaluation recommendations.

49 C.F.R. 40.289

Return-to-Duty Testing

If a district permits an employee who has violated a DOT drug and alcohol regulation to return to safety-sensitive functions, the district must ensure that the employee takes a return-to-duty test. This test cannot occur until after the substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

A district is not required to return an employee to safety-sensitive duties because the employee has met the conditions described in the preceding paragraph. Return-to-duty is a personnel decision that the district has the discretion to make subject to legal requirements.

49 C.F.R. 40.305(a)–(b)

Educational Materials

A district shall provide educational materials that explain the federal requirements and the district's policies and procedures with respect to meeting ~~these~~the requirements. The district shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under ~~this policy~~49 C.F.R. Part 382 and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall include detailed discussion of at least the items listed at 49 C.F.R. 382.601. *49 C.F.R. 382.601*

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Reports

A district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following information to the Department of Public Safety:

1. A valid positive result on an alcohol or drug test and whether the specimen producing the result was a dilute specimen. "Valid positive result" means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 C.F.R. 40.87 on a confirmation drug test. "Dilute specimen" means a specimen with creatinine and specific gravity values that are lower than expected for human urine.
2. A refusal to provide a specimen for an alcohol or drug test.
3. An adulterated specimen or substituted specimen, as defined at 49 C.F.R. 40.3, on an alcohol or drug test.

For purposes of this requirement, the term "employee" includes applicants for employment subject to pre-employment testing.

Transp. Code 644.251–.252; 49 C.F.R. 40.3

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

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

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

Criminal Offense—Official Oppression

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

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

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

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

Harassment of Employees Prohibited

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. A district has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 C.F.R. 1606.8(a), 1604.11*

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

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

Hostile Environment

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); Nat'l Railroad Passenger Corp. v. Morgan, 536 U.S. 101 (2002); Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

Quid Pro Quo

Conduct of a sexual nature also constitutes harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

29 C.F.R. 1604.11(a)

Same-Sex Sexual Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

Harassment Policy

A district should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. *29 C.F.R. 1604.11(f)*

Corrective Action

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

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

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1. That the district exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775 (1998)

Harassment of Unpaid Interns

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

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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]

Education Code 21.451(b), (c)

Optional Training

Staff development may include training in:

1. ~~Training in technology, conflict resolution, and discipline~~Technology;

~~1.~~2. Positive behavior intervention and support strategies, including classroom management, district discipline policies, and the Student Code of Conduct; and

~~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:

1. Discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and

2. Assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

Staff development may include instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

Education Code 21.451(~~b)~~ (d)(1), (d-3), (g)

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Required Training

Staff development must include training on:

1. Suicide prevention;

2. Recognizing signs of mental health conditions and substance abuse;

3. Strategies for establishing and maintaining positive relationships among students, including conflict resolution;

4. How grief and trauma affect student learning and behavior and how evidence-based, grief-informed, and trauma-informed strategies support the academic success of students affected by grief and trauma; and

5. Preventing, identifying, responding to, and reporting incidents of bullying.

Required training above must be provided on an annual basis, as part of a new employee orientation, to all new school district educators; and to existing school district educators on a schedule adopted by Texas Education Agency (TEA) rule. The training must use a best practice-based program recommended by TEA in coordination with the Health and Human Services Commission under Education Code 38.351 [see FFEB], and may include two or more topics listed together.

Education Code 21.451(d)(3), (d-1)

Instruction of Students with Disabilities

Staff development must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 USC 7801), and that:

1. Relates to the instruction of students with disabilities ~~and~~, including students with disabilities who also have other intellectual or mental health conditions; and

~~1.~~2. Is designed for educators who work primarily outside the area of special education.

A district is required to provide ~~such training~~the training to an educator who works primarily outside the area of special education only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student receiving instruction from the educator. A district may determine the time and place at which the training is delivered.

In developing or maintaining ~~such~~the training, a district must consult with persons with expertise in research-based practices for students with disabilities, including colleges, universities, private

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and nonprofit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district, regardless of whether the training is provided at the campus or district level.

Education Code 21.451(d)(2), (e)–(f)

Suicide Prevention

~~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:~~

~~2. All districts shall provide the training to all new educators as a part of new employee orientation during the 2016–17 school year.~~

~~3. Each subsequent school year, districts shall provide the training to all new educators as a part of new employee orientation.~~

~~4. 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~~The required suicide prevention training may be satisfied through independent review of suicide prevention training material that complies with the guidelines developed by TEA and is offered online. *Education Code 21.451(d-2); 19 TAC 153.1013(d)*

~~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 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),~~

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~~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:~~

~~5. Early mental health intervention;~~

~~6. Mental health promotion;~~

~~7. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;~~

~~8. Substance abuse prevention and intervention;~~

~~9. Suicide prevention;~~

~~10. Grief-informed and trauma-informed practices;~~

~~11. Positive behavior interventions and supports and positive youth development; and~~

~~12. 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.~~

Suicide prevention programs on TEA's list of recommended best practice-based programs [see FFEB]~~The programs on the list~~ must include components that provide for training school counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of ~~committing~~attempting suicide, including students who are or may be the victims of or who engage in bullying;

2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; ~~and~~

3. Intervene effectively with students described above by providing notice and referral to a parent or guardian so appropriate

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action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.; and

~~Required Training~~

4. Assist students in returning to school following treatment of a mental health concern or suicide attempt.

A district shall provide training described in the components ~~1–3,~~ above~~,~~ for teachers, school 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~~TEA's list ~~described at Health and Safety Code 161.325~~of recommended best practice-based programs [see FFEB] to satisfy ~~the~~this training ~~requirements. [See FFB]~~requirement.

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.

Education Code 38.351(e), (g), (h); 19 TAC 153.1013

Staff Development Account

A district that receives resources from the commissioner of education's staff development account must pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453(c)*

~~*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~~District Improvement Plan at BQ and Sexual Abuse, Trafficking, and Maltreatment Policies and Programs at FFG] must include training concerning prevention techniques for and recognition of sexual abuse, sex trafficking, and all other maltreatment of children, including the sexual abuse, sex trafficking, and other maltreatment of children with significant cognitive disabilities.

The training must be provided as part of new 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.~~not previously trained. The training may be included in staff development under Education Code 21.451.

The training ~~shall address~~must include:

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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;

4. Techniques for reducing a child's risk of sexual abuse, ~~sex~~ trafficking, or other maltreatment; and

5. Information on community organizations that have relevant ~~existing~~ research-based programs and that are able to provide training or other education for district ~~employees~~staff, students, and parents.

A district ~~shall~~must maintain records ~~of the training~~ that include the name of each ~~employee~~staff member who participated in the training.

~~If a district determines that the district does not have sufficient resources to provide the required training, the district shall work~~To the extent that resources are not yet available from TEA or the commissioner of education, districts shall implement the policies and trainings with existing or publicly available resources. The district may also work in conjunction with a community organization to provide the training at no cost to the district.

Education Code 38.0041(c)–(f); 19 TAC 61.1051(d)

Trauma-Informed Care

A district's efforts to increase awareness and implementation of trauma-informed care must include training to new and existing employees. [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

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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)*

Special Programs Training

A teacher shall attend a Texas adolescent literacy academy under 19 Administrative Code 102.1101 if:

Texas Adolescent Literacy Academies

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].

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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

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

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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 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. 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 an extracurricular activity safety training program:

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 must be conducted 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

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public proof of compliance for each person employed by or volunteering for the district who is required to receive safety training.

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

Steroids

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the UIL complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or
2. A comparable program developed by the district or a private entity with relevant expertise.

Education Code 33.091(c-1)

Concussions

At least once every two years, the following employees shall take a training course from an authorized provider 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

Seizure Recognition and Related First Aid

A school nurse employed by a district must complete a TEA-approved online course of instruction for school nurses regarding managing students with seizure disorders that includes information about seizure recognition and related first aid.

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A district employee, other than a school nurse, whose duties at the school include regular contact with students must complete a TEA-approved online course of instruction for school personnel regarding awareness of students with seizure disorders that includes information about seizure recognition and related first aid.

Education Code 38.033(a), (b)

[See FFAF for information about a seizure management and treatment plan.]

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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]

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

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2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1).

Education Code 21.006(b-2); 19 TAC 249.14(e) [See Required Reports at DHB(LEGAL)]

Noncertified Employees

A principal must notify the superintendent not later than the seventh business day after the date of a noncertified employee's termination or resignation following allegations that the employee:

1. Abused or otherwise committed an unlawful act with a student or minor; or

2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

Education Code 22.093(e) [See Principal Notification at DHC(LEGAL)]

Sanctions and Administrative Penalty

SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. *Education Code 21.006(f), 22.093(i); 19 TAC 249.14(e), (h)*

If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006 (i)*

Criminal Offense

A principal required to notify a superintendent about an employee's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j), 22.093(k)*

School Nurse

Minimum Salary Schedule

For purposes of the minimum salary schedule, a school nurse is an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas. *19 TAC 153.1022(a)(1)(D)*

Licensed Vocational Nurse

The practice of vocational nursing must be performed under the supervision of an RN, physician, physician assistant, podiatrist, or dentist. *Occupations Code 301.353*

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Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. *22 TAC 217.11(2)*

Nursing Peer Review Committee

"Nursing peer review committee" includes a committee established under the authority of the governing body of a political subdivision for the purpose of conducting peer review.

A person shall establish a nursing peer review committee to conduct nursing peer review under Occupations Code Chapter 303 and Chapter 301:

1. For vocational nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses; and
2. For professional nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses, at least four of whom are RNs.

A person required to establish a nursing peer review committee under this section may contract with another entity to conduct peer review for the person.

Occupations Code 303.001(4), .0015

Note: Education Code 33.002 regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a).

Certified School Counselor

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.
3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

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Note: Education Code 33.006 applies to all districts that employ school counselors.

School Counselor Duties

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
   a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
   b. In need of modified instructional strategies; or
   c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;
2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians;
3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success;
4. Coordinate people and resources in the school, home, and community;
5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and
7. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.0832.

Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

Education Code 33.006

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Nonphysician Mental Health Professional

A school district may employ or contract with one or more nonphysician mental health professionals.

In this section, "nonphysician mental health professional" means:

1. A psychologist licensed to practice in this state and designated as a health-service provider;
2. An RN with a master's or doctoral degree in psychiatric nursing;
3. A licensed clinical social worker;
4. A professional counselor licensed to practice in this state; or
5. A marriage and family therapist licensed to practice in this state.

Education Code 38.0101

Note: For information about mental health treatment, including counseling, see FFEA.

School Psychological Services

The Texas State Board of Examiners of Psychologists (TSBEP) has authority over the delivery of school psychological services in public schools. Recognizing the purview of the State Board of Education (SBOE) and Texas Education Agency (TEA) in safeguarding the rights of school children in Texas, the TSBEP adopts and enforces rules that reflect the occupational distinctions between the delivery of school psychological services in public schools and psychological services in the private sector. *22 TAC 465.38(a)*

Licensed Specialist in School Psychology (LSSP)

Licensed specialist in school psychology (LSSP) means a person who holds a license to engage in the practice of psychology under Occupations Code 501.260. *Occupations Code 501.002(s)*

School psychological services may be provided in Texas public schools only by an LSSP or other individual authorized by TSBEP in accordance with TSBEP rules. *22 TAC 465.38(e), 463.8, .9(g), .10, .11*

Scope of Practice

An LSSP is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment and behavior of students. These activities include, but are not limited to:

1. Addressing special education eligibility;
2. Conducting manifestation determinations;

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3. Assisting with the development and implementation of individual educational programs (IEPs);

4. Conducting behavioral assessments; and

5. Designing and implementing behavioral interventions and supports.

The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

An LSSP may not provide psychological services in any context or capacity outside of a public or private school.

Standards

The delivery of school psychological services in Texas public schools shall be consistent with nationally recognized standards for the practice of school psychology.

Occupations Code 501.260(c); 22 TAC 465.38(b), (c)

Notice of Assignment or Subcontract

An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP shall be responsible for ensuring the school psychological services delivered comply with TSBEP standards. *22 TAC 465.38 (e)*

Compliance with Applicable Education Laws

LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

1. Texas Education Code;

2. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g;

3. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.;

4. Texas Public Information Act, Texas Government Code, Chapter 552;

5. Section 504 of the Rehabilitation Act of 1973;

6. Americans with Disabilities Act (ADA) 42 U.S.C. 12101;

22 TAC 465.38 (f)

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Career and Technology Education

A board may contract with another public school district, public or private post-secondary institution, or trade or technical school that is regulated by the state, as designated in the state plan for career and technology education, to provide career and technology classes for district students. *Education Code 29.184(a)* [See EHBF]

In addition, a board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may receive specific education in a career and technology profession. *Education Code 29.187* [See also CRB and EHBF]

Students with Disabilities

A district may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. *Education Code 29.008(a)* [See EHBA]

Educational Services

A board may contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157*

Pre-K 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)*

Driver Training Schools

A district school may enter into an agreement with a driver training school licensed under Education Code Chapter 1001 to allow the driver training school to conduct a driver training course at the public school for public school students. *Education Code 29.902(c)(2), 1001.353*

Military Instruction

Junior Reserve Officers' Training Corps (JROTC)

The secretary of each military department shall establish and maintain a Junior Reserve Officers' Training Corps, organized into units, at public and private secondary educational institutions which apply for a unit and meet the standards and criteria prescribed pursuant to 10 U.S.C. 2031.

Each public secondary educational institution that maintains a unit under this section shall permit membership in the unit to home-schooled students residing in the area served by the institution who are qualified for membership in the unit (but for lack of enrollment in the institution). A student who is a member of a unit pursuant to this subsection shall count toward the satisfaction by the institution concerned of the requirement relating to the minimum number of student members in the unit necessary for the continuing maintenance of the unit.

10 U.S.C. 2031(a)(1), (g)

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Note: The provision below applies only to those districts in which military instruction is conducted under state or federal law requiring a district to give bond or otherwise indemnify this state, the United States, or any authorized agency for the care, safekeeping, and return of property furnished.

A board may contract with the proper governmental agency with respect to the teaching of courses in military training, and it may execute, as principal or surety, a bond to secure the contracts to procure arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property. *Education Code 29.901*

~~***Note:*** This provision applies only to those districts in which military instruction is conducted under state or federal law requiring a district to give bond or otherwise indemnify this state, the United States, or any authorized agency for the care, safekeeping, and return of property furnished.~~

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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:
    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~~each 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 education and services related to:

~~1. Health education, including oral health education;~~

1. Physical health education, including programs designed to prevent obesity, cardiovascular disease, oral diseases, and Type 2 diabetes and programs designed to promote the role of proper nutrition;
2. Mental health education, including education about mental health conditions, mental health well-being, skills to manage emotions, establishing and maintaining positive relationships, and responsible decision-making;
3. Substance abuse education, including education about alcohol abuse, prescription drug abuse, and abuse of other controlled substances;

~~2.~~4. Physical education and physical activity; and

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~~3.~~5. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

Physical Education

Each district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

Student/Teacher Ratio

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and
2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

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Education Code 25.114, 28.002(d); 19 TAC 74.37

Classification for Physical Education

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
   a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.
   b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

School Health Advisory Council

A board shall establish a local school health advisory council (SHAC) to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of the SHAC and FFA regarding federal wellness requirements]

Duties

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in ~~health education;~~:
   a. Health education in kindergarten through grade 8; and
   b. If the district requires health education for high school graduation, health education, including physical health education and mental health education, in grades 9 through 12.
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent physical health concerns, including obesity, cardiovascular disease, Type 2

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diabetes, and mental health concerns, including suicide, through coordination of:

a. Health education~~;~~, which must address physical health concerns and mental health concerns to ensure the integration of physical health education and mental health education;

b. Physical education and physical activity;

c. Nutrition services;

d. Parental involvement;

~~e. Instruction to prevent the use of e-cigarettes, as defined by Health and Safety Code 161.081, and tobacco;~~

e. Instruction on substance abuse prevention;

f. School health services~~Counseling and guidance~~, including mental health services;

~~f.~~g. A comprehensive school counseling program under Education Code 33.005 [see FFEA];

~~g.~~h. A safe and healthy school environment; and

~~h.~~i. School employee wellness;

3. Appropriate grade levels and methods of instruction for human sexuality instruction;

4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:

a. School health services,~~Counseling and guidance~~ including physical health services~~,~~ and mental health services, if provided at a campus by the district or by a third party under a contract with the district;

b. A comprehensive school counseling program under Education Code 33.005 [see FFEA];

~~b.~~c. A safe and healthy school environment~~;~~; and

~~c.~~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;

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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~~use 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)*

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;

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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:

   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)

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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]

Character Education

A district must adopt a character education program that includes the following positive character education traits:

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;
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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Parental Notice of Assistance for Learning Difficulties

Each school year, a district shall notify a parent of each child, other than a child enrolled in a special education program under Education Code Chapter 29, Subchapter A, who receives assistance from the district for learning difficulties, including through the use of intervention strategies that the district provides that assistance to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;

2. Be written in English or, to the extent practicable, the parent's native language; and

3. Include:

    a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;

    b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;

    c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;

    d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and

    e. A copy of the explanation provided under Education Code 26.0081(c). [See FB]

This required notice may be provided to a child's parent at a meeting of the team established for the child under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), if applicable.

Education Code 26.0081(d)–(e)

"Intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies. *Education Code 26.004(a)*

Dyslexia and Related Disorders

Districts shall provide each student with dyslexia or a related disorder access to each program under which the student qualifies for services. A board ~~shall~~must ensure that procedures ~~are imple-~~

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~~mented~~ for identifying ~~and~~a student with dyslexia or a related disorder and for providing appropriate, evidence-based instructional services to students ~~for dyslexia and related disorders~~are implemented in the district.

District procedures must be implemented according to the State Board of Education (SBOE) approved strategies for screening, individualized evaluation, and techniques for treating dyslexia and related disorders. The strategies and techniques are described in the *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders* available on TEA's Dyslexia webpage.[1] Districts shall provide a copy or a link to the electronic version of the *Dyslexia Handbook* to parents of children suspected to have dyslexia or a related disorder.

Districts will be subject to monitoring for compliance with federal law and regulations in connection with 19 Administrative Code 74.28.

19 TAC 74.28(a)–(c), (l)–(m)

Compliance Monitoring

Districts will be subject to monitoring for compliance with federal law and regulations in connection with 19 Administrative Code 74.28. Districts will be subject to auditing and monitoring for compliance with state dyslexia laws in accordance with administrative rules adopted by the commissioner of education as required by Education Code 38.003(c-1). *19 TAC 74.28(n)*

Screening, Testing, and Identification

Students enrolling in public schools in Texas shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the SBOE. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade. *Education Code 38.003(a)*

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*. A district may not use early intervention strategies, including multi-tiered systems of support, to delay or deny the provision of a full and individual evaluation to a child suspected of having a specific learning disability, including dyslexia or a related disorder.

Screening, as described in the *Dyslexia Handbook*, and further evaluation should only be conducted by individuals who are trained in valid, evidence-based assessments and who are trained to appropriately evaluate students for dyslexia and related disorders.

19 TAC 74.28(d), (j)

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Parent Notification

At least five school days before any identification or evaluation procedure is used selectively with an individual student, a district must provide written notification of the proposed identification or evaluation to the student's parent or guardian or another person standing in parental relation to the student. The notice must be in English, or to the extent practicable, the individual's native language and must include the following:

1. A reasonable description of the evaluation procedure to be used with the individual student;
2. Information related to any instructional intervention or strategy used to assist the student prior to evaluation;
3. An estimated time frame within which the evaluation will be completed; and
4. Specific contact information for the campus point of contact, relevant parent training and information projects, and any other appropriate parent resources.

IDEA Notice

Before a full individual and initial evaluation is conducted to determine whether a student has a disability under the Individuals with Disabilities Education Act (IDEA), a district must notify the student's parent or guardian or another person standing in parental relation to the student of its proposal to conduct an evaluation consistent with 34 C.F.R. 300.503, provide all the information required in the above notice, and provide an opportunity for written consent for the evaluation. The district must also provide a copy of the IDEA procedural safeguards notice required under 34 C.F.R. 300.504 and a copy of Section 504 information required under Education Code 26.0081. [See EHBAE and FB]

Options and Services

Parents or guardians of a student with dyslexia or a related disorder must be informed of all services and options available to the student, including general education interventions under response to intervention and multi-tiered systems of support models as required by Education Code 26.0081(d~~).~~), and options under federal law, including IDEA, and the Rehabilitation Act, Section 504.

19 TAC 74.28(f)–(h)

Parent Education

A district shall provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program must include:

1. Awareness and characteristics of dyslexia and related disorders;

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2. Information on testing and diagnosis of dyslexia and related disorders;

3. Information on effective strategies for teaching students with dyslexia and related disorders;

4. Information on qualifications of those delivering services to students with dyslexia and related disorders;

5. Awareness of information on accommodations and modifications, especially those allowed for standardized testing;

6. Information on eligibility, evaluation requests, and services available under IDEA and Section 504 and information on the response to intervention process; and

7. Contact information for the relevant regional and/or district specialists.

Education Code 38.003; 19 TAC 74.28(~~k~~l)

Treatment

Each school ~~shall~~must provide each identified student access at his or her campus to instructional programs required at Reading Program, below, and to the services of a teacher trained in dyslexia and related disorders. A district may, with the approval of each student's parents or guardians, offer additional services at a centralized location, but centralized services shall not preclude each student from receiving services at his or her campus. *19 TAC 74.28(i)*

Reading Program

A district shall purchase a reading program or develop its own reading program that is aligned with the descriptors in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that use individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by the district- and/or campus-level committees shall include these instructional strategies.

19 TAC 74.28(e)

Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during screening or testing or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student. *Education Code 38.003(b-1)*

Audiobook Program Notification

A district shall notify the parent or guardian of each student determined, on the basis of a dyslexia or related disorder screening or

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other basis, to have dyslexia or a related disorder, or determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties of the program maintained by the Texas State Library and Archives Commission providing students with reading disabilities the ability to borrow audiobooks free of charge. The notification shall be done in accordance with the program developed by the commissioner. *Education Code 28.006(g-2)*

[1] TEA Dyslexia webpage: https://tea.texas.gov/academics/dyslexia/

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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;~~the Texas Education Agency (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

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37, and 19 Administrative Code 89.1053. *19 TAC 89.1050(k)* [See FOF]

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.

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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)

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~~admission, review, and dismissal (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

Off-Campus Program

An off-campus program includes special education and related services provided during school hours in a facility other than a school district campus.

Program Provider

An off-campus program provider is an entity that provides the services identified above and includes:

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1. A county system operating under application of former law as provided in Education Code 11.301;

2. A regional education service center established under Education Code, Chapter 8;

3. A nonpublic day school; or

4. Any other public or private entity with which a school district enters into a contract under Education Code 11.157, for the provision of special education services in a facility other than a district campus operated by a district.

19 TAC 89.1094(a)(2)–(3)

Program Placement

A district may contract with an off-campus program provider to provide some or all of the special education and related services to a student in accordance with the requirements in 19 Administrative Code 89.1094.

Before the district places a student with a disability in, or refers a student to, an off-campus program, the district shall initiate and conduct:

1. An onsite review to ensure that the off-campus program is appropriate for meeting the student's educational needs; and

2. A meeting of the student's ARD committee to develop an IEP for the student in accordance with 34 C.F.R. 300.320–.325, state statutes, and commissioner of education rules in 19 Administrative Code Chapter 89 (Commissioner's Rules Concerning Special Education Services).

The appropriateness of the off-campus program for each student placed shall be documented in the IEP annually. The student's ARD committee may only recommend an off-campus program placement for a student if the committee determines that the nature and severity of the student's disability and special education needs are such that the student cannot be satisfactorily educated in the district. The district must follow the requirements of 19 Administrative Code 89.1094(b)(3)(A)–(C), regarding the review of the placement of the off-campus program for each student.

The placement of more than one student in the same off-campus program facility may be considered in the same on-site visit to a facility. However, the IEP of each student must be individually reviewed, and a determination of appropriateness of placement and services must be made for each student.

19 TAC 89.1094(b)

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Notification and Review	Within 30 calendar days from an ARD committee's decision to place a student in an off-campus program, a district must electronically submit to TEA notice of, and information regarding, the placement in accordance with submission procedures specified by TEA. If the off-campus program is on the commissioner's list of approved off-campus programs, TEA will review the student's IEP and placement as required by 34 C.F.R. 300.120, and, in the case of a placement in or referral to a private school or facility, 34 C.F.R. 300.146. After review, TEA will notify the district whether federal or state funds for the off-campus program placement are approved. If TEA does not approve the use of funds, it will notify the district of the basis for the non-approval. If the off-campus program is not on the commissioner's list of approved off-campus programs, TEA will begin the approval procedures described below. Districts must ensure there is no delay in implementing a child's IEP in accordance with 34 C.F.R. 300.103(c). If an off-campus program placement is ordered by a special education hearing officer or court of competent jurisdiction, the district must notify TEA of the order within 30 calendar days. The off-campus program serving the student is not required to go through the approval procedures described in 19 Administrative Code 89.1094 for the ordered placement. If, however, the district or other districts intend to place other students in the off-campus program, the off-campus program will be required to go through the approval procedures to be included on the commissioner's list of approved off-campus programs. *19 TAC 89.1094(c)*
Approval	Off-campus programs must have their educational programs approved for contracting purposes by the commissioner in accordance with 19 Administrative Code 89.1094(d).
Funding Procedures	The cost of off-campus program placements will be funded according to Education Code 42.151 (Special Education) and 19 Administrative Code 89.63(e) (Instructional Arrangements and Settings).
Contracts	Contracts between districts and approved off-campus programs must not exceed a district's fiscal year and shall not begin prior to July 1 of the contracted fiscal year. Amendments to a contract must be electronically submitted to TEA in accordance with submission procedures specified by TEA no later than 30 calendar days from the change in placement or services within the school district's fiscal year. *19 TAC 89.1094(e)(1)–(2)*

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Change of Residence	If a student who is placed in an off-campus program by a district changes his or her residence to another Texas district during the school year, the district must notify TEA within ten calendar days of the date on which the district ceased contracting with the off-campus program for the student's placement. The student's new district must meet the requirements of 34 C.F.R. 300.323(e), by providing comparable services to those described in the student's IEP from the previous district until the new district either adopts the student's IEP from the previous district or develops, adopts, and implements a new IEP. The new district must comply with all procedures described in 19 Administrative Code 89.1094 for continued or new off-campus program placement. *19 TAC 89.1094(e)(3)*

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Admission, Review, and Dismissal Committee

A district shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 C.F.R. 300.321.

Responsibilities of ARD Committee

The responsibilities of the ARD committee and the district include:

1. Evaluation, reevaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities including disciplinary changes in placement;
3. Development of the student's IEP;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of junior high or middle school personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213 [see EHBC];
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a); 34 C.F.R. 300.116(a), .321(a)

Committee Members

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a student with a disability;
2. At least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the student;

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4. A representative of the district who:

   a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;

   b. Is knowledgeable about the general education curriculum; and

   c. Is knowledgeable about the availability of resources of the district;

5. Other individuals who have knowledge or special expertise regarding the student at the discretion of the district or the parent;

6. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee described in items 2–5;

7. The student, if appropriate;

8. For a student with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of students with auditory impairments;

9. For a student with a visual impairment, including deaf-blindness, a teacher who is certified in the education of students with visual impairments;

10. For a student with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), who may also be a member as described at items 2 or 3;

11. A representative of any participating agency likely to be responsible for providing transition services for a student, as appropriate, and with the consent of the student's parents or a student who has reached the age of majority; and

12. When considering initial or continued placement of a student in a career and technical education program, a representative from career and technical education, preferably the teacher.

20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321; 19 TAC 75.1023(d)(1), 89.1050(c)

A district member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the district agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

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A district member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and the district consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 C.F.R. 300.321(e)

Regular Education Teacher

If an ARD committee is required to include a regular education teacher, the regular education teacher must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's IEP. *Education Code 29.005(a)*

Parent Involvement

A district shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include the purpose, time, and location of the meeting, who will be in attendance, that persons with knowledge or special expertise may be invited by either the parent or the district, and that the Part C service coordinator or other representatives of the Part C system may be invited to the initial meeting for a child previously served under a Part C early childhood intervention program); and

2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the district will invite the student, and identify any other agency that will be invited to send a representative.

34 C.F.R. 300.322(a)–(b); 19 TAC 89.1050(d)

Alternative Means of Meeting Participation

If neither parent can attend an ARD meeting, the district must allow other methods of participation, such as through telephone calls or video conferencing. *20 U.S.C. 1414(f); 34 C.F.R. 300.322(c); 19 TAC 89.1050(d)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should attend, but the district shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 C.F.R. 300.322(d)*

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Meetings

A district shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once a year.

A "meeting" does not include informal or unscheduled conversations involving district personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A "meeting" also does not include preparatory activities that district personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1), .501(b)(3)

Meeting at Parent's Request

Upon receipt of a written request for an ARD committee meeting from a parent, the school district must schedule and convene a meeting in accordance with the procedures in 19 Administrative Code 89.1050(d) or within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting. *19 TAC 89.1050(e)*

Written Notice

If a parent is unable to speak English, a district must provide the parent with a written notice regarding the ARD committee meeting required under 19 Administrative Code 89.1050(d) (notice for purposes of scheduling) or (e)(2) (notice explaining why the district refuses to convene a meeting) in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice. *19 TAC 89.1050(f)*

Transfer Students

In-State Transfers

When a student transfers to a new district within the state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 C.F.R. 300.323(e) regarding the provision of special education services. The time line for completing the requirements outlined in 34 C.F.R. 300.323(e)(1) or (2) is 30 school days from the date the student is verified as being a student eligible for special education services.

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Transfers from Another State

When a student transfers from a district in another state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new district must meet the requirements of 34 C.F.R. 300.323(f) regarding the provision of special education services. If the new district determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the time lines established by 19 Administrative Code 89.1011(c) and (e). The time line for completing the requirements in 34 C.F.R. 300.323(f)(2), if appropriate, is 30 calendar days from the date of the completion of the evaluation report. If the school district determines that an evaluation is not necessary, the time line for completing the requirements outlined in 34 C.F.R. 300.323(f)(2) is 30 school days from the date the student is verified as being a student eligible for special education services.

19 TAC 89.1050(j)

Transfer of Records

The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.

The previous district shall take reasonable steps to promptly respond to the request from the new district and must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the tenth working day after the date a request for the information is received by the previous school district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g); 19 TAC 89.1050(j)(3)

Students Who Are Homeless or in Substitute Care

When a student who is homeless or in substitute care transfers into a district after being referred by a previous district for a special education evaluation, the receiving district must accept the referral and ensure that any written report of a full individual and initial evaluation must be completed in accordance with the timelines established in 19 Administrative Code 89.1011 (relating to Full Individual and Initial Evaluation).

When a student who is already eligible for special education and is homeless or in substitute care transfers into a district during the

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school year, the receiving district must ensure that it meets the student transfer requirements of 19 Administrative Code 89.1050(j) (relating to the Admission, Review, and Dismissal Committee).

19 TAC 89.1615

Military Dependents

A district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C* [See FDD]

Individualized Education Program

A district shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)*

At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)*

The term "individualized education program" means a written statement for each student with a disability that documents the decisions of the ARD committee with respect to issues discussed at each committee meeting and includes:

1. A statement of the student's present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the student's progress toward the annual goals will be measured and when periodic reports on the progress of the student will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student;
5. A statement of the program modifications or supports for school personnel that will be provided for the student;
6. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate and allowable accommodations that are necessary to measure the academic

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achievement and functional performance of the student on state or district-wide assessments;

9. If the ARD committee determines that the student must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student;

10. If the ARD committee determines that a student is in need of extended school year (ESY) services, identification of the goals and objectives that will be addressed during ESY services;

11. Beginning not later than when a student reaches 14 years of age and updated annually thereafter, the ARD committee's consideration and decisions regarding the transition issues under 19 Administrative Code 89.1055(j) [see EHBAD];

12. Beginning not later than the first IEP to be in effect when the student is 16, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate measurable postsecondary goals and transition services needed to assist the student in reaching those goals [see EHBAD];

13. Beginning not later than one year before the student reaches the age of 17, a statement that the student has been informed of the rights that will transfer to the student upon reaching the age of majority;

14. The date of the meeting;

15. The name, position, and signature of each member participating in the meeting; and

16. An indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

20 U.S.C. 1414(d); 34 C.F.R. 300.320; Education Code 29.005(b-1), .011; 19 TAC 89.1055

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA website. A district may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). *Education Code 29.005(f), .0051*

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Behavioral Intervention Plan	The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student for whom the committee has developed an IEP. If the committee makes that determination, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. *Education Code 29.005(g); 19 TAC 89.1055(g)*
Translation of IEP into Native Language	If the parent is unable to speak English and Spanish is the parent's native language, a district shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, a district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language. *Education Code 29.005(d)* A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English. An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English. If a parent's native language is not a written language, the district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication. Under 34 C.F.R. 300.322(f), a district must give a parent a written copy of the student's IEP at no cost to the parent. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with a written translation of the student's IEP in the parent's native language as provided above. *19 TAC 89.1050(i)*

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Autism/Pervasive Developmental Disorder

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and postsecondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);
7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

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Visual Impairment

If a district provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (staff access to resources). *19 TAC 89.1075(b)*

Collaborative Process

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions of the ARD committee concerning the required elements of the IEP shall be made by mutual agreement, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

Ten-Day Recess

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program. [See FOF]

These requirements do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

Failure to Reach Agreement

If a recess is implemented and the ARD committee still cannot reach mutual agreement, a district shall implement the IEP it has determined to be appropriate for the student. Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

If the IEP is not developed by agreement, the written statement of the program must include the basis of the disagreement. Each

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member of the ARD committee who disagrees with the IEP developed by the committee is entitled to include a statement of disagreement in the written statement of the program.

Education Code 29.005(c); 19 TAC 89.1050(g)

Modification of Existing IEP

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and district may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, a district shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

20 U.S.C. 1414(d)(3)(D)–(F); 34 C.F.R. 300.324(a)(4)–(6)

Teacher Access to IEP

Each district must ensure that each teacher who provides instruction to a student with a disability has access to relevant sections of the student's current IEP, is informed of the teacher's specific responsibilities related to implementation of the IEP, and has an opportunity to request assistance regarding implementation of the student's IEP. *19 TAC 89.1075(c)*

Teacher Request to Review IEP

Each district shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. To request a review of the student's IEP;
2. To provide input in the development of the student's IEP;
3. That provides for a timely district response to the teacher's request; and
4. That provides for notification to the student's parent or legal guardian of that response.

Education Code 29.001(11); 19 TAC 89.1075(d)

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Table of Contents

Title III Requirements **2**
Definitions **2**
District Responsibility **2**
Identification of LEP Students **3**
Language Proficiency Assessment Committees (LPAC) 3
Home Language Survey 4
LEP Classification 4
Parental Notice and Consent 5
Participation of Non-LEP Students 6
Students with Disabilities 6
Bilingual and ESL Programs **6**
Exceptions and Waivers 7
Program Design 8
Dual Language Immersion Program 9
Facilities 11
Cooperation Among Districts 11
Documentation 11
Summer Program 12
Other Program 12
Personnel **12**
LEP Students and State Assessments **13**
Program Exit **13**
Notice to Parents 14
Post-Exit Monitoring and Reenrollment 14
Program Evaluation **15**

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Note: The terms English language learner (ELL) and English learner are used interchangeably and are synonymous with the limited English proficiency (LEP) student as used in Education Code Chapter 29. *19 TAC 89.1203*

Title III Requirements

A district that receives funds under Title III of the Elementary and Secondary Education Act shall comply with the statutory requirements regarding English learners and immigrant students. *20 U.S.C. 6801–7014*

A district that receives funds under Title I or Title III to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform the parents of an English learner identified for participation in such a program of the information required by 20 U.S.C. 6312(e)(3). *20 U.S.C. 6312(e)(3)*

~~**State Policy**~~

~~It is the policy of the state that every student who has a primary language other than English and who is identified as an English learner shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program. *19 TAC 89.1201(a)*~~

Definitions

"Certified English as a second language teacher" is synonymous with the term "professional transitional language educator" used in Education Code 29.063.

"Dual language immersion" means a state-approved bilingual program model in accordance with Education Code 29.066.

"English learner~~"~~ (EL)" is a student who is in the process of acquiring English and has another language as the primary or home language.

"Exit" refers to the point when a student is no longer classified as LEP/EL (i.e., the student is reclassified), no longer requires bilingual or ESL program services, and is classified as non-LEP/English proficient (EP) in the Texas Student Data System Public Education Information Management System. The term "exit" is synonymous with the description in Education Code, Chapter 29, of "transferring out" of bilingual or special language programming.

"Parent" includes ~~a~~the parent or legal guardian of ~~a~~the student in accordance with Education Code 29.052.

Education Code 29.052; 19 TAC 89.1203(2)–(3), (7)–(8), (13)

District Responsibility

Each district shall:

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1. Identify English learners based on criteria established by the state;
2. Provide bilingual education and ESL programs as integral parts of the general program;
3. Seek appropriately certified teaching personnel to ensure that English learners are afforded full opportunity to master the essential knowledge and skills; and
4. Assess achievement for essential knowledge and skills in accordance with Education Code Chapter 29 to ensure accountability for English learners and the schools that serve them.

19 TAC 89.1201(a)

Identification of LEP Students

Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. A board shall report that information to TEA before November 1 each year. *Education Code 29.053(b)*

Language Proficiency Assessment Committees (LPAC)

Each district that is required to offer bilingual and special language programs shall, by local board policy, establish an LPAC. A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of English learners. A district shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

Membership of LPAC

The LPAC shall include:

1. An appropriately certified bilingual educator (for students served through a bilingual education program);
2. An appropriately certified English as a second language (ESL) educator (for students served through an ESL program);
3. A parent of an English learner participating in a bilingual or ESL program; and
4. A campus administrator.

A district may add other trained members to the committee.

No parent serving on the LPAC shall be an employee of the school district.

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All members of the LPAC, including parents, shall be acting for the district and shall observe all laws and rules governing confidentiality of information concerning individual students. A district shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

Duties

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 Administrative Code 89.1220(g)–(i), (k), including duties to review information, classify students, notify parents, and monitor student academic progress.

Home Language Survey

A district shall administer only one home language survey to each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through grade 12. The district shall require that the survey be signed by the student's ~~parents if the~~parent for each student ~~is~~ in prekindergarten through grade 8, or by the student ~~if the student is~~ in grades 9 through 12.

It is the district's responsibility to ensure that the student's parent understands the language used in the survey and its implications. The original copy of the survey shall be kept in the student's permanent record.

The home language survey shall be ~~administered~~provided in English, Spanish, and Vietnamese. For students of other language groups, the home language survey shall be translated into the primary language whenever possible.

The home language survey shall ~~contain~~elicit one language answer to each of the following questions:

1. "What language is ~~spoken~~used in the child's home most of the time?"
2. "What language does the child ~~speak~~use most of the time?"

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Administrative Code 89.1226 ~~in the 2019–20 school year and thereafter.~~(Testing and Classification of Students).

19 TAC 89.1215~~,~~(a)–(c), .1226

LEP Classification

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;

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2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;

3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or

4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

Parental Notice and Consent

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. *Education Code 29.056(d)*

The district shall notify the parent ~~or legal guardian~~ in English and in the ~~parent or legal guardian's~~parent's primary language that their child has been classified as an English learner and recommended for placement in the required bilingual education or ESL program. The district shall comply with the parent notification requirements described by 19 Administrative Code 89.~~1040~~1240(a).

The entry or placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent ~~or legal guardian~~in order to have the student included in the bilingual education allotment. The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or ESL program until the student meets the reclassification criteria described in 19 Administrative Code 89.1226(i) (Testing and Classification of Students), the student graduates from high school, or a change occurs in program placement.

19 TAC 89.~~1040~~1240(a); Education Code 29.056(a)

Pending ~~parent~~parental approval of an English learner's entry into a bilingual program recommended by the LPAC, a district shall place the student in the recommended program. Only English learners with parent approval who are receiving services will be included in the bilingual education allotment.

A district may ~~identify,~~place or exit~~, or place~~ a student in a program without written approval of the student's parent ~~or guardian~~ if:

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1. The student is 18 years of age or has had the disabilities of minority removed;

2. The parent ~~or legal guardian~~ provides approval through a phone conversation or email that is documented in writing and retained; or

3. An adult who the district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.

19 TAC 89.1220(j), (m~~), .1240(a~~)

Participation of Non-LEP Students

With the approval of a district and a student's parents, a student who is not LEP may also participate in a bilingual education program. *Education Code 29.058*

The number of participating English proficient students ~~who are not English learners~~ shall not exceed 40 percent of the number of students enrolled in the program district-wide. *19 TAC 89.1233(c)*

Students with Disabilities

Districts shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with 19 Administrative Code Chapter 89, Subchapter AA. The district shall establish placement procedures that ensure that placement in a bilingual education or ESL program is not refused solely because the student has a disability. LPAC members shall meet in conjunction with admission, review, and dismissal (ARD) committee members to review and provide recommendations about the education needs of each English learner who qualifies for services in the special education program. [See EHBAB] *19 TAC 89.1230*

Bilingual and ESL Programs

Each district with an enrollment of 20 or more ~~LEP~~ students of limited English proficiency in any language classification in the same grade level ~~district-wide~~ shall offer a bilingual education or special language program~~, as follows:~~ Each district that is required to offer bilingual education and special language programs under this section shall offer the following for students of limited English proficiency:

~~Prekindergarten through elementary grades: a district shall provide a bilingual education program by offering dual language instruction using one of the four bilingual program models described in 19 Administrative Code 89.1210(c). Elementary grades shall include at least prekindergarten through grade 5; sixth grade shall be included when clustered with the elementary grades. [See Bilingual Education Program Models, below]~~

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~~Post-elementary through grade 8: a district shall offer bilingual education, ESL~~

1. Bilingual education in kindergarten through the elementary grades;

~~1.~~2. Bilingual education, instruction in English as a second language, or other transitional language instruction approved by ~~TEA.~~the agency in post-elementary grades through grade 8; and

~~2. Grades 9 through 12: a district shall provide ESL instruction by offering an ESL program using one of the two models described at 19 Administrative Code 89.1210(g). [See ESL Program Models, below]~~

3. Instruction in English as a second language in grades 9 through 12.

Education Code 29.053(c~~), (~~)–(d); 19 TAC 89.1205

The district shall provide an ESL program to all English learners for whom a district is not required to offer a bilingual education program, regardless of the students' grade levels and primary language, and regardless of the number of such students, except in cases where a district exercises the option to provide a bilingual education program that is not required by law [see below]. *19 TAC 89.1205(c)*

A district is authorized to establish a bilingual education program even if the district has fewer than 20 English learners in any language classification in the same grade level district-wide and are not required to do so under the law. A district is also authorized to establish bilingual education programs at grade levels at which the district is not required under the law to establish bilingual programs. If a district does operate such a program under this authorization, the district shall adhere to all program requirements in 19 Administrative Code 89.1210, .1227, .1228, and .1229. *19 TAC 89.1205(f)–(g)*

Exceptions and Waivers

A district shall comply with the requirements for bilingual education exceptions and ESL waivers under 19 Administrative Code 89.1207. ~~If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.~~ *Education Code 29.054; 19 TAC 89.~~*1027*~~1207

A district that is unable to employ a sufficient number of teachers, including part-time teachers, who meet the certification requirements for bilingual education and ESL program shall apply for an

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exception or waiver to the certification requirement on or before November 1. *19 TAC 89.1245(b)*

Program Design

A district that is required to offer a bilingual education or ESL program shall provide each English learner the opportunity to be enrolled in the required program at his or her grade level.

A district's bilingual education program shall comply with the program content and design requirements of 19 Administrative Code 89.1210. A district shall provide for ongoing coordination between the ESL program and the regular educational program.

19 TAC 89.1210

~~A bilingual education program shall be a full-time program of dual language instruction. An ESL program shall be an intensive program of instruction in English. *19 TAC 89.1210(a)(1)–(a)(2)*~~

English learners shall participate with their English-speaking peers in general education classes provided in subjects such as art, music, and physical education. A district shall ~~ensure~~provide students enrolled in the ~~bilingual or ESL~~ program ~~have~~ a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses included in the curriculum may be taught in a language other than English. *Education Code 29.055, .057(b); 19 TAC 89.1210(f)*

Bilingual Education Program Models

The bilingual education program shall be implemented through at least one of the following program models:

1. Transitional bilingual/early exit;
2. Transitional bilingual/late exit;
3. Dual language immersion/one-way; or
4. Dual language immersion/two-way.

19 TAC 89.1210(c)

ESL Program Models

The ESL program shall be implemented through one of the following program models:

1. An ESL/content-based program model is an English acquisition program that serves students identified as English learners through English instruction by a teacher appropriately certified in ESL under Education Code 29.061(c), through English language arts and reading, mathematics, science, and social studies. The goal of content-based ESL is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that

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is linguistically and culturally responsive in English language arts and reading, mathematics, science, and social studies.

2. An ESL/pull-out program model is an English acquisition program that serves students identified as English learners through English instruction provided by an appropriately certified ESL teacher under Education Code 29.061(c), through English language arts and reading. The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.

19 TAC 89.1210(d)

Dual Language Immersion Program

A district may adopt a dual language immersion program (DLIP) for students enrolled in elementary school grades. *Education Code 28.005(c), .0051(c)*

Implementation

Program implementation shall:

1. Begin at prekindergarten or kindergarten, as applicable;
2. Continue without interruption incrementally through the elementary grades; and
3. Consider expansion to middle school and high school whenever possible.

19 TAC 89.1227(e)

Minimum Requirements

A DLIP shall:

1. Address all curriculum requirements specified at 19 Administrative Code Chapter 74, Subchapter A (Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.
2. Be a full-time program of academic instruction in English and another language.
3. Provide equitable resources in English and the additional program language whenever possible.
4. Provide a minimum of 50 percent of instructional time in the language other than English for the duration of the program.
5. Be developmentally appropriate and based on current best practices identified in research.

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19 TAC 89.1227

Two-Way DLIP Enrollment

Student enrollment in a two-way DLIP is optional for English proficient students. The program shall fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or disability. A district must obtain written parental approval for English proficient students through a district-developed process.

A district implementing a two-way DLIP shall develop a policy on enrollment and continuation for students in the program. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. The district's commitment to providing equitable access to services for English learners.
4. Grade levels in which the program will be implemented;
5. Support of program goals as stated in 19 Administrative Code 89.1210 (Program Content and Design); and
6. Expectations for students and parents.

19 TAC 89.1228(c)

Two-Way DLIP State Assessment

A district implementing a two-way DLIP shall determine the appropriate assessment option for program participants as follows:

1. For English learners, the LPAC shall convene before the administration of the state criterion-referenced test each year to determine the appropriate assessment option for each English learner in accordance with 19 Administrative Code 89.1220(i) (Language Proficiency Assessment Committee).
2. For English proficient students, the appropriate assessment option for the administration of the state criterion-referenced test each year is determined through a district-developed process.

19 TAC 89.1228(e)

School District Recognition

A district may recognize one or more of its schools that implement an exceptional DLIP if the school meets all of the following criteria:

1. The school must meet the minimum requirements stated in 19 Administrative Code 89.1227.
2. The school must receive an acceptable performance rating in the state accountability system.

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The school must not be identified for any stage of intervention for the district's bilingual and/or ESL program under the performance-based monitoring system.

Student Recognition

A student participating in a DLIP or any other state-approved bilingual or ESL program may be recognized by the program and the board by earning a performance acknowledgement in accordance with 19 Administrative Code 74.14. [See EIF]

19 TAC 89.1229

Facilities

Bilingual education and ESL programs shall be located in public schools of the district with equitable access to all educational resources rather than in separate facilities. A district may concentrate the programs at a limited number of facilities within the district. Recent immigrant English learners shall not remain enrolled in a newcomer center for longer than two years. *Education Code 29.057; 19 TAC 89.1235*

Cooperation Among Districts

A district may join with one or more other districts to provide the required bilingual education or special language programs. The availability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident LEP student to enroll in or attend its bilingual education or special language programs if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district in which the student resides.

Education Code 29.059; 19 TAC 89.1205(e)

Documentation

A student's permanent record shall contain the documentation items required by 19 Administrative Code 89.1220(l). Documentation in a student's permanent record shall be forwarded in the same manner as other student records to another school district in which the student enrolls. *19 TAC 89.1220(l)*

For students previously enrolled in a Texas public school, the receiving district shall secure the student records, including the home language survey~~.~~ and LPAC documentation as described in 19 Administrative Code 89.1220(l), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the ~~student's home language survey shall be made. If attempts to obtain the student's home language survey from the sending district are unsuccessful, the identification process shall begin while attempts to contact the sending district for records continue throughout the four-week testing and identification period.~~student's home language survey shall be made. *19 TAC 89.1215(d)*

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Summer Program

If a district is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the board.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. A district shall comply with the requirements of 19 Administrative Code 89.1250 in providing such a program.

Other Programs

A district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.

~~Neither the summer program nor the other~~The programs required or authorized by Education Code 29.060 may not be a substitute for ~~the program~~programs required to be provided during the regular school year.

Education Code 29.060

Personnel

Teachers assigned to a bilingual education program using one of the following program models must be appropriately certified in bilingual education:

1. Transitional bilingual/early exit program model; or
2. Transitional bilingual/late exit program model.

Education Code 29.061(b)

Teachers assigned to a bilingual education program using a dual language immersion/one-way or two-way program model must be appropriately certified for:

1. Bilingual education for the component of the program provided in a language other than English; and
2. Bilingual education or English as a second language for the component of the program provided in English.

A district that provides a bilingual education program using a dual language immersion/one-way or two-way program model may as-

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sign a teacher certified for the language other than English component of the program and a different teacher certified for the English language component.

Education Code 29.061(b-1)–(b-2)

Teachers assigned to ESL programs must be appropriately certified for ESL. *Education Code 29.061(c)*

A district that is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates ~~shall~~may request the activation of the appropriate permits in accordance with 19 Administrative Code Chapter 230. A district that is unable to ~~employ a sufficient~~ provide the required bilingual education program because of an insufficient number of appropriately certified teachers ~~to meet the certification requirements~~ shall ~~apply to~~request from the commissioner ~~for~~ an exception ~~or waiver~~ to the ~~required program.~~bilingual education program and the approval of an alternative language program. English learners with parental approval for program services under a bilingual education exception will be included in the bilingual education allotment designated for an alternative language program. [See Exceptions and Waivers, above] ~~*Education Code 29.054;*~~ *19 TAC 89.1207(a)–(b), .1245(a~~)~~); Education Code 29.054*

LEP Students and State Assessments

In kindergarten–grade 12, a LEP student shall participate in the state assessment in accordance with commissioner's rules at 19 Administrative Code Chapter 101, Subchapter AA. [See EKBA]

Program Exit

A district may transfer a LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;
2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

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Education Code 29.056(g)

Notice to Parents

A district shall give written notification to the student's parent ~~or legal guardian~~ of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program and acquire written approval. Students meeting ~~exit~~reclassification requirements may continue in the bilingual education or ESL program with parental approval ~~but are not eligible for inclusion in the bilingual education allotment~~. *19 TAC 89.1240(b)*

Post-Exit Monitoring and Reenrollment

The language proficiency assessment committee may reenroll the student in the program if later evidence suggests that a student who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement. Classification of students for reenrollment must be based on the criteria required by Education Code 29.056. *Education Code 29.056(h)*

The LPAC shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561

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Program Evaluation

A district that is required to conduct a bilingual education or ESL program shall conduct an evaluation in accordance with 19 Administrative Code 89.1265. The annual evaluation report shall be presented to the board before November 1 of each year.

A district shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to English learners.

Each school year, the principal of each campus, with assistance from the campus level committee, shall develop, review, and revise the campus improvement plan for the purposes of improving student performance for English learners. [See BQB]

19 TAC 89.1265

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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.

Definitions

In this section:

1. "Child" includes a stepchild.
2. "Parent" includes a stepparent.

Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless [see FD] regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty;
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201; or
7. Is the child of a person eligible for the Star of Texas Award as:
    a. A peace officer under Government Code 3106.002;
    b. A firefighter under Government Code 3106.003; or
    c. An emergency medical first responder under Government Code 3106.004.

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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 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 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.

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)

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Constructing, Repurposing, or Leasing a Facility

Before a district may construct, repurpose, or lease a classroom facility, or issue bonds for the construction or repurposing of a classroom facility, to provide the prekindergarten classes required under Education Code 29.153, the district must solicit and consider proposals for partnerships to provide those classes with community-based child-care providers who:

1. Are a Texas Rising Star Program provider with a three-star certification or higher;
2. Are nationally accredited;
3. Are a Head Start program provider;
4. Are a Texas School Ready! participant; or
5. Meet the requirements under Education Code 29.1532.

Education Code 29.153(g)

Tuition-Supported or District-Financed

A district may offer on a tuition basis or use district funds to provide:

1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten who are under four years of age; and
2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

A district may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (PEIMS data for prekindergarten programs). A district must submit its proposed tuition rate to the commissioner for approval.

Education Code 29.1531

Program Design

A district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

Shared Site

Before establishing a new prekindergarten program, a district shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

Prekindergarten Licensing Standards

If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the ap-

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plicable child-care licensing standards adopted by the Texas Department of Protective and Regulatory Services (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 Program

"Program" means a high quality prekindergarten program for eligible children who are at least four years of age required to be provided free of tuition or fees.

Curriculum Requirements

A district shall select and implement a curriculum for a prekindergarten program that:

1. Includes the prekindergarten guidelines established by 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.

Education Code 29.164, .167(a)

A school district shall implement a curriculum for a high-quality prekindergarten program that addresses the 2015 Texas Prekindergarten Guidelines in the domains listed in 19 Administrative Code

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102.1003(b). The district shall measure student progress and kindergarten preparation in accordance with 19 Administrative Code 102.1003(c). *19 TAC 102.1003*

Teacher Requirements

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualifications:

1. 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 or a non-early childhood education degree with a documented minimum of 15 units of coursework in early childhood education;
5. Documented completion of the Texas School Ready Training Program (TSR Comprehensive);
6. Be employed as a prekindergarten teacher in a district that has ~~received approval from the commissioner for~~met the ~~district's prekindergarten-specific instructional training plan that the teacher uses in the teacher's prekindergarten classroom;~~requirements of 19 Administrative Code 102.1003(d)(6); or
7. An equivalent qualification.

A district may allow a teacher employed by the district to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

A district 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.

19 TAC 102.1003(d), (h); Education Code 29.167(b)–(d)

Family Engagement Plan

A district shall develop ~~and~~, implement, and make available on the district or campus website by November 1 of each school year, a family engagement plan to assist the district in achieving and main-

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taining 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.

~~Program~~The family engagement plan shall meet the requirements of 19 Administrative Code 102.1003(e)(2).

19 TAC 102.1003(e); Education Code 29.168(a)

Report and Evaluation

In a format prescribed by TEA, a district shall report information in compliance with 19 Administrative Code 102.1003(f).

A district shall:

1. Select and implement appropriate methods for evaluating the district's high-quality prekindergarten program ~~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.

19 TAC 102.1003(f)–(g); Education Code 29.169

Eligible Private Providers

A district that offers a high-quality prekindergarten program may enter into a contract with an eligible private provider to provide services or equipment for the program.

To be eligible to contract with a district to provide a program or part of a program, a private provider must be licensed by and in good standing with the Department of Family and Protective Services. A private provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license during the 24-month period preceding the date of a contract with a district. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the commissioner;

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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 pre-kindergarten 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)

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)

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Statewide Information Referral Network

A district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. A district shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

"Child-care and education services" includes child-care and education services provided by a district through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, a district shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, a district shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

A district shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

Gov't Code 531.0312(c)–(e)

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Innovative Courses ~~and Programs~~

A district may offer innovative courses to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum. Applications shall not be approved if the proposed course significantly duplicates the content of a Texas Essential Knowledge and Skills (TEKS)-based course or can reasonably be taught within an existing TEKS-based course.

To request approval for an innovative course from the State Board of Education or the commissioner ~~of education~~, a district or organization must submit a request for approval at least six months before planned implementation. The request must address the elements listed at 19 Administrative Code 74.27(~~3~~a)(4).

To request approval from the commissioner for a career and technical education innovative course, the applying school district or organization must submit with its request for approval evidence that the course is aligned with state and/or regional labor market data.

With the approval of the board, a district may offer, without modifications, any state-approved innovative course.

19 TAC 74.27(a)

Magnet Schools or Programs

A district may operate a magnet program, academy, or other innovative program to serve student populations with specialized interests and aptitudes. *19 TAC 74.22(b)*

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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;
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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6. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;
7. Establish the district's and the institution's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;
8. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program;
9. Require the district and the institution to consider the use of free or low-cost open educational resources in courses offered under the program; and
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; or
6. Northwest Association of Colleges and Schools.

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25

Dual Credit Programs

Definitions

For purposes of the following provisions, “college” means any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined by Education Code 61.003.

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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); Education Code 61.003(8)

Partnership Agreements with Public Colleges

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

Community College Jurisdiction

A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008.

A course offered for joint high school and junior college credit must be:

1. In the core curriculum of the public junior college;
2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a course offered for joint high school and junior college credit to a student as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 130.008(a-1), (a-2), (d)

Student Eligibility

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b).

To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

19 TAC 4.85(b)

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Faculty Selection, Supervision, and Evaluation	The college shall select, supervise, and evaluate instructors in accordance with 19 Administrative Code 4.85(e). *19 TAC 4.85(e)*
Transcript	For dual credit courses, high school as well as college credit should be transcripted immediately upon a student's completion of the performance required in the course. *19 TAC 4.85(h)*
Qualified Instructor	A course offered for joint high school and junior college credit must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds: 1. A doctoral or master's degree in the discipline that is the subject of the course; 2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or 3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program: a. A degree described above; b. A baccalaureate degree in the discipline that is the subject of the course; or c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as determined by the THECB. Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed by the district with which the junior college entered into an agreement to offer the course. *Education Code 130.008(g), (h)*
Attendance Accounting	The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(g)* [See FEB] The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 48.007(a)*

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Reporting Off-Campus Programs

A board may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the *Student Attendance Accounting Handbook*;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the THECB in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code 48.007(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 48.005(h)*

Dual Credit Agreement

~~The board of a district and the governing board of a college must approve~~For any dual credit partnership between a secondary school and a public college, an agreement must be approved by the governing boards or designated authorities (e.g., principal and chief academic officer) of both the ~~schools before~~school district and the public college prior to the offering of such courses.

~~The~~Any agreement entered into or renewed between a public institution of higher education and school district on or after September 1, 2019, including a memorandum of understanding or articulation agreement, must meet the requirements of 19 Administrative Code 4.84(c).

Any dual credit agreement must also address:

1. Eligible courses;
2. Student eligibility;

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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~~

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.

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19 TAC 9.144

High School Credit-Only Courses	A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*
Tech-Prep Programs	A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*
Remedial Programs	A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college. Community colleges may provide instruction to high school students for either remedial course work to prepare students to pass the required State of Texas Assessments of Academic Readiness End-of-Course (STAAR EOC) assessments or developmental course work to prepare the students to pass an assessment instrument approved by the board under 19 Administrative Code 4.56 (Assessment Instruments). High school students who have passed all of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a community college at the college's discretion if a need for such course work is indicated by student performance on an assessment instrument approved by the board under 19 Administrative Code 4.56 (see below). The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit. *Education Code 130.090; 19 TAC 9.125, .143(d), .146* An institution of higher education shall use the Texas Success Initiative (TSI) Assessment offered by the College Board as the only THECB-approved assessment instrument. *19 TAC 4.56*
College Preparatory Courses	College preparatory courses are locally developed through a memorandum of understanding created between school districts and community colleges. *19 TAC 9.147*

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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*

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[1] Texas Virtual School Network: http://www.txvsn.org/

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Award of Credit

The award of credit for a course affirms that a student has satisfactorily met state and local requirements. *19 TAC 74.26(a)*

Early Award of Credit

A district may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record (transcript) shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. *19 TAC 74.26(b)*

Partial Award

In accordance with a district's local policy, a student who is able to successfully complete only ~~one semester~~half of a ~~two semester~~ course can be awarded credit proportionately. *19 TAC 74.26(d)*

A district shall award credit proportionately to a student who is homeless or in substitute care who successfully completes only ~~one semester~~half of a ~~two semester~~ course. *19 TAC 74.26(e)*

Attendance for Credit or Final Grade

Unless credit is awarded by the attendance committee, or regained in accordance with a principal's plan [see FEC], a student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered. *Education Code 25.092*

Homeless or Substitute Care

Each district must adopt a local policy to assist with awarding to a student who is homeless or in substitute care credit for a course that was earned prior to the student enrolling in or transferring to the district, as required by 19 Administrative Code 74.26 (Award of Credit).

Each district must examine how credit is awarded based on satisfactorily meeting all state and local requirements for a course upon enrollment, as required by 19 Administrative Code 74.26. [For information on credit by exam for students who are homeless or in substitute care, see EHDC].

Each district must:

1. Develop a credit recovery plan for students who were denied credits outside the district;
2. Create a course transition plan for students who have been denied credit;

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3. Develop and administer a personal graduation plan for each student in junior high or middle school, as required by Education Code 28.0212 [see EIF];

4. Ensure that school staff engage with the student, parent, or guardian, as applicable, to develop a credit recovery plan upon enrollment if the student has a credit deficit that would impede on-time promotion or graduation; and

5. Comply with Education Code 28.025(i), concerning the award of diplomas for students who are homeless or in substitute care who are in grade 11 or 12.

19 TAC 89.1607(a), (d)–(e)

[For information on transition assistance for students who are homeless or in substitute care, including enrollment and placement in education programs and courses, see FFC.]

Graduation Requirements

Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. *19 TAC 74.26(a)(1), (c)*

Academic Achievement Record

Following guidelines developed by the commissioner of education, a district shall use an academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of courses and credits earned.

The academic achievement record (transcript) shall serve as the academic record for each student and shall be maintained permanently by a district.

Any credit earned by a student must be recorded on the academic achievement record (transcript), regardless of when the credit was earned.

A student's performance on a state assessment, including an end-of-course assessment instrument required under Education Code 39.023(c) [see EKB], must be included in the student's academic achievement record (transcript).

Copies of the record shall be made available to students transferring to another district. A district shall respond promptly to all requests for student records from receiving districts. [See also FD, FDA, and FL]

Education Code 28.025(e), 39.023(c-5); 19 TAC 74.5(b)–(d)

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Transcript Seals	Students who complete high school graduation requirements shall have attached to the academic achievement record (transcript) a seal approved by the State Board of Education. *19 TAC 74.5(e)*
Endorsement	Students who complete the requirements for an endorsement shall have the endorsement clearly indicated on the academic achievement record (transcript).
Performance Acknowledgment	Students who earn a performance acknowledgment shall have the performance acknowledgment clearly indicated on the academic achievement record (transcript).
Distinguished Level of Achievement	Students who earn the distinguished level of achievement shall have the distinguished level of achievement clearly indicated on the academic achievement record (transcript).
Speech Requirements	Students who demonstrate proficiency in speech as specified in 19 Administrative Code 74.11 shall have completion of the speech requirement clearly indicated on the academic achievement record (transcript).
CPR	Students who complete the required instruction in cardiopulmonary resuscitation (CPR) as specified in 19 Administrative Code 74.38 in grade 9, 10, 11, or 12 shall have completion of the CPR instruction clearly indicated on the academic achievement record (transcript).
Proper Interaction with Peace Officers	Students who complete the required instruction on proper interaction with peace officers shall have completion of the instruction clearly indicated on the academic achievement record (transcript). A district shall clearly indicate on the academic achievement record the year in which the instruction was provided to the student.
Languages Other Than English	Students who satisfy a language other than English graduation credit requirement by successfully completing a dual language immersion program at an elementary school in accordance with 19 Administrative Code 74.12 shall have the credit clearly indicated on the academic achievement record (transcript). *Education Code 28.025~~(e-1);~~; 19 TAC 74.5(f)–(l), .11(b); 19 TAC 74.39(e)*
Notation on Transcript or Diploma	A district shall ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete: 1. The recommended or advanced high school curriculum; or 2. For a district that is covered by Education Code 56.304(f)(1) (unavailability of courses), the required portion of the recommended or advanced high school curriculum offered at the district's high school.

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The district must include this information on the student's transcript not later than the end of the student's junior year.

Education Code 56.308

Certificate of Coursework Completion

A student who completes all graduation requirements except for required end-of-course assessment instruments may be issued a certificate of coursework completion. The academic achievement record (transcript) shall include a notation of the date a certificate of completion was issued to the student. [See FMH for participation in the graduation ceremony.] *19 TAC 74.5(m)*

Early High School Graduation Scholarship Program

For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school from which the student graduated indicates on the student's transcript that the student was unable to complete the appropriate curriculum within the time prescribed solely because of a reason beyond the student's control, such as lack of enrollment capacity or a shortage of qualified teachers. *Education Code 56.203(d)*

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Table of Contents

High School Diploma 2
FAFSA Required 2
Individual Graduation Committee 3
Students Who Entered Grade 9 Before the 2011–12 School Year 5
Special Education 6
Posthumous Diploma 6
Diplomas for Veterans 7
Personal Graduation Plan 7
Junior High or Middle School PGP 7
High School PGP 8
Early Graduation 9
State Graduation Requirements 9
Students Entering Grade 9 9
Students Who Entered Grade 9 Before the 2014–15 School Year 16
Transfers from Out-of-State or Nonpublic Schools 20
Graduation of Students Receiving Special Education Services 20
Modified Curriculum and Content 20
Employability and Self-Help Skills 20
Summary of Academic Achievement and Evaluation 20
Graduation of Military Dependents 24
Course Waiver 24
Transfers During Senior Year 24
Substitute Passing Standard 24
Graduation of Student Who Is Homeless or in Conservatorship of DFPS 25

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High School Diploma

A student may graduate and receive a diploma only if the student ~~successfully completes~~:

1. Successfully completes 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], and complies with the financial aid application requirements in Education Code 28.0256 [see below]; or

2. Successfully completes an individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

Note: Education Code 28.0256 applies beginning with students enrolled at the 12th grade level during the 2021–22 school year.

FAFSA Required

Before graduating from high school, each student must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA).

A student is not required to comply with the above provision if:

1. The student's parent or other person standing in parental relation submits a signed form indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;

2. The student signs and submits the form described above on the student's own behalf if the student is 18 years of age or older or the student's disabilities of minority have been removed for general purposes under Family Code Chapter 31; or

3. A school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor.

A district shall adopt a form to be used for purposes of this provision. The form must be approved by the Texas Education Agency (TEA) and made available in English, Spanish, and any other language spoken by a majority of the students enrolled in a bilingual education or special language program under Education Code Subchapter B, Chapter 29, in the district.

If a school counselor notifies a district whether a student has complied with this section for purposes of determining whether the student meets high school graduation requirements under Education

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Code 28.025, the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied.

Education Code 28.0256

Note: Education Code 28.0258 and 19 Administrative Code 74.1025 related to individual graduation committees expire September 1, 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)*

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258 or 19 Administrative Code 74.1025. A student's admission, review, and dismissal (ARD) committee determines whether a student is required to achieve satisfactory performance on an end-of-course (EOC) assessment to graduate. *19 TAC 74.1025(n)* [See EHBAB]

For each 11th or 12th grade student who has failed to comply with the ~~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 as a result of an IGC decision before the ~~student's~~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

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c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

The superintendent shall establish procedures for convening the committee.

The district shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a~~)–(~~)–(c), (c-2); 19 TAC 74.1025(b)

A district may not establish an initial IGC for eligible students after June 10 or before the start of the next school year. Once the IGC has been established, it is the original IGC for that student.

If a student leaves a district after an original IGC has been established and before that original IGC awards a high school diploma to the student, any other district that later enrolls the student shall request information from the student's original IGC of record and shall implement the original IGC recommendations to the extent possible.

Alternate Members

In the event that the teacher identified in item 2 above is unavailable, the principal shall designate as an alternate member of the committee a teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

In the event that the individual identified above in item 3 above is unavailable, the principal shall designate as an alternate member of the committee an experienced teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is familiar with the content of and instructional practices for the applicable course.

In the event that the student's parent or person standing in parental relation to the student is unavailable to participate in the IGC, the principal shall designate an advocate with knowledge of the student to serve as an alternate member of the committee.

19 TAC 74.1025(c), (e), (g)–(i)

Notice

A district shall ensure a good faith effort is made to timely notify the appropriate person described under item 4 above of the time and place for convening the IGC and the purpose of the committee. The notice must be provided in person or by regular mail or email; clear and easy to understand; and written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person. *Education Code 28.0258(d)*

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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)*

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-2);

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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)*

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~~who would have graduated at the end of the 2019–20 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to each student who died while enrolled in the district at the end of the school year in which the student was expected to graduate under the regular schedule of school attend-

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ance. The high school diploma may not be issued before the graduation date of the class in which the student was enrolled at the time of death.

Exception

A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under 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

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];

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4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and

5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

Education Code 28.0212

Students Receiving Special Education Services

For a student receiving special education services, the student's ARD committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

High School PGP

A principal of a high school shall designate a school counselor or school administrator to review PGP options with each student entering grade 9 together with that student's parent or guardian. The PGP options reviewed must include the distinguished level of achievement and endorsements.

Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a PGP for the student that identifies a course of study that:

1. Promotes college and workforce readiness and career placement and advancement; and

2. Facilitates the student's transition from secondary to postsecondary education.

A district may not prevent a student and the student's parent or guardian from confirming a PGP that includes pursuit of a distinguished level of achievement or an endorsement.

A student may amend the student's PGP after the initial confirmation of the plan. If a student amends the student's PGP, the school must send written notice to the student's parents regarding the change.

TEA must make available to a district information that explains the advantages of the distinguished level of achievement described by Education Code 28.025(b-15) and each endorsement described by

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Education Code 28.025(c-1). A district, in turn, shall publish the information from TEA on the internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient.

A district is required to provide this information in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

Education Code 28.02121

Early Graduation

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), (b)*
[See FMH, FNG]

State Graduation Requirements

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2007–08 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and 19 Administrative Code Chapter 74.

Students Entering Grade 9~~ 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.

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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;
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

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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

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

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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)

~~*College*~~*Dual Credit Courses*

Courses offered for dual credit at or in conjunction with an institution of higher education (IHE) that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(h)*

Core Curriculum College Courses

A district shall permit a student to comply with the curriculum requirements under the foundation high school program by successfully completing appropriate courses in the core curriculum of an IHE. A student who has completed the core curriculum of an IHE in accordance with Education Code 61.822, as certified by the IHE in accordance with Education Code 4.28:

1. Is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
2. Is considered to have earned a distinguished level of achievement under the foundation high school program; and

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3. Is entitled to receive a high school diploma.

19 TAC 74.11(n)

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 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

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quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions

All substitution activities permitted by local district policy must include at least 100 minutes of moderate to vigorous physical activity per five-day school week.

No more than four substitution credits may be earned through any combination of substitutions listed above.

Student with Disability or Illness

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code 28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6)

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Community-Based Fine Arts Programs

In accordance with local district policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled.

In accordance with local policy, credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. The district must apply to the commissioner for approval of the community-based fine arts program;
2. The board must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code, Chapter 117, Subchapter C;
3. The district must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and
6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

The district shall require that instructors of the community-based fine arts program provide the district, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code, Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030

Performance Acknowledgments

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
    a. In a dual credit course;
    b. In bilingualism and biliteracy;
    c. On a College Board advanced placement test or international baccalaureate examination;

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d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace; or

e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or

2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14

~~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:~~

~~3. 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~~

~~4. 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

Minimum High School Program

All credit for graduation must be earned no later than grade 12. *19 TAC 74.61(b), .71(b)*

A student entering grade 9 prior to the 2014–15 school year who does not choose to complete the curriculum requirements for high school graduation under the foundation high school program must enroll in the courses necessary to complete the curriculum requirements for the Recommended High School Program or the Advanced/Distinguished Achievement High School Program, unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student

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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*

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)*

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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.~~IHE. *19 TAC 74.61(l), .71(j)*

Physical Education Substitutions

Other Physical Activity

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
    a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level

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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 must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

Student with Disability or Illness

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must

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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)*

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

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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 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.

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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 who is enrolled in a special education program may earn an endorsement on the student's transcript by:

1. Successfully completing, with or without modification of the curriculum:
   a. The curriculum requirements identified by the SBOE for the foundation high school program; and
   b. The additional endorsement curriculum requirements prescribed by the SBOE; and
2. Successfully completing all curriculum requirements for that endorsement adopted by the SBOE:
   a. Without modification of the curriculum; or
   b. With modification of the curriculum, provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's ARD committee.

The ARD committee of a student in a special education program shall determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

Education Code 28.025(c-7)–(c-8)

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]

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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 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 (Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (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:

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a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;

b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district;

c. The student has access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program; 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

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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]

Graduation of Student Who Is Homeless or in Conservatorship of DFPS

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. *Education Code 28.025(i)*

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Table of Contents

State Assessment of Academic Skills 3
Limited English Proficient Students 3
Special Education 3
Military Dependents 3
Administration 4
Schedule 4
Notice to Parents and Students 5
Testing in Grades 3–8 6
Exception 6
Kindergarten Assessment 6
Prekindergarten Assessment 7
Accommodations 7
End-of-Course Assessments 7
Students Enrolled Below High School Level 8
Assessment Requirements for Graduation 8
Substitute Assessments 8
Accountability Testing 10
Satisfactory Performance 10
Individual Graduation Committee 10
Special Education 11
Credit by Examination 11
Additional State Assessments 12
Retakes 12
Reporting Results 12
To the Public 12
To the Board 12
To Parents, Students, and Teachers 12
Parents Right-to-Know Under ESEA 13
Parental Access 13
Out-of-State Transfers 13
Accelerated Instruction 13
College Readiness 14
Security and Confidentiality 15
Violations 15

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Consequences 16
Test Administration Procedures 17
Records Retention 17
Disciplinary Action and Penalties 17
Minimize Disruptions 17
Confidentiality of Results 18

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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 Education Code 162.002 article VII, section C, shall apply.

Substitute Passing Standard

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the grade 10 level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII [See EIF]

Administration

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for administering tests. *19 TAC 101.25, .27*

Schedule

The commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3) and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

Alternate Test Dates

The commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate

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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. Notice of the dates, times, and locations of testing shall be

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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 3–8;
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

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

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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~~ 0237*

Accommodations

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See Special Education, above]

19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)

End-of-Course Assessments

Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*

TEA shall adopt EOC assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I EOC assessment instrument must be administered with the aid of technology, but may include one or more parts that prohibit the use of technology. The English I and English II EOC assessment instruments must each assess essential knowledge and skills in both reading and writing and must provide a single score. A district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this provision.

If a student is in a special education program, the student's ARD committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this provision.

Education Code 39.023(c)

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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.

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) (student who

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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~~.~~ of 19 Administrative Code 101.4002(d).

TSI Additional Criteria

A student must meet the criteria established ~~below~~in 19 Administrative Code 101.4002(d) in order to qualify to use TSI as a substitute assessment~~.~~.

~~4. 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.~~

~~5. 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 Administra-~~

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~~tive Code 101.3022(b) (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.~~

Accountability Testing

A student electing to substitute an assessment for graduation purposes must still take the corresponding EOC assessment required ~~EOC assessment if the student does not meet the eligibility requirements above~~under Education Code 39.023(c) at least once for accountability purposes. 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~~a PSAT~~-related assessment~~, PLAN, or ~~the pre-ACT~~Aspire test (or any versions of these tests) as indicated in the chart ~~at~~in 19 Administrative Code 101.~~4002~~4003(b) must take the appropriate ~~required~~ EOC assessment~~.~~ required under Education Code 39.023(c). However, a student who does not receive a passing score on the EOC assessment and retakes ~~the~~a PSAT~~-related assessment~~, PLAN, or ~~pre-ACT~~Aspire test (or any versions of these tests) is eligible to meet the requirements ~~to use a substitute assessment.~~specified in 19 Administrative Code 101.4002(c).

19 TAC 101.4002

Verification of Results

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the commissioner.

19 TAC 101.4005

Satisfactory Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

Individual Graduation Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF] *Education Code 28.0258, 39.025(a-5)*

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Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (Graduation Requirements) and 19 Administrative Code 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. [See Individual Graduation Committee, above]

19 TAC 101.3022(f)

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).

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)*

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Additional State Assessments

TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. *Education Code 39.023(c-2)*

Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See Satisfactory Performance, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)

Reporting Results

To the Public

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

To the Board

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

To Parents, Students, and Teachers

A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at Confidentiality of Results, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or 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

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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)*

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 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]

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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 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 Chap-

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ter 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

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.

Districts and campuses and the superintendent and campus principals in each district and campus shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as the district becomes aware of any alleged or suspected violation of the security or confidential integrity of a test [see Violations, below];
3. Report all confirmed testing violations to TEA within ten working days of the district becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure test materials are district employees who have:
    a. Met the requirements to participate in the student assessment program;
    b. Received annual training in test security and test administration procedures; and
    c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and
5. Ensure the security of the test materials as required by 19 Administrative Code 101.3031(a)(2)(E).

19 TAC 101.3031(a)(1)–(a)(2)

Violations

Violations of the security and confidential integrity of a test include:

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1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
6. Scoring students' tests, either formally or informally;
7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
8. Responding to secure test questions;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
11. Encouraging or assisting an individual to engage in the conduct described above or in any other serious violation of security and confidentiality;
12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in the above conduct or in any other serious violation of security and confidentiality under this provision;
13. Failing to implement sufficient procedures to prevent student cheating; and
14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

Consequences

If a district determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, the district shall invalidate the student's test results.

Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;

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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 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 of assessment instruments for five years.

19 TAC 101.3031(a-3)–(d)

Disciplinary Action and Penalties

SBEC may take disciplinary action against a person who has violated the security or integrity of any assessment required by Education Code Chapter 39, Subchapter B or has committed an act that is a departure from the test administration procedures established by the commissioner under 19 Administrative Code Chapter 101.

The superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties.

19 TAC 249.15(a)–(b), (g)

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)*

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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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~~Adoption of~~ Reading Instruments

The commissioner of education shall adopt a list of reading instruments that a school district may use to diagnose student reading development and comprehension.

For use in diagnosing the reading development and comprehension of kindergarten students, the commissioner shall ~~include on the Commissioner's list at least two multidimensional assessment tools.~~adopt a multidimensional assessment tool ~~on the Commissioner's list must either include~~that includes a reading instrument and ~~test~~tests at least three developmental skills~~, including literacy, or test at least two developmental skills, other than literacy, and be administered in conjunction with a separate reading instrument that is on the Commissioner's list~~. A multidimensional assessment tool is considered to be a reading instrument.

The district-level committee may adopt a list of reading instruments in addition to the reading instruments on the commissioner's list~~.~~ for a grade level other than kindergarten. Each reading instrument adopted by the district-level committee shall be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments shall provide for diagnosing the reading development and comprehension of students participating in a bilingual or special language program.

Education Code 28.006(a)–(b)

Kindergarten~~–~~

Each district shall administer at the kindergarten level a reading instrument adopted by the commissioner or an alternative reading instrument approved by the commissioner. The district shall administer the reading instrument in accordance with the commissioner's recommendations.

The commissioner may approve an alternative reading instrument for use in diagnosing the reading development and comprehension of kindergarten students that complies with the requirements above.

The commissioner by rule shall determine the performance on the reading instrument that indicates kindergarten readiness.

Education Code 28.006(b-1), (c-2)–(c-3)

First and Second ~~Grade~~Grades

A district shall administer, at ~~the kindergarten and~~ first- and second-grade levels, a reading instrument on the list adopted by the commissioner or by the district-level committee. A district shall administer the reading instrument in accordance with the commissioner's recommendations.

Seventh Grade

A district shall administer a diagnostic reading instrument during the first six weeks of the school year to each student in grade 7

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whose performance on the grade 6 state reading assessment did not meet the passing standard. If a student was administered the modified state assessment in reading, the ~~ARD~~admission, review, and dismissal (ARD) committee may determine if the diagnostic assessment is appropriate for use with that student.

A student in grade 7 who does not have a score for the state reading assessment in grade 6 may be given an equivalent comprehension assessment. If that student does not meet the passing standard, the student must be administered the diagnostic reading assessment.

A district must use the Texas Middle School Fluency Assessment and/or an alternate diagnostic reading instrument. A district must submit an alternate diagnostic reading instrument to the Texas Education Agency (TEA) for approval. An alternate diagnostic instrument must:

1. Be based on published scientific research in reading;
2. Be age and grade-level appropriate, valid, and reliable;
3. Identify specific skill difficulties in word analysis, fluency, and comprehension; and
4. Assist the teacher in making individualized instructional decisions based on the assessment results.

Reports

A superintendent shall:

1. Report to the commissioner and the board the results of the reading instruments;
2. Not later than the 60th calendar day after the date on which a reading instrument was administered, report, in writing, to a student's parent or guardian the student's results on the reading instrument; and
3. Using the school readiness certification system, report each student's raw score on the reading instrument to TEA using the school readiness certification system.

Cost

TEA shall ensure at least one reading instrument for each grade level for which a reading instrument is required to be administered is available to districts at no cost

~~The results of reading instruments may not be used for purposes of appraisals, incentives, or accountability.~~

~~The reading instruments specified in this policy are required only if funds are appropriated for administering them. Funds, other than local funds, may be used to pay the cost of administering a reading~~

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~~instrument only if the instrument is on the list adopted by the Commissioner~~.

Notice to Parents	A district shall notify the parent or guardian of each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. A district shall make a good-faith effort to ensure that this notice is provided in person or by regular mail, is clear and easy to understand, and is written in English and in the parent or guardian's native language.
Accelerated Reading Instruction Program	A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. [See Accelerated Reading Instruction Program at EHBC(LEGAL)]

Education Code 28.006; 19 TAC 101.6001

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Note: The following provisions address requirements for a charter partnership to receive the benefits of Education Code 11.174 and 48.252. For the general campus charter requirements applicable to partnership charters, see EL(LEGAL).

Contract Regarding Operation of District Campus

The board may contract with a partner to operate a campus. The partner may be an open-enrollment charter school or, on approval by the commissioner of education, an entity granted a charter by the district under Chapter 12, Subchapter C that is eligible to be awarded a charter under Education Code 12.101(a). The campus must be granted a charter under Chapter 12, Subchapter C. *Education Code 11.174(a), (d)*

A campus operated under a contract qualifies for an exemption from intervention as provided below and qualifies for funding as provided by Education Code 48.252 [see Funding for Certain Students, below].

The board may enter into a contract only if:

1. The charter of the open-enrollment charter school has not been previously revoked;
2. For the three school years preceding the school year of the proposed operation of the campus, the open-enrollment charter school has received:
    a. An overall performance rating of acceptable or higher; and
    b. A financial accountability rating indicating financial performance of satisfactory or higher; or
3. The entity considered for a district-authorized charter has not previously operated an open-enrollment charter school in which the charter expired or was revoked or surrendered.

Education Code 11.174(a)–(b)

Intervention Pause

For a campus under a contract that received an overall performance rating of unacceptable under Education Code Chapter 39, Subchapter C for the school year before operation under the contract began, the commissioner may not impose a sanction or take action against the campus under Education Code 39A for failure to satisfy academic performance standards during the first two school years of operation of a campus under the contract. [See AIA, AIC]

A campus is eligible for an exemption from applicable sanctions or actions if the campus and the partnership to operate the campus

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meet all applicable requirements and the campus was operated under the partnership from the first to the last day of the school year of the campus. A school year must include, at a minimum, all minutes of operation and instructional time conducted on the campus, and all the days for which the instructional workforce of the campus that provides education services for students are employed.

The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years.

Education Code 11.174(f); 19 TAC 97.1077

Applicability

A campus shall not qualify for an intervention pause unless during the school year prior to the operation of a partnership charter the campus received an unacceptable performance rating, except as provided by 19 Administrative Code 97.1077(e) (campus that operates a partnership charter for less than a year). *19 TAC 97.1062(b)*

The Texas Education Agency (TEA) will not withdraw or postpone issuing any orders or determinations required or authorized that arise due to the performance rating from the school year prior to the school year in which the campus qualifies for the intervention pause, and any order or determination will resume upon expiration of the intervention pause.

Any intervention or sanction not covered by the intervention pause 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.

TEA will not pursue interventions under Education Code 39A.101–39A.109 and 39A.111 for a campus eligible for an intervention pause if one of the school years eligible for an intervention pause results in an acceptable or higher overall rating.

If after the expiration of the intervention pause a campus receives an unacceptable rating, TEA will apply the requisite interventions that apply to the consecutive year that corresponds to the campus's actual number of consecutive years of unacceptable performance minus the number of intervention pause years and, if applicable, accounting for the modification under 19 Administrative Code 97.1062(c).

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If a campus qualifies for an intervention pause for a school year after the conclusion of the school year in which an order is authorized under Education Code 39A.111, the intervention under Education Code 39A.111 will not pause.

A campus that receives an intervention pause will still receive an accountability rating for that school year.

Performance of students at a campus that receives an intervention pause shall be considered in the accountability rating of the district and the application of an intervention pause to a campus shall not pause or alter any intervention applicable to the district or other campuses.

Appeal

A determination under this section that arises from the application of Education Code 28.020 is final and may not be appealed.

Partial Year

A partial school year that results in an intervention pause under 19 Administrative Code 97.1077(b) or (c) constitutes one full year of a pause. This provision expires on September 1, 2023.

19 TAC 97.1062(d), (f)-(n)

Additional Exemption

A campus that receives an exemption from a sanction or other action may receive another exemption while operating under a subsequent contract only if the campus receives approval for the exemption from the commissioner. *Education Code 11.174(g)*

Funding for Certain Students

A district that enters into a contract is entitled to receive for each student in average daily attendance at the campus an amount equivalent to the difference, if the difference results in increased funding, between the amount described by Education Code 12.106 and the amount to which the district would be entitled under this Education Code Chapter 48. This section applies only to a district that does not appoint a majority of the governing body of the charter holder. *Education Code 48.252*

Consultation with Campus Personnel

Before entering into a contract, the district must consult with campus personnel regarding the provisions to be included in the contract between the district and the open-enrollment charter school. All rights and protections afforded by current employment contracts or agreements may not be affected by the contract entered into between a district and an open-enrollment charter school. *Education Code 11.174(c)*

Notice to Commissioner

A district proposing to enter into a contract with a campus or program charter shall notify the commissioner of the district's intent to enter into the contract according to commissioner rules. The commissioner shall notify the district whether the proposed contract is

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approved not later than the 60th day after the date the commissioner receives notice of the proposed contract and all information required by the commissioner to be submitted. If the commissioner fails to notify the district that the proposed contract has been approved or denied within the period prescribed by this subsection, the proposed contract is considered approved. *Education Code 11.174(k)*

Enrollment Eligibility

The contract must include a provision addressing student eligibility for enrollment.

The contract must provide that any student residing in the attendance zone of the campus as the attendance zone existed before operation of the campus under the contract shall be admitted for enrollment at the campus. The contract must establish enrollment preference for students who do not reside in the attendance zone as follows:

1. Other students residing in the school district in which the campus is located; and

2. Students who reside outside the school district.

Education Code 11.174(h), (i)

Operating Partner

An operating partner means a state authorized open-enrollment charter school or an eligible entity as defined by Education Code 12.101(a). *19 TAC 97.1075(b)(1)*

Conferred Authority

The district must confer, at a minimum, the following enhanced authorities to the operating partner:

Staffing Authorities

1. The operating partner must have authority to employ and manage the campus chief operating officer, including the initial and final non-delegable authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.

2. The operating partner must have authority over the employees of the operating partner, including initial and final non-delegable authority for the operating partner to employ and/or manage all of the operating partner's own administrators, educators, contractors, or other staff. Such authority includes the authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment and establish any other terms of employment.

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3. The operating partner must have sole authority over the assignment of all district employees to the campus, including initial and final authority to approve the assignment of all district employees or contractors to the campus~~, as well as initial and final authority to supervise, manage, and rescind the assignment of any district employee or district contractor from the campus.~~.

4. The operating partner must have initial, final, and sole authority to supervise, manage, evaluate, and rescind the assignment of any district employee or district contractor from the campus. If the operating partner rescinds the assignment of any district employee or district contractor, the district must grant the request within 20 working days.

~~4.~~5. The operating partner must directly manage the ~~instructional staff described above who provide services to at least a majority of the students~~campus principal or chief operating officer, including having the sole responsibility for evaluating the performance of the campus principal or chief operating officer.

19 TAC 97.1075(c)(1)

Other Authorities

The operating partner must have:

1. Initial, final, and sole authority to approve all curriculum decisions beyond the minimum requirements ~~under regulation,~~outlined in 19 Administrative Code 74.2 and 74.3 (required elementary and secondary curriculum), lesson plans, instructional strategies, and instructional materials as defined by law, to be used at that campus;

2. Initial, final, and sole authority over educational programs for specific, identified student groups, such as gifted and talented students, students of limited English proficiency, students at risk of dropping out of school, special education students, and other statutorily defined populations;

3. Initial, final, and sole authority to set the school calendar and daily schedule, which may differ from those in other district campuses;

4. Initial, final, and sole authority to ~~approve~~ select and determine the use of any and all assessments to be used on the campus that are not required by the state of Texas; ~~and~~

5. Initial, final, and sole authority to ~~adopt and implement~~determine how the entire campus budget, including any and all federal and state grant funds due the campus, is allocated. The governing body of the operating partner shall approve the

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campus budget in a meeting held under the Texas Open Meetings Act [see BE]. Notwithstanding such budget authority, the operating partner's expenditures must comply with the applicable restrictions on the use of state and federal funds~~.~~; and

6. Initial, final, and sole authority to implement and adjust the campus budget.

19 TAC 97.1075(c)(2)

Performance Contract

To contract to partner to operate under Education Code 11.174, the district's board must grant the operating partner a campus charter under Education Code Chapter 12, Subchapter C. The charter must include performance expectations memorialized in a performance contract as required by law. The performance contract must include, at a minimum, the following:

1. A clear and unambiguous description of enhanced authorities as outlined above;

2. Academic performance expectations and goals, which shall include, but are not limited to;

   a. For campuses that are paired for accountability purposes, specific annual targets for improved student academic performance;

   b. For campuses issued an accountability rating under Education Code 39.054, a specific annual target for the overall campus academic rating ~~and a specific target for student growth based on the School Progress Domain~~; and

   c. Specific consequences in the event that the operating party does not meet the ~~annual~~ academic performance expectations and goals described in the performance contract;

3. Annual financial performance expectations and goals, which shall include, but are not limited to:

   a. The completion of an annual independent financial report, including an audit, of the operating partner ~~meeting~~organization, limited to matters directly related to the ~~expectation outlined in 19 Administrative Code 109.23~~management or operation of the campus or campuses;

   b. Receipt of an unqualified audit opinion, in connection with the annual financial report required above; and

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c. Specific consequences in the event that the operating partner does not meet the annual financial performance expectations and goals described in the performance contract;

4. A description of the campus enrollment and expulsion policies that must comply with Education Code 11.174(i);

5. A contract term of up to ten years as required by Education Code 12.0531, with a provision(s) specifying a requirement for a public hearing at least 30 days prior to any district action to terminate ~~the contract for an operating partner that successfully met the performance expectations and goals described in the performance contract;~~or extend if required by 19 Administrative Code 97.1075(d)(5);

6. A contract term stating that the campus is exempt from laws and rules to the fullest extent allowed by the Education Code, Chapter 12, Subchapter C, and is exempt from all district policies except for laws, rules, and policies that are specifically identified as applicable to the campus in the performance contract;

7. A section that describes the funding structure of the partnership as required by 19 Administrative Code 97.1075(d)(7);

~~7.~~8. Service-level agreements that ~~describe and allocate shared~~list the resources and services the ~~district provides to the~~ operating partner~~, which~~ intends to purchase from the district and the specific costs of such services by pupil, square foot, campus, or the percentage of the total district budget for the specific resource or service. The resources and services may include:

a. Facility use and related matters;

b. Transportation;

c. Specific education program services, such as providing special education services; and

d. Access to other resources and services as agreed between the parties;

~~8.~~ A ~~per-pupil allocation from the district to the operator~~section that ~~provides a student level allocation of local, state, and federal funds received by the district;~~

9. ~~A description of~~describes the educational plan ~~for~~or academic model that the operating partner will implement on the campus or campuses;

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10. An assurance that the district has consulted with campus personnel regarding the provisions included in the performance contract and that the rights and protections afforded by current employment contracts or agreements shall not be affected by this contract as required by Education Code 11.174(c), unless the district is partnering with an entity described in Education Code 11.174(a)(2); and

11. A description of the ~~consequences~~specific and material consequence(s) in the instance that either the district or the operating partner breaches the contract. ~~The contract may not be contingent on any rating issued by TEA to the campus prior to the operation of the campus by the operating partner.~~

19 TAC 97.1075(d); Education Code 12.0531

Eligible partnerships must notify TEA of amendments to performance contracts within 30 calendar days of the amendment of the contract. *19 TAC 97.1075(g)*

TEA Monitoring

The commissioner shall continue to evaluate and assign overall and domain performance ratings under Education Code 39.054 to the campus. In order to qualify for ongoing benefits subsequent to initial eligibility validation or approval, the eligible partnership campus must comply with all information requests or monitoring visits deemed necessary by the TEA staff to monitor the ongoing eligibility of the partnership. *19 TAC 97.1075(~~g~~h)–(i)*

Entity Granted a Charter by the District

Title 19 Administrative Code 97.1079 applies only to districts that intend to contract to partner to operate ~~the district~~a campus ~~with, on approval by the commissioner, an entity granted a charter by the district~~and receive benefits under Education Code ~~Subchapter C, Chapter 12.~~11.174(a)(2).

Definitions

Eligible Entity

"Eligible entity" means an institution of higher education, a nonprofit organization, or a governmental entity. For applicants seeking approval of an institution of higher education, which has been granted a charter in accordance with Education Code Chapter 12, Subchapter E, the commissioner will treat the institution of higher education as an open-enrollment charter.

Campus

"Campus" means an organizational unit operated by a district that is eligible to receive a campus performance rating in the state accountability system, including a rating of Not Rated or Not Rated: Data Integrity Issues. This definition includes a charter school campus.

Applicant

"Applicant" means a district seeking approval to receive benefits ~~under Education Code 11.174~~for an eligible entity to contract to partner to operate a campus.

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Proposed Operating Partner

"Proposed operating partner" means an eligible entity seeking approval in coordination with a district to contract to partner to operate a campus.

19 TAC 97.1079~~,~~(b)–(c), .1051(3); Education Code 12.101(a)

Eligibility Approval Process

TEA shall review ~~eligibility approval requests.~~application packages submitted under this provision. If TEA determines that an ~~eligibility approval request~~application package is not complete and/or the applicant does not meet the eligibility criteria ~~in Education Code 11.174~~, TEA shall notify the applicant and allow ten business days for the applicant to submit any missing or explanatory documents.

~~If, after giving the applicant opportunity to provide supplementary documents, TEA determines that the eligibility approval request remains incomplete and/or the eligibility requirements have not been met, the eligibility approval request will be denied. If the documents are not timely submitted, TEA shall remove the eligibility approval request without further processing.~~

Upon written notice to TEA, an applicant may withdraw an application package.

19 TAC 97.1079(~~d~~) e)(2)–(3)

~~*Review Panel*~~

~~Applicants with complete eligibility approval requests shall be reviewed by an external eligibility approval request review panel selected by the commissioner, in accordance with the procedures and criteria established in the eligibility approval request form. The recommendation, ranking, or other type of endorsement by a member or members of the review pane is not binding on the commissioner. *19 TAC 97.1079(d)(4)–(5*~~

Public Information

All parts of the district's eligibility approval request are releasable under the Texas Public Information Act [see GBA] and will be posted to the TEA website. Information described in 19 Administrative Code 97.1079(~~d)(6~~e)(4) must be excluded or redacted from an eligibility approval request. *19 TAC 97.1079(~~d)(6~~e)(4)*

Criteria for Approval

The commissioner shall consider the criteria described in 19 Administrative Code 97.1079(~~d)(8~~e)(9) when determining approval to contract to partner to operate a campus and receive benefits under Education Code 11.174(a)(2). *19 TAC 97.1079(~~d~~e)*

Appeals

A decision made by TEA to deny, remove, or return an eligibility approval request is a final administrative decision of TEA and may not be appealed under Education Code 7.057. *19 TAC 97.1079(~~e~~f)*

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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 and Mental Health
FFEA	~~Comprehensive Guidance Program~~Counseling
FFEB	~~Substance Abuse~~Mental Health
FFF	Student Safety
FFFA	Supervision of Students
FFFB	Safety Patrols
FFFD	Bicycle/Automobile Use
FFFF	School Buses
FFG	Child Abuse and Neglect

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SECTION F: STUDENTS

FFH	Freedom from Discrimination, Harassment, and Retaliation
FFI	Freedom from Bullying
FG	STUDENT AWARDS AND SCHOLARSHIPS
FH	STUDENT VOLUNTEERS
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~~must adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging ~~discrimination under these statutes. [See FNG~~any action that would be prohibited by these provisions. *34 C.F.R. 106.8 (Title IX), 104.7(b) (Section 504)* [See FFH]

~~*34 C.F.R. 106.8 (Title IX), 104.7 (Section 504)*~~

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Retaliation	A district shall not coerce, intimidate, threaten, retaliate or discriminate against, or interfere with any person who attempts to assert a right protected 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)* [See FFH]
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	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*
ADA	
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)*
Designation of Responsible Employee	A district shall designate at least one employee to coordinate its efforts to comply with Section 504 and the ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated. *34 C.F.R. 104.7(a), 28 C.F.R. 35.107*
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.

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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.

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 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.

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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
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(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)*

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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 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

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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

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

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

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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

Title IX

No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. ~~*20 U.S.C. 1681(a)*~~*20 U.S.C. 1681(a)* [See FFH for information regarding Title IX coordinator designation, policy notification, and complaint procedures.]

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*~~*34 C.F.R. 106.34* [See FFH for information on sexual harassment that may constitute discrimination on the basis of sex under Title IX.]

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 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. *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]

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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

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;

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9. Provision of housing and dining facilities and services; and

10. Publicity.

34 C.F.R. 106.41

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Assignments

A board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. *Education Code 25.031*

A board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032*

Multiple Birth Siblings

"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

"Parent" includes a person standing in parental relation.

Placement

The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the 14th day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.

A school shall provide the placement requested, except that a district is not required to place multiple birth siblings in separate classrooms if the request would require the district to add an additional class to the grade level of the siblings.

The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.

These provisions do not affect:

1. A right or obligation regarding the individual placement decisions of the admission, review, and dismissal (ARD) committee with respect to students receiving special education services [see EHBAB]; or
2. The right of a district or teacher to remove a student from a classroom under Chapter 37 [see FOA].

Reassignment by Principal

At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

Appeal

A parent may appeal the principal's classroom placement in the manner provided by district policy. During an appeal, the siblings shall remain in the classroom chosen by the parent. [See FNG]

Education Code 25.043

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Placement of Older Students

A person who is 21 years of age or older who is admitted by a district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. This restriction does not prevent the student from attending a school-sponsored event that is open to the public as a member of the public. *Education Code 25.001(b-2)*

Petitions and Objections

The parent or person standing in parental relation to any student may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

Education Code 25.033, 26.003(a)(1)

Procedure

Upon receiving a written petition, a board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by a board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

Board's Decision

The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of a board, with or without a hearing, is final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, a board may reconsider its decision. If a board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If the

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exception is overruled, an appeal of a board's decision may be filed in the district court of the county in which the board is located.

Education Code 25.034

Students Who Are Victims of Bullying

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, a board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred.

Students Who Engage in Bullying

The board may transfer the student who engaged in bullying to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

~~The~~ Education Code 37.004 (Placement of Students with Disabilities) applies to a transfer under this provision of a student with a disability who receives special education services ~~and who engaged in bullying may be made only by a duly constituted ARD committee under Education Code 37.004~~.

Definition

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Verification

A board or designee shall verify that a student has been a victim of bullying before transferring the student. A board may consider past student behavior when identifying a bully.

The determination by a board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 [see Petitions and Objections—Procedure, above] do not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus under this provision.

Education Code 25.0342

Note: For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI. For transfers related to sexual assault or school safety, see FDE.

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Others in Special Education Student's Household

If a district assigns a student to a district campus other than the campus the student would attend based on the student's residence, for purposes of receiving special education services, the district shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, provided that:

1. The other student is entitled to attend school in the district [see FD]; and
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code 25.034 [see Petitions and Objections—Procedure, above] does not apply to a transfer under this provision.

Transportation

A district is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by a district in accordance with other law for the student receiving special education services.

Education Code 25.0343

Students in Unacceptable Schools

A student is eligible to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus assigned an unacceptable rating that is made publicly available under Education Code 39.054 for:

1. The student achievement domain under Education Code 39.053(c)(1); and
2. The school progress domain under Education Code 39.053(c)(2). [See AIA]

Education Code 29.202(a) [See FDAA]

Students in Schools Identified for Support and Improvement

A district may provide all students enrolled in a school identified by TEA for comprehensive support and improvement under 20 U.S.C. 6311(c)(4)(D)(i) with the option to transfer to another public school served by the district, unless such an option is prohibited by state law.

A district shall give priority to the lowest achieving children from low-income families. A student who uses the option to transfer shall be enrolled in classes and other activities in the public school to

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which the student transfers in the same manner as all other students at the public school.

A district shall permit a student who transfers to another school to remain in that school until the child has completed the highest grade in that school. A district may spend an amount equal to not more than five percent of its allocation under 20 U.S.C. Chapter 70, Part A, Subpart 2 (Title I basic program allocations) to pay for the provision of transportation for students who transfer under these provisions to the schools to which they transfer.

20 U.S.C. 6311(d)(1)(D)

Note: See FDE for the school safety transfer option in Title I programs.

Class Changes

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of a board regarding such a request is final and may not be appealed. *Education Code 26.002, .003(a)(2), (b)* [See FNG]

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Compulsory Attendance

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. On enrollment in prekindergarten or kindergarten, a student shall attend school. *Education Code 25.085(a)–(c)*

Voluntary Enrollment of Students 19 and Over

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A board may adopt a policy requiring the student who is under 21 years of age to attend school until the end of the school year.

After the third unexcused absence of a person who voluntarily enrolls, a district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

A district may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester, except a school district may not revoke the enrollment of a person under this provision on a day on which the person is physically present at school.

A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

As an alternative to revoking a person's enrollment, a school district may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1).

Education Code 25.085(e)–(h)

Accelerated / Compensatory Programs

Unless specifically exempted, a student must also attend:

1. An extended-year program for which the student is eligible that is provided by a district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];

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4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or

5. A summer program provided:

   a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal. *Education Code 37.021* [See FO]

   b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. *Education Code 37.008(l)* [See FOCA]

Education Code 25.085(d)

Additional Instructional Days

Notwithstanding any other provision in Education Code 25.085, a student enrolled in a district is not required to attend school for any additional instructional days described by Education Code 48.0051 [See Incentive for Additional Instructional Days at FEB]. *Education Code 25.085(i)*

Exemptions

A student is exempt from compulsory attendance requirements ~~if:~~under the following statutory provisions.

Equivalency Diploma

A student is exempt from compulsory attendance requirements if the student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.

Private or Home School

A student is exempt from compulsory attendance requirements if the student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)*

Special Education—Nondistrict Placement

A student is exempt from compulsory attendance requirements if the student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

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Medical Condition	A student is exempt from compulsory attendance requirements if the student has a temporary and remediable physical or mental condition that makes attendance infeasible and the student has a certificate from a qualified physician specifying the temporary condition, indicating the prescribed treatment, and covering the anticipated period of absence for the purpose of receiving and recuperating from remedial treatment.
Expulsion—No JJAEP	A student is exempt from compulsory attendance requirements if the student is expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]
17-Year-Old in GED Course	A student is exempt from compulsory attendance requirements if the student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and: 1. Has the permission of the student's parent or guardian to attend the course; 2. Is required by court order to attend the course; 3. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or 4. Is homeless.
High School Replacement Programs	A student is exempt from compulsory attendance requirements if the student is enrolled in the Texas Academy of Leadership in the Humanities, Texas Academy of Mathematics and Science, or Texas Academy of International Studies.
16-Year-Old in GED Program or Job Corps	A student is exempt from compulsory attendance requirements if the student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if: 1. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or 2. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
Other Exemption	A student is exempt from compulsory attendance requirements if the student is specifically exempted under another law. *Education Code 25.086*

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Excused Absences for Compulsory Attendance Determinations

A district shall excuse a student from attending school ~~for~~as required by the following ~~purposes:~~statutory provisions.

Religious Holy Days

A district shall excuse a student from attending school for the purpose of observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

Court Appearances

A district shall excuse a student from attending school for the purpose of attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

Citizenship Proceedings

A district shall excuse a student from attending school for the purpose of appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

A district shall excuse a student from attending school for the purpose of taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

Election Clerks

A district shall excuse a student from attending school for the purpose of serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See Early Voting Clerks, below]

Children in Conservatorship of DFPS

If ~~the~~a student is in the conservatorship of the Department of Family and Protective Services (DFPS), a district shall excuse the student from attending school for the purpose of participating, as determined and documented by DFPS, in an activity:

1. Ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours, or

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2. Required under a service plan under Family Code Chapter 263, Subchapter B.

Education Code 25.087(b)(1); 19 TAC 129.21(j)(3)

Health-Care Appointments

A district shall excuse a student from attending school for a temporary absence resulting from an appointment with a health-care professional for the student or the student's child if the student commences classes or returns to school on the same day of the appointment. The appointment must be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy. *Education Code 25.087(b)(2), (b-3); 19 TAC 129.21(j)(3)* [See FEB]

Higher Education Visits

A district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and

2. The district adopts:

   a. A policy to determine when an absence will be excused for this purpose; and

   b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(j)(3)

Early Voting Clerks

A district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. A district may excuse a student for serving as an election clerk [see Election Clerks, above] or early voting clerk for a maximum of two days in a school year. *Education Code 25.087(b-1), (e)*

Military Dependents

A district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside

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the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A district may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. *Education Code 25.087(b-4)* [See FDD]

Enlistment in Armed Services

A district shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard, provided that:

1. The district may not excuse for this purpose more than four days of school during the period the student is enrolled in high school; and
2. The district verifies the student's activities related to pursuing enlistment in a branch of the armed services or the Texas National Guard.

A district shall adopt procedures to verify a student's activities as described in these provisions.

Education Code 25.087(b-5), (b-6); 19 TAC 129.21(j)(3)

Taps at Military Funeral

In addition, a district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. *Education Code 25.087(c)*

No Penalty

A student whose absence is excused for a reason described beginning at Excused Absences for Compulsory Attendance Determinations, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the district.

Make-Up Work

The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance.

Education Code 25.087(d)

Other Excused Absences

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. *Education Code 25.087(a)*

Notices to Parents

Warning Notice

A district shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same

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school year, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

Notice of Absences

A district shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
   a. It is the parent's duty to monitor the student's school attendance and require the student to attend school;
   b. The student is subject to truancy prevention measures under Education Code 25.0915; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

Non-Attendance

Parent Liability

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued;
2. The parent with criminal negligence fails to require the child to attend school as required by law; and
3. The child has absences for the amount of time specified under Family Code 65.003(a).

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

Affirmative Defense—Parent

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.093

Student Liability

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws, and fails to attend

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school on ten or more days or parts of days within a six-month period in the same school year. Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a), (b)*

"Child" means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

Truancy Courts

The following are designated as truancy courts:

1. The constitutional county court in a county with a population of 1.75 million or more;
2. Justice courts; and
3. Municipal courts.

A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

Family Code 65.004(a), (b)

Affirmative Defense—Student

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute truant conduct. The burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence does not affect the ability of the district to determine whether to excuse the absence for another purpose. *Family Code 65.003(c)*

Truancy Prevention Measures

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described below, the district shall initiate truancy prevention measures on the student. [See FED] *Education Code 25.0915(a-4)*

District Complaint or Referral

If a student fails to attend school without excuse on 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 FED] *Education Code 25.0951*

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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~~at the ~~second or fifth~~official attendance-taking time during the campus's 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)*

Incentive for Additional Instructional Days

The commissioner shall adjust the average daily attendance of a district under Education Code 48.005 in the manner provided by Education Code 48.0051(b) if the district:

1. Provides the minimum number of minutes of operational and instructional time required under Education Code 25.081 and commissioner rules adopted under that section over at least 180 days of instruction; and

2. Offers an additional 30 days of half-day instruction for students enrolled in prekindergarten through fifth grade.

Education Code 48.0051(a)

Funding for Off-Campus Programs

Funding eligibility for a student participating in an off-campus program will include time instructed in the off-campus program. A campus may choose an alternate attendance-taking time for a group of students that is scheduled to be off-campus during the regular attendance-taking time. The alternate attendance-taking time will be in effect for the period of days or weeks for which the group is scheduled to be off-campus during the regular attendance-taking time (for example, for the semester or for the duration of employment). This alternate attendance-taking time may not be changed once it is selected for a particular group of students. If attendance is taken at an off-campus location, the district must ensure that attendance is taken in accordance with the *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]

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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 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 may adjust the average daily attendance of a district all or part of which is located in an area declared a disaster area by the governor under Government Code Chapter 418 if the district experiences a decline in average daily attendance that is reasonably attributable to the impact of the disaster.

The commissioner may make the adjustment under this section for the two-year period following the date of the governor's initial proclamation or executive order declaring the state of disaster.

Education Code 48.006(a), (c)

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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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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~~3. For vocational nurses, the person regularly employs, hires, or contracts for the services of eight or more nurses; and~~

~~4. 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.

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The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the principal of the school the student attends.

[See FFAF for care of students with diagnosed food allergies at risk for anaphylaxis.]

No Waiver of Immunity

The provisions above neither waive any liability or immunity nor create any liability for or a cause of action against a district, a board, or its employees.

Education Code 38.015

Sunscreen Products

A student may possess and use a topical sunscreen product while on school property or at a school-related event or activity to avoid overexposure to the sun and not for the medical treatment of an injury or illness if the product is approved by the federal Food and Drug Administration for over-the-counter use. This provision does not waive any immunity from liability of a district, its board, or its employees; or create any liability for or a cause of action against a district, its board, or its employees. *Education Code 38.021*

Dietary Supplements

A district employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's school district duties; or

2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's school district duties.

Education Code 38.011(a), (c)

Prescription Medication and Special Education Students

An employee of a district is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

20 U.S.C. 1412(a)(25)

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~~**Psychotropics**~~

[See FFEB for information regarding psychotropic drugs and psychiatric evaluations

~~A district employee may not:~~

~~3. Recommend that a student use a psychotropic drug; or~~

~~4. Suggest any particular diagnosis; or~~

~~5. 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:~~

~~6. Prevent an appropriate referral under the Child Find system required under 20 U.S.C. Section 1412, as amended; or~~

~~7. 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~~

~~8. 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:~~

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~~9. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or~~

~~10. 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~~]

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:

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1. Must provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis on a school campus; and

2. May provide that school personnel and school volunteers who are authorized and trained may administer an epinephrine auto-injector to a person who is reasonably believed to be experiencing anaphylaxis at an off-campus school event or while in transit to or from a school event.

A district that adopts a policy must require that each campus have one or more school personnel members or school volunteers authorized and trained to administer an epinephrine auto-injector present during all hours the campus is open.

The supply of epinephrine auto-injectors at each campus must be stored in a secure location and be easily accessible to school personnel and school volunteers authorized and trained to administer an epinephrine auto-injector.

Education Code 38.208

Definitions

All Hours the Campus Is Open

"All hours the campus is open" is defined as, at a minimum, during regular on-campus school hours, and when school personnel are physically on site for school-sponsored activities.

Campus

A "campus" is defined as a unit of a school district that has an assigned administrator, has enrolled students who are counted for average daily attendance, has assigned instructional staff, provides instructional services to students, has one or more grades in the range from early childhood education through grade 12 or is ungraded, and complies with relevant Texas laws.

Unassigned Epinephrine Auto-Injector

An "unassigned epinephrine auto-injector" is an epinephrine auto-injector prescribed by an authorized health-care provider in the name of the school issued with a non-patient-specific standing delegation order for the administration of an epinephrine auto-injector, issued by a physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157.

25 TAC 37.603

Prompt Notification

Local emergency medical services must be promptly notified by the school when an individual is suspected of experiencing anaphylaxis and when an epinephrine auto-injector is administered. If the trained school personnel or school volunteer is the only individual available to notify emergency medical services, the trained individual should administer the unassigned epinephrine auto-injector before notifying emergency medical services.

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The parent, legal guardian, or emergency contact must be promptly notified by the school when an unassigned epinephrine auto-injector is utilized on their child as soon as is feasible during the emergency response to suspected anaphylaxis.

25 TAC 37.605(e)–(f)

Records

School records of the administration of the unassigned epinephrine auto-injector and suspected anaphylaxis must be provided to the parent or guardian of the recipient upon request. *25 TAC 37.605(f)*

Reports

Not later than the 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; 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.

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In order to increase the number of trained individuals in the administration of unassigned epinephrine auto-injectors, schools may distribute to school personnel or school volunteers in the district, at least once per school year, a notice that includes a description of the request seeking volunteers to be trained to administer an epinephrine auto-injector to a person believed to be experiencing anaphylaxis and a description of the training that the school personnel or school volunteers will receive in the administration of epinephrine with an auto-injector.

25 TAC 37.606(a)–(b)

Signed Statement

Trained school personnel or school volunteers who administer the unassigned epinephrine auto-injector must submit a signed statement indicating that they agree to perform the service of administering an unassigned epinephrine auto-injector to a student or individual that may be experiencing anaphylaxis. *25 TAC 37.606(c)*

Training

A district that adopts an unassigned epinephrine auto-injector written policy is responsible for training school personnel and school volunteers in the 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.

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Each school campus shall maintain training records and make available upon request a list of those school personnel or school volunteers trained and authorized to administer the unassigned epinephrine auto-injector on the campus.

25 TAC 37.607(3)–(6)

Standing Orders

A physician or person who has been delegated prescriptive authority under Occupations Code Chapter 157 may prescribe epinephrine auto-injectors in the name of a district in accordance with law. *Education Code 38.211*

A 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

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Storage	Unassigned epinephrine auto-injectors shall be stored in a secure, easily accessible area for an emergency, in accordance with manufacturer's guidelines. It is recommended that the school administrator develop a map to be placed in high traffic areas that indicates the location of the unassigned epinephrine auto-injectors on each school campus. It is recommended that the map also indicates the locations of the automated external defibrillator (AED). *25 TAC 37.605(h)*
Replacement	The district shall develop a plan to replace, as soon as reasonably possible, any unassigned epinephrine auto-injector that is used or close to expiration. *25 TAC 37.605(i)*
Disposal	Used unassigned epinephrine auto-injectors shall be considered infectious waste and shall be disposed of according to the school's bloodborne pathogen control policy. Expired unassigned epinephrine auto-injectors shall be disposed of according to the school's medication disposal policy. *25 TAC 37.605(j)–(k)* [See DBB]
Gifts, Grants, and Donations	A district may accept gifts, grants, donations, and federal and local funds to implement its policy. *Education Code 38.213*
Maintenance and Administration of 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

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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 Education Code Chapter 38, Subchapter E, related to the maintenance and administration of epinephrine auto-injectors and 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 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

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school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district.

Education Code 38.215

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[1] CDC Voluntary Guidelines for Managing Food Allergies: https://www.cdc.gov/healthyschools/foodallergies/index.htm

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School-Based Health Centers

A district may, if it identifies the need, design a model for the delivery of cooperative health-care programs for students and their families and may compete for grants to provide such programs. The model program may provide for delivery of conventional health services and disease prevention of emerging health threats that are specific to a district.

On the recommendation of an advisory council [see Advisory Council, below] or on the initiative of the board, a district may establish a school-based health center at one or more campuses ~~in the district~~ to meet the health-care needs of students and their families. A district may contract with a person to provide services at a school-based health center.

Education Code 38.051

Programs Goals

All health-care programs should be designed to meet the following goals:

1. Reducing student absenteeism;
2. Increasing a student's ability to meet the student's academic potential; and
3. Stabilizing the physical well-being of a student.

Education Code 38.063(c)

Consent Required

A school-based health center may provide services to a student only if a district or the provider with whom a district contracts obtains the written consent of the student's parent or guardian or another person having legal control of the student. The student's parent or guardian or another person having legal control of the student may give consent to receive ongoing services or may limit consent to one or more services provided on a single occasion. The consent form must list every service the center delivers in a format that complies with all applicable state and federal laws and allows a person to consent to one or more categories of services.
Education Code 38.053

Permissible Services

The permissible categories of services are:

1. Family and home support;
2. Physical health care, including immunizations;
3. Dental health care;
4. Health education; ~~and~~
5. Preventive health strategies~~.~~;

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6. Treatment for mental health conditions [see FFEB]; and

7. Treatment for substance abuse.

Education Code 38.054

Services Not Permitted

Reproductive services, counseling, or referrals may not be provided through a school-based health center using grant funds awarded under Education Code Chapter 38, Subchapter B. Any service provided using grant funds must be provided by an appropriate professional who is properly licensed, certified, or otherwise authorized under state law to provide the service. *Education Code 38.055–.056*

The staff of a school-based health center and the person who consents to treatment shall jointly identify any health-related concerns of a student that may be interfering with the student's well-being or ability to succeed in school. ~~If it is determined that a student should be referred for mental health services, the staff of the center shall notify verbally and in writing the person who has authority to consent, and the referral shall not be made unless the person provides written consent for the service to be provided and specific written consent for each treatment occasion. *Education Code 38.057*~~

If it is determined that a student is in need of a referral for physical health services or mental health services, the staff of the center shall notify the person whose consent is required under Education Code 38.053 verbally and in writing of the basis for the referral. The referral may not be provided unless the person provides written consent for the type of service to be provided and provides specific written consent for each treatment occasion or for a course of treatment that includes multiple treatment occasions of the same type of service.

Education Code 38.057

Advisory Council

A board may establish and appoint members to a local health education and health-care advisory council to make recommendations on the establishment of school-based health centers and to assist a district in ensuring that local community values are reflected in the operation of each center and in the provision of health education.

A majority of the members must be parents of students enrolled in ~~a~~the district. In addition to the appointees who are parents, a board shall also appoint at least one classroom teacher, one administrator, one school counselor, one licensed health-care professional licensed or certified to practice in this state, one member of the

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clergy, one person from law enforcement, one member of the business community, one senior citizen, and one student. *Education Code 38.058*

A district may seek assistance in establishing and operating a school-based health center from any public agency in the community. *Education Code 38.059*

If a district is located in a county with a population not greater than 50,000 or that has been designated under state or federal law as a health professional shortage area, a medically underserved area, or a medically underserved community, the district and advisory council shall make a good-faith effort to identify and coordinate with existing providers.

The district shall keep a record of efforts made to coordinate with existing providers.

Education Code 38.060

Primary Care Physician

If a person receiving a medical service from a school-based health center has a primary care physician, the staff of the center shall provide notice of the service to that physician. Before delivering service to a person with a primary care physician under the state Medicaid program, a state children's health plan program, or a private health insurance or health benefit plan, the staff of the center shall notify that physician to share medical information and obtain authorization for delivering the medical service. *Education Code 38.061*

Funding

A district shall comply with the funding requirements and limitations set out in Education Code 38.062–.063 and with rules adopted by the commissioner of state health services. *Education Code 38.062–.063*

Standards for State-Funded Centers

If a district receives a grant from the Texas Department of State Health Services (TDSHS) to assist with the costs of operating school-based health centers, it must comply with TDSHS standards for funded centers. *25 TAC 37.531, .538*

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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~~c)–(g)

Determination of Risk

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the

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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~~,~~ [redesignated to Education Code 38.351, see FFEB], including the number and percentage of school personnel trained in suicide prevention or grief and trauma-informed practices;

b. Mental health or psychological first aid for schools;

c. Training relating to the safe and supportive school program; or

d. Any other program relating to safety identified by the commissioner.

Education Code 37.115(k)

~~**Recommended Programs**~~

~~The Texas Department of State Health Services (TDSHS), in coordination with TEA and 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 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:

9. 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;

10. 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;

11. 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;

12. 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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13. 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 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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Liaison for Court-Related Students

A district shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students. The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. *Education Code 37.014*

Liaison for Students Who Are Homeless

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), a district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district will adopt policies and practices to ensure participation by the liaison in professional development and other technical assistance activities provided and approved by the statewide coordinator for education of homeless children and youths. *42 U.S.C. 11432(g)(1)(J)*

Notice

A district shall inform school personnel, service providers, and advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FD for definition of "homeless children."]

Duties

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through outreach and coordination activities with other entities and agencies;
2. Homeless children are enrolled in, and have a full and equal opportunity to succeed in, district schools;
3. Homeless families and homeless children have access to and receive educational services for which they are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act, early intervention services under Part C of the Individuals with Disabilities Education Act, and other district preschool programs;
4. Homeless families and homeless children receive referrals to health care, dental, mental health and substance abuse, housing, and other appropriate services;
5. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
6. Public notice of the educational rights of homeless children is disseminated in locations frequented by parents or guardians of such children, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a

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manner and form understandable to the parents and guardians of homeless children, and unaccompanied youths;

7. Enrollment disputes are mediated;

8. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment;

9. School personnel providing services under the McKinney-Vento Act receive professional development and other support; and

10. Unaccompanied youths:

    a. Are enrolled in school;

    b. Have opportunities to meet the same challenging state academic standards as the state establishes for other children; and

    c. Are informed of their status as independent students under section 480 of the Higher Education Act of 1965 and that the youths may obtain assistance from the liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid.

42 U.S.C. 11432(g)(6)(A), (B)

Determination of Homeless Status

A liaison who receives training under 42 U.S.C. 11432(f)(6) may affirm, without further action by the Department of Housing and Urban Development, that a child who is eligible for and participating in a district program, or the immediate family of such a child, who meets the eligibility requirements of the McKinney-Vento Act for an authorized program or service under Title IV of the Act, is eligible for such program or service. *42 U.S.C. 11432(g)(6)(D)*

Liaison for Children in State Conservatorship

Each district shall appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the district who is in the conservatorship of the state and submit the liaison's name and contact information to the Texas Education Agency (TEA) in a format and under the schedule determined by the commissioner of education.

TEA shall provide information to the liaisons on practices for facilitating the enrollment in or transfer to a public school of children who are in the conservatorship of the state.

Education Code 33.904

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Transition to Higher Education

A district, in coordination with the Department of Family and Protective Services (DFPS), shall facilitate the transition of each child enrolled in the district who is eligible for a tuition and fee waiver under Education Code 54.366, and who is likely to be in the conservatorship of DFPS on the day preceding the child's 18th birthday to an institution of higher education by:

1. Assisting the child with the completion of any applications for admission or financial aid;
2. Arranging and accompanying the child on campus visits;
3. Assisting the child in researching and applying for private or institution-sponsored scholarships;
4. Identifying whether the child is a candidate for appointment to a military academy;
5. Assisting the child in registering and preparing for college entrance examinations, including, subject to the availability of funds, arranging for the payment of any examination fees by DFPS; and
6. Coordinating contact between the child and a liaison designated by the Higher Education Coordinating Board for students who were formerly in the conservatorship of DFPS.

Family Code 264.1212 [See FFEA]

Transition Assistance for Highly Mobile Students

Definitions

Enrollment Conference

Records

"Enrollment conference" means a student-centered meeting for a newly enrolled student to identify academic and extracurricular interests; introduce school processes and opportunities for engagement; develop course and instructional strategies; review credits and assessment information; determine social-emotional support; and communicate confidential information that may impact a student's success, if needed.

"Records" means documents in printed or electronic form that include, but are not limited to, student transcripts; individual course grades; academic achievement records; course credits, whether full or partial; individualized education program referrals; intervention data; immunizations; state assessment scores; student attendance data; disciplinary reports; graduation endorsements; special education/Section 504 committee records; performance acknowledgements; and personal graduation plans.

19 TAC 89.1601(7)–(8)

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Transfer of Student Records

Each district must ensure that copies of student records are made available to schools to which students who are homeless or in substitute care transfer.

Each district is required to transfer student records within ten working days of receipt of a request from a district to which a student who is homeless or in substitute care enrolls, as required by Education Code 25.002(a-1) [see FD(LEGAL)]. The discretionary authority under Education Code 31.104(d) [see CMD(LEGAL)] to withhold records of a student if the student has not returned or paid for instructional materials or technological equipment does not exempt a district from the mandatory provision to send records to another public school in which the student enrolls.

Proof of enrollment in a different district permits retroactive withdrawal to the date a student enrolled in the new school. The date of enrollment in the new district is considered the date of withdrawal from the previous district.

Student records must be requested, sent, and received using the Texas Records Exchange (TREx) system.

If a district fails to receive the required information within ten working days, the requesting district may report the noncompliant district to the division responsible for TREx Support at TEA.

19 TAC 89.1603

Systems and Procedures

Each district shall develop systems to ease transition of a student who is homeless or in substitute care during the first two weeks of enrollment at a new school. These systems shall include the following:

1. Welcome packets containing applicable information regarding enrollment in extracurricular activities, club activities, information on fee waivers, tutoring opportunities, the student code of conduct, and contact information for pertinent school staff such as counselors, nurses, social workers, the foster care liaison, the homeless liaison, the principal and any assistant principals, and related contacts;

2. Introductions for new students that maintain student privacy and confidentiality to the school environment and school processes by district faculty, campus-based student leaders, or ambassadors; and

3. Mechanisms to ensure that a process is in place for all students who qualify to receive nutrition benefits upon enrollment, as all students who are homeless or in substitute care are eligible for United States Department of Agriculture Child

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Nutrition Programs. The process must expedite communication with the district nutrition coordinator to ensure that eligible students are not charged in error or experience delays in receiving these benefits.

19 TAC 89.1605(a)

Pertinent staff members (such as principals, registrars, counselors, designated liaisons, nutrition coordinators, transportation specialists, etc.) should be knowledgeable concerning communication, processes, and procedures for facilitating successful school transitions for students who are homeless or in substitute care.

For each district, the TREx, the Personal Identification Database (PID), or the Person Enrollment Tracking (PET) application must be used to expedite coordination and communication between the sending and receiving schools.

19 TAC 89.1605(c)–(d)

Enrollment Conference

A district shall convene an enrollment conference with the student within the first two weeks of enrollment or within the first two weeks after the student is identified as homeless or in substitute care. The convening of the enrollment conference shall not delay or impede the enrollment of the student.

The enrollment conference shall address the student's credit recovery, credit completion, attendance plans and trauma-informed interventions, interests and strengths, discipline or behavior concerns, previous successes, college readiness, and social and emotional supports as well as district policies relating to transfers and withdrawals and communication preferences with parents or guardians.

The enrollment conference may be comprised of:

1. School administrators;
2. Homeless or foster care liaisons;
3. A social worker;
4. Teachers;
5. Counselors;
6. Dropout prevention specialists;
7. Attendance/truancy officers;
8. The relative caregiver, foster placement caregiver, or case manager;
9. The DFPS designated educational decision-maker;

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10. The DFPS caseworker, Court Appointed Special Advocates (CASA) volunteer, or other volunteer, as applicable; and

11. A parent and/or guardian, unless the caseworker indicates the parent's and/or guardian's rights to participate have been restricted by the court.

19 TAC 89.1605(b)

Educational Placement

When a student who is homeless or in substitute care transfers before or during the school year, the receiving district shall initially place the student in educational programs and courses based on the student's prior enrollment in and current educational assessments from the sending school.

Educational programs include, but are not limited to, gifted and talented program services, bilingual or special language services for English learners, career and technical education, and early college high school.

Course placement includes, but is not limited to, honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathway courses.

Each district must ensure that a student who is homeless or in substitute care has the ability to earn the same endorsement categories, if applicable. If only one endorsement is offered, it must be multidisciplinary studies.

To the extent possible, each district shall ensure the continuation of a student's educational and course programs from the previous district and promote placement in academically challenging and career preparation courses.

19 TAC 89.1609

[For award of credit for students who are homeless or in substitute care, see EI. For special education services for students who are homeless or in substitute care, see EHBAA.]

Extracurricular Programs

Appropriate district staff must facilitate the process to complete and submit a University Interscholastic League (UIL) waiver of residence application form for a student who is homeless or in substitute care and plans to participate in varsity athletics or other UIL-sponsored activities.

Districts must comply with Education Code 25.001(f) [see FD] and a durational residence requirement may not prohibit a student in substitute care from fully participating in any activity sponsored by the district.

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Students in foster care remaining in their school of origin but residing outside of the district of attendance shall be afforded a waiver, as allowed under UIL Constitution and Contest Rules Section 442: Residence in School District and Attendance Zone.

19 TAC 89.1611

Promotion of Postsecondary Information

District counselors or other designated staff shall work with district homeless and foster care liaisons to ensure that all students who are identified as homeless or in substitute care graduate with endorsements, if applicable, and have postsecondary plans identified in their personal graduation plans, to the extent required [see EIF].

District counselors or other designated staff must inform unaccompanied homeless youths of their rights and status as independent students for the purpose of applying for financial aid for higher education and provide verification of such status for the Free Application for Federal Student Aid (FASFA), pursuant to 42 United States Code 11432(g)(6)(A)(x).

Each district shall ensure that a student in substitute care who is enrolled in grade 11 or 12 in that district is provided information regarding tuition and fee exemptions under Education Code 54.366, for dual-credit or other courses provided by a public institution of higher education for which a high school student may earn joint high school and college credit.

19 TAC 89.1613

Notice of Events

Each district must provide notice in writing to the educational decision-maker and caseworker of a student who is homeless or in substitute care regarding events that may significantly impact the education of the student.

Events that may significantly impact the education of a child include:

1. Requests or referrals for an evaluation under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), or special education under Education Code 29.003 [see EHBAA];
2. Admission, review, and dismissal committee meetings [see EHBAB];
3. Manifestation determination reviews required by Education Code 37.004(b) [see FOF];
4. Any disciplinary actions under Education Code Chapter 37 for which parental notice is required [see FO series];

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5. Citations issued for Class C misdemeanor offenses on school property or at school-sponsored activities;

6. Reports of restraint and seclusion required by Education Code 37.0021 [see FO and FOF];

7. Use of corporal punishment as provided by Section 37.0011 [see FO]; and

8. Appointment of a surrogate parent for the child under Education Code 29.0151 [see EHBAE];

19 TAC 89.1617; Education Code 25.007(b)(10)

Child Welfare Contact

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to designate a point of contact if the child welfare agency notifies the district, in writing, that the agency has designated an employee to serve as a point of contact for the district. *20 U.S.C. 6312(c)(5)(A)*

School-Community Guidance Center

A district may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

Education Code 37.051

Upon request from a superintendent, a governmental agency concerned with children that has jurisdiction in a district shall cooperate with the school-community guidance center and shall designate a liaison to work with the center in identifying and correcting problems affecting school-age children in the district. The governmental agency may establish or finance a school-community guidance center jointly with a district according to terms approved by the governing body of each participating entity. *Education Code 37.053*

Cooperative Programs

A board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

Parental Notice and Access to Information

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

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The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

Education Code 37.054

Parental Involvement

On admitting a student to a school-community guidance center, a representative of a district, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the district, to aid student remediation.

A superintendent may obtain a court order from a district court in the district requiring a parent to comply with such an agreement. A

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parent who violates such a court order may be punished for contempt of court.

Court Supervision

If a district, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

Education Code 37.055–.056

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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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Certified School Counselor

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.

2. Employing a part-time teacher who is also certified as a school counselor.

3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

Note: The provision above regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a). The provisions below apply to all school districts.

School Counselor Duties

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

4. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:

   a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;

   b. In need of modified instructional strategies; or

   c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;

5. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians;

6. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success;

7. Coordinate people and resources in the school, home, and community;

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8. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;

9. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and

10. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.083.

Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

Education Code 33.006

Program Design

The school counselor shall design the developmental guidance and counseling program to include:

1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.

2.1. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.

3.1. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.

4.1. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

Education Code 33.005

Parental Consent and Review

A board shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or other person entitled to enroll the student under Education Code 25.001(j) for the student to participate in those activities for which parental consent is required. *Education Code 33.003*

Each school shall obtain, and keep as part of the student's permanent record, this written consent by the parent or legal guardian. The consent form shall include specific information on the content of the program and the types of activities in which the student will be involved.

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Each school, before implementing a comprehensive ~~and developmental guidance and~~school counseling program, shall annually conduct a preview of the program for parents and guardians. All materials, including curriculum to be used during the year, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials available on the campus for preview may not be used.

Education Code 33.004

Child Consent to Counseling

A child may consent to counseling for:

1. Suicide prevention,
2. Chemical addiction or dependency; or
3. Sexual, physical, or emotional abuse.

Family Code 32.004(a)

[For more information about consent for mental health treatment, see FFEB.]

Comprehensive School Counseling Program

A school counselor shall work with the school faculty and staff, students, parents, and the community to plan, implement, and evaluate a comprehensive school counseling program that conforms to the most recent edition of the Texas Model for Comprehensive School Counseling Programs developed by the Texas Counseling Association.

The school counselor shall design the developmental guidance and counseling program to include:

1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.
2. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.
3. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.
4. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

Education Code 33.005

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Higher Education Counseling

Each school counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of postsecondary education, coursework designed to prepare students for postsecondary education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during each year of a student's enrollment in high school, a school counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of postsecondary education;
2. The advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement under the foundation high school program;
3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
4. Financial aid eligibility;
5. Instruction on how to apply for federal financial aid;
6. The center for financial aid information established under Education Code 61.0776;
7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803;
8. The eligibility and academic performance requirements for the TEXAS Grant;
9. The availability of programs in a district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs; ~~and~~
10. The availability of education and training vouchers and tuition and fee waivers to attend an institution of higher education as provided by Education Code 54.366 for a student who is or was previously in the conservatorship of the Department of Family and Protective Services~~.~~; and
11. The availability of college credit awarded by institutions of higher education to veterans and military servicemembers for military experience, education, and training obtained during

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military service as described by the information materials developed by the commissioner in cooperation with the Texas Higher Education Coordinating Board under Labor Code 302.0031(h).

When providing information under item 10, above, the school counselor must report to the student and the student's parent or guardian the number of times the counselor has provided the information to the student.

When providing information under item 11, the school counselor must explain to any student who is enlisted or intends to enlist in the armed forces of the United States the informational materials developed under Labor Code 302.0031.

Automatic Admission

At the beginning of grades 10 and 11, a certified school counselor shall explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class. [See EIC]

Education Code 33.007; 19 TAC 61.1071

Notice of Grant Programs

In a manner that assists the district in implementing the district improvement plan, a district shall notify students in middle school, junior high school, and high school and those students' teachers, school counselors, and parents of:

1. The TEXAS Grant and the Teach for Texas Grant programs;
2. The eligibility requirements of each program;
3. The need for students to make informed curriculum choices to be prepared for success beyond high school; and
4. Sources of information on higher education admissions and financial aid.

Education Code 56.308(b)(1)

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Note: For information about mental health curriculum and SHAC responsibilities, see EHAA. For information about threat assessments, see FFB.

Mental Health Condition

"Mental health condition" means a persistent or recurrent pattern of thoughts, feelings, or behaviors that:

1. Constitutes a mental illness, disease, or disorder, other than or in addition to epilepsy, substance abuse, or an intellectual disability; or
2. Impairs a person's social, emotional, or educational functioning and increases the risk of developing such a condition.

Education Code 5.001(5-a)

Student Programs

The Texas Education Agency (TEA), in coordination with the Health and Human Services Commission 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 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 prevention and intervention;
2. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
3. Substance abuse prevention and intervention;
4. Suicide prevention, intervention, and postvention;
5. Grief-informed and trauma-informed practices;
6. Positive school climates;
7. Positive behavior interventions and supports;
8. Positive youth development; and
9. 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

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enrolled in the district, parents of those students, and personnel employed by the district.

[For information on employee training, see DMA.]

Practices and Procedures

A district shall 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;

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;

3. Include a procedure for providing notice of a student identified as at risk of attempting suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;

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;

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; and

6. Include procedures:

    a. To support the return of a student to school following hospitalization or residential treatment for a mental health condition or substance abuse; and

    b. For suicide prevention, intervention, and postvention.

The practices and procedures may address multiple subject areas [see Subject Areas, above]. The practices and procedures must

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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 districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

"Postvention" includes activities that promote healing necessary to reduce the risk of suicide by a person affected by the suicide of another.

Education Code 38.351(a)–(f), (i)–(o)

Immunity

The above 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. *Education Code 38.352*

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]

[For more information about consent to medical treatment, including psychological treatment, see FFAC. For information about consent to counseling, see FFEA.]

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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)

[See DP for more information about LSSP and school counselor responsibilities.]

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 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.

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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.]

Psychotropics and Psychiatric Evaluations

A district employee may not:

1. Recommend that a student use a psychotropic drug; or

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, or an employee of an entity with which the district contracts, who is a registered nurse, advanced nurse practitioner, physician, or nonphysician mental health professional licensed or certified to practice in this state from recommending that a child be evaluated by a physician or nonphysician mental health professional; or

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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. [See FFAC]

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.

Nonphysician mental health professional has the meaning assigned by Education Code 38.0101 [see DP].

Education Code 38.016

[For information regarding administration of medication, see FFAC.]

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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Sexual Abuse, Trafficking, and Maltreatment Policies and Programs

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

A district shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan [see BQ] and any information handbook provided to students and parents. *Education Code 38.0041(a)*

The policy included in any informational handbook provided to students and parents must address the following:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.

19 TAC 61.1051(b)(3)

Definitions

Child Abuse or Neglect

The definition of child abuse or neglect includes the trafficking of a child in accordance with Education Code 38.004.

Other Maltreatment

This term has the meaning assigned by Human Resources Code 42.002.

Trafficking of a Child

This term has the meaning assigned by Penal Code 20A.02(a)(5), (6), (7), or (8).

19 TAC 61.1051(a)

Duty to Report

By Any Person

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.

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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 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~~FFEB]

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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 4, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(~~a~~b)(1)–(2)

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(b)* [See DG]

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Criminal Offenses

Failure to Report

A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.

A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.

Family Code 261.109

False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

Coercion

A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

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)*

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) (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

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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. *19 TAC 61.1051(b)*

The policies must require every school employee, agent, or contractor who suspects ~~child~~a child's physical or mental health or welfare has been adversely affected by abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion. *19 TAC 61.1051(b)(1)*

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must require a report to DFPS if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;

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2. Applicable 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~~prohibiting school officials from denying an investigator's request to interview a student at school; and

   b. ~~The prohibition, under~~ Family Code 261.302, ~~against~~prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator.

3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;

4. Confidentiality provisions relating to a report of suspected child abuse or neglect;

5. Any disciplinary action that may result from noncompliance with a district's reporting policy; and

6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above~~]; and~~].

~~7. The current toll-free number for DFPS.~~

19 TAC 61.1051(b)(2)

The policies ~~must~~may not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

The policies must:

1. Include the current toll-free number for DFPS;

2. Provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by DFPS; and

3. Include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

19 TAC 61.1051(b)(5)–(b)(8)

~~*19 TAC 61.1051(a)*~~

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Annual Distribution and Staff Development

The policies required by these provisions and adopted by the board shall be distributed to all personnel at the beginning of each school year ~~and~~. The policies shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(~~b~~)c)* [See also DH and GRA]

~~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)*~~

[For training requirements under these provisions, see DMA.]

Required Poster

Using a format and language that is clear, simple, and understandable to students, each public school shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS Texas Abuse Hotline website[1] for more information on reporting abuse, neglect, and exploitation.

A district shall ~~place a poster of the following specifications~~post the information specified above at ~~every~~each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. ~~The poster must:~~The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

~~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);~~

~~7.~~1. ~~Instructions to call 911 for emergencies; and~~

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~~a. Directions for accessing the DFPS [2] for more information on reporting abuse, neglect, and exploitation.~~

Education Code 38.0042; 19 TAC 61.1051(e~~), (~~)–(f)

[1] Texas Abuse Hotline website: https://www.txabusehotline.org/
[2] Texas Abuse Hotline website: http://www.txabusehotline.org

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Table of Contents

Dating Violence 2
Sexual Harassment 2
Designation of Title IX Coordinator 3
Parties Entitled to Notice 3
Reporting 3
Notification of Policy 3
Publication Requirements 3
Complaint Procedures 4
Response to Sexual Harassment 4
Title IX Coordinator Response 6
Process for Title IX Formal Complaint 7
Recordkeeping 16
Retaliation Prohibited 16
Confidentiality 17

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Note: The following legal provisions address dating violence and sexual harassment. For legal provisions addressing discrimination on the basis of disability, sex, and other protected characteristics, see FB.

Dating Violence

A district shall adopt and implement a dating violence policy to be included in the district improvement plan.

A dating violence policy must:

1. 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

2. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

Education Code 37.083, .0831 [See BQ]

Note: References to Title IX, part, or subpart in the following legal provisions refer to Title IX and its corresponding regulations.

Sexual Harassment

A district may develop and implement a sexual harassment policy to be included in the district improvement plan. ~~A district shall adopt and implement a dating violence policy to be included in the district improvement plan.~~ *Education Code 37.083~~, .0831~~* [See BQ]

Sexual abuse of a student by an employee, when there is a connection between the physical sexual activity and the employee's duties and obligations as a district employee, violates a student's constitutional right to bodily integrity. Sexual abuse may include fondling, sexual assault, or sexual intercourse. *U.S. Const. Amend. 14; Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443 (5th Cir. 1994)*

A district's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment ~~of students~~ may constitute discrimination on the basis of sex ~~in violation of~~ under Title IX. *34 C.F.R. 106.45; 20 U.S.C. 1681~~; 34 C.F.R. 106.11; Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)~~* [See also FB regarding Title IX]

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Designation of Title IX Coordinator	A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator."
Parties Entitled to Notice	The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district ("Parties Entitled to Notice") of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator. *34 C.F.R. 106.8(a)*
Reporting	Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator.
Notification of Policy	A district must notify the Parties Entitled to Notice, above, that the district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. The notification must state that the requirement not to discriminate in the education program or activity extends to admission and employment, and that inquiries about the application of Title IX to such district may be referred to the district's Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both. *34 C.F.R. 106.2(d), .8(b)(1)*
Publication Requirements	A district must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described at Notification of Policy, above, on its website, if any, and in each handbook that it makes available to the Parties Entitled to Notice, above. A district must not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX. *34 C.F.R. 106.8(b)(2)*

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

Complaint Procedures

A district must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and a Title IX formal complaint process that complies with 34 C.F.R. 106.45 for formal complaints as defined below.

A district must provide notice to the Parties Entitled to Notice, above, of the district's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the district will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)–(d)

Response to Sexual Harassment

Definitions

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to a district's Title IX Coordinator or any official of the district who has authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the district with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the district. "Notice" as used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

"Consent" is not defined by the Title IX regulations, nor do the regulations require districts to adopt a particular definition of consent with respect to sexual assault.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment

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against a respondent and requesting that the district investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the district. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the district) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to a Title IX formal complaint, and must comply with the requirements of the Title IX formal complaint process, including the informal resolution process.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

~~Definition of Sexual Harassment~~

~~Sexual harassment of students is conduct that is~~

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it ~~can be said to deprive the victim of~~ effectively denies a person equal access to the ~~educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling among school children, however, even when the comments target differences in gender. *Davis v. Monroe County Bd. of Educ.*, *526*~~district's education program or activity; or

~~1.~~3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.~~ *629 (1999)*~~C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

"Supportive measures" means nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available,

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	and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or district-provided housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.2, .30(a)*
Deliberate Indifference	A district with actual knowledge of sexual harassment in an education program or activity of the district against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
Education Program or Activity	For the purposes of 34 C.F.R. 106.30 [see Definitions, above] and 106.45 [see Process for Title IX Formal Complaint, below], "education program or activity" includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurs. *34 C.F.R. 106.44(a)*
Title IX Coordinator Response	The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator must respond in this manner with or without a formal complaint. *34 C.F.R. 106.44(b)(1)*

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Supportive Measures Required	A district's response must treat complainants and respondents equitably by offering supportive measures and by following a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below] before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. [For Emergency Removal procedures, see below.]
Constitutional Restrictions	The Department of Education may not deem a district to have satisfied the district's duty to not be deliberately indifferent under Title IX based on the district's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment. *34 C.F.R. 106.44(a)*
Response to a Formal Complaint	In response to a formal complaint, a district must follow a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below]. *34 C.F.R. 106.44(b)(1)*
Emergency Removal	The Title IX regulations do not preclude a district from removing a respondent from the district's education program or activity on an emergency basis, provided that the district: 1. Undertakes an individualized safety and risk analysis; 2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and 3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act. *34 C.F.R. 106.44(c)*
Administrative Leave	The Title IX regulations do not preclude a district from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d)*
Process for Title IX Formal Complaint	For the purpose of addressing formal complaints of sexual harassment, a district's process must comply with the following requirements. Any provisions, rules, or practices other than those required

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by this provision that a district adopts as part of its process for handling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*

A district's Title IX formal complaint process must:

1. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent;

2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

3. Require that any individual designated by a district as a Title IX Coordinator, investigator, decision-maker, or any person designated by a district to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A district must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the district's education program or activity, how to conduct an investigation and Title IX formal complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A district must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. [See Hearings, below] A district also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. [See Investigation of a Formal Complaint, below] Any materials used to train Title IX Coordinators, investigators, decision-makers,

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and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;

4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process;

5. Include reasonably prompt time frames for conclusion of the Title IX formal complaint process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the district offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;

6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the district may implement following any determination of responsibility;

7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;

8. Include the procedures and permissible bases for the complainant and respondent to appeal;

9. Describe the range of supportive measures available to complainants and respondents; and

10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1)

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Notice of Allegations

Upon receipt of a formal complaint, a district must provide the following written notice to the parties who are known:

1. Notice of the district's Title IX formal complaint process, including any informal resolution process.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:

   a. The identities of the parties involved in the incident, if known;

   b. The conduct allegedly constituting sexual harassment; and

   c. The date and location of the alleged incident, if known.

   The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence [see Investigation of a Formal Complaint, below]. The written notice must inform the parties of any provision in the district's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations, above, the district must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Dismissal of a Formal Complaint

The district must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States, then the district must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of the district's code of conduct.

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The district may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allegations therein; the respondent is no longer enrolled or employed by the district; or specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to 34 C.F.R. 106.45(b)(3), the district must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

A district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this provision to the singular "party," "complainant," or "respondent" include the plural, as applicable.

34 C.F.R. 106.45(b)(3)–(4)

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the Title IX formal complaint process, a district must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the district and not on the parties provided that the district cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the district obtains that party's voluntary, written consent to do so for a Title IX formal complaint (if a party is not an "eligible student," as defined in 34 C.F.R. 99.3 then the district must obtain the voluntary, written consent of a "parent," as defined in 34 C.F.R. 99.3) [see FL(LEGAL) at Education Records];

2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;

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3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;

4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, including the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the district must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least ten days to submit a written response, which the investigator will consider prior to completion of the investigative report. The district must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

7. Create an investigative report that fairly summarizes relevant evidence and, at least ten days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

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Hearings

The district's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after the district has sent the investigative report to the parties pursuant to 34 C.F.R. 106.45(b)(5)(vii) [see Investigation of a Formal Complaint, above] and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii)*

Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the district must apply the standard of evidence described at Process for Title IX Formal Complaint, above.

The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the district's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's education program or activity will be provided by the district to the complainant; and

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6. The district's procedures and permissible bases for the complainant and respondent to appeal.

The district must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the district provides the parties with the written determination of the result of the appeal, if an appeal is filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)–(ii)

Implementation of Remedies

The Title IX Coordinator is responsible for effective implementation of any remedies. *34 C.F.R. 106.45(b)(7)(iv)*

Appeals

A district must offer both parties an appeal from a determination regarding responsibility, and from a district's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A district may offer an appeal equally to both parties on additional bases.

As to all appeals, the district must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards in the Title IX regulations regarding conflict of interest and bias [see Process for Formal Title IX Complaint, item 3, above];
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;

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5. Issue a written decision describing the result of the appeal and the rationale for the result; and

6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Informal Resolution

A district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, a district may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the district:

1. Provides to the parties a written notice disclosing:

   a. The allegations;

   b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and

   c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;

2. Obtains the parties' voluntary, written consent to the informal resolution process; and

3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9)

~~**Employee-Student Sexual Harassment**~~

~~A district official who has authority to address alleged harassment by employees on the district's behalf shall take corrective measures to address the harassment or abuse. *Gebser v. Lago Vista Indep. Sch. Dist., 118 S.Ct. 1989 524 U.S. 274 (1998); Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443 (5th Cir. 1994)*~~

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~~**Student-Student Sexual Harassment**~~

~~A district must reasonably respond to known student-on-student harassment where the harasser is under the district's disciplinary authority. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*~~

Recordkeeping

A district must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and
4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A district must make these training materials publicly available on its website or if the district does not maintain a website the district must make these materials available upon request for inspection by members of the public.

For each response required under Title IX Coordinator Response, above, a district must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity.

If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Retaliation Prohibited

No district or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

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Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the Process for Title IX Formal Complaint above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohibited by Title IX, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)–(b)

Confidentiality

The district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. part 99, or as required by law, or to carry out the purposes of 34 C.F.R. part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

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UIL Rules and District Policies

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

Athletic Activities

UIL Forms

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

Notices

Each school that offers an extracurricular athletic activity shall:

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

Education Code 33.207(b), .208

Safety Training

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

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

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

Education Code 33.202(d)–(e)

Records

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

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

Education Code 33.206

Unsafe Practices

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

Safety Precautions

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

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

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

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

Education Code 33.205

Concussions

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

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

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Concussion Oversight Team

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

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

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

Education Code 38.154, .158

Return-to-Play Protocol

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

Required Annual Form

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

Removal from Play

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

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

Return to Play

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

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

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

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

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

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

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

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

    d. Understands the immunity provisions under Education Code 38.159.

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

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

Education Code 38.157

Immunity

These provisions do not:

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

Education Code 38.159

Football Helmet Safety Requirements

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

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

Education Code 33.094(a)–(c)

Steroid Testing

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

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

Education Code 33.091(d)–(e)

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Cardiac Assessment

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

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

Immunity

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

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

Education Code 33.096

Rodeos

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

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

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

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

Educational Program

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

Restriction on Participation

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

Protective Gear for Bull Riding

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

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

Eligibility

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

Military Dependents

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

Suspension from Extracurricular Activities

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

Length of Suspension

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

Grade Evaluation Period

"Grade evaluation period" means:

1. The six-week grade reporting period; or

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

Education Code 33.081(c)

School Week

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

Exempt Courses

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

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

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

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

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

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

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

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

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

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semester in which any exemptions related to extracurricular activities occur.

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

19 TAC 74.30

Students with Disabilities

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

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

Education Code 33.081(e)

Practice or Rehearsal

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

Reinstatement

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

Attendance and Participation

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

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

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

Education Code 33.081(a), .0811

SBOE Rules

The following provisions apply to any UIL activity.

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

Extracurricular Activities

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

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

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

Exceptions

Public Performances

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

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

State-Approved Music Courses

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

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

19 TAC 76.1001(a)

Limits on Participation and Practice

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

During the School Week

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

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

During the School Day

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

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

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

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

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

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

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

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

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

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

Education Code 33.082

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

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Student Election Clerks

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

Before-School and After-School Programs

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

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

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

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

Education Code 33.9031

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Guidelines for Copy Charges

The charges in this exhibit, to recover costs associated with providing copies of public information, are based on estimated average costs to governmental bodies across the state. When actual costs are 25 percent higher than those used in these rules, governmental bodies other than agencies of the state may request an exemption in accordance with 1 Administrative Code 70.4.

Copy charges are as follows:

1. Standard-paper copy. The charge for standard-paper copies reproduced by means of an office machine copier or a computer printer is $.10 per page or part of a page. Each side that has recorded information is considered a page.

2. Nonstandard copy. The charges for nonstandard copies are:

   a. Diskette — $1.00

   b. Magnetic tape — actual cost

   c. Data cartridge — actual cost

   d. Tape cartridge — actual cost

   e. Rewritable CD (CD-RW) — $1.00

   f. Non-rewritable CD (CD-R) — $1.00

   g. Digital video disc (DVD) — $3.00

   h. JAZ drive — actual cost

   i. Other electronic media — actual cost

   j. VHS video cassette — $2.50

   k. Audio cassette — $1.00

   l. Oversize paper copy (e.g., 11" x 17", greenbar, bluebar, not including maps and photographs using specialty paper) — $.50

   m. Specialty paper (e.g., Mylar, blueprint, blueline, map, photographic) — actual cost

Personnel charges are as follows:

1. If a particular request requires the services of a programmer in order to execute an existing program or to create a new program so that requested information may be accessed and copied, the district may charge for the programmer's time. The hourly charge for a programmer is $28.50 an hour. Only programming services shall be charged at this hourly rate. Districts that do not have in-house programming capabilities shall comply with requests in accordance with Government Code 552.231. [See CQ]

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2. The charge for labor costs incurred in processing a request for public information is $15.00 an hour. The labor charge includes the actual time to locate, compile, manipulate data, and reproduce the requested information.

3. A labor charge shall not be billed in connection with complying with requests that are for 50 or fewer pages of paper records, unless the documents to be copied are located in two or more separate buildings that are not physically connected to each other or a remote storage facility. For purposes of this provision, two buildings connected by a covered or open sidewalk, an elevated or underground passageway, or a similar facility, are not considered to be separate buildings.

4. A labor charge shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:

   a. To determine whether the district will raise any exceptions to disclosure of the requested information under Government Code, Subchapter C, Chapter 552; or

   b. To research or prepare a request for a ruling by the attorney general's office pursuant to section 552.301 of the Government Code. [See CQ]

5. When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies as a labor charge pursuant to Government Code 552.261(a)(1) or (2).

Overhead charges are as follows:

1. Whenever any labor charge is applicable to a request, the district may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the district chooses to recover such costs, a charge shall be made in accordance with the methodology described in item 3 below. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.

2. An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Government Code 552.261(a)(1) or (2).

3. The overhead charge shall be computed at 20 percent of the charge made to cover any labor costs associated with a particular request. For example, if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing, $15.00 x .20 = $3.00; or programming labor charge, $28.50 x .20 = $5.70. If a request requires one hour of labor charge for locating, compiling, and reproducing information ($15.00 per hour); and one hour of programming labor charge ($28.50 per hour), the combined overhead would be: $15.00 + $28.50 = $43.50 x .20 = $8.70.

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~~Microfiche and microfilm charges are as follows:~~

1. ~~If the district already has information that exists on microfiche or microfilm and has copies available for sale or distribution, the charge for a copy must not exceed the cost of its reproduction. If no copies of the requested microfiche or microfilm are available and the information on the fiche or film can be released in its entirety, the district should make a copy of the fiche or film. The charge for a copy shall not exceed the cost of reproduction. Districts that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.~~

2. ~~If only a master copy of information in microform is maintained, the charge is $.10 per page for standard-size paper copies plus any applicable labor and overhead charge for more than 50 copies.~~

~~Remote document retrieval charges are as follows:~~

1. ~~Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by the district to store current records on-site. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.~~

2. ~~If the district has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the district, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed in accordance with item 2 under personnel charges, above.~~

~~Computer resource charges are as follows:~~

1. ~~The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.~~

2. ~~These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.~~

3. ~~The charges in this section are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each district using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s) and set its charge accordingly:~~

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a. Mainframe: $10.00 per CPU minute

b. Midsize: $1.50 per CPU minute

c. Client/Server: $2.20 per clock hour

d. PC or LAN: $1.00 per clock hour

4. The charge made to recover the computer utilization cost is the actual time the computer takes to execute a particular program times the applicable rate. The CPU charge is not meant to apply to programming or printing time; rather, it is solely to recover costs associated with the actual time required by the computer to execute a program. This time, called CPU time, can be read directly from the CPU clock, and most frequently will be a matter of seconds. If programming is required to comply with a particular request, the appropriate charge that may be recovered for programming time is described above, at Personnel Charges. No charge should be made for computer print-out time. For example, if a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows: $10.00 / 3 = $3.33; or $10.00/(60 / 20) = $3.33.

A district that does not have in-house computer capabilities shall comply with requests in accordance with Government Code 552.231. [See CQ]

The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

Governmental bodies may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party.

Pursuant to Office of the Comptroller of Public Accounts' rules, sales tax shall not be added on charges for public information. (34 Administrative Code, Part 1, Chapter 3, Subchapter O, Sections 3.341 and 3.342).

A district that accepts payment by credit card for copies of public information and that is charged a transaction fee by the credit card company may recover that fee.

1 TAC 70.3, 70.10

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Table of Contents

Applicability of Criminal Laws **2**
Trespass **2**
Refusal of Entry or Ejection of Unauthorized Persons **2**
Vehicles on School Property **3**
Disruption of Lawful Assembly **3**
Free Speech 4
Disruption of Classes **4**
Disruption of Transportation **4**
Tobacco and E-Cigarettes **5**
Smoking in Buildings 5
Alcohol **5**
Intoxicants 5
Fireworks **5**
Federal Gun-Free School Zones Act **5**
Possession of Weapons **7**
"Premises" Defined 7
Excepted Persons 7
Transportation or Storage of Firearm in School Parking Area 8
Volunteer Emergency Services Personnel 8
Exhibition of Firearm **9**
Trespass—Concealed Carry of Handgun **9**
Notice / Sign—Concealed Carry of Handgun 9
Exception 10
Unauthorized Notice 10
Trespass—Open Carry of Handgun **10**
Notice / Sign—Open Carry of Handgun 10
Exception 11
Interscholastic Events **11**
Board Meetings **11**
Board Authorization **12**
Drones **12**
Federal Law 12
State Law 13

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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, 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 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 take any action, including an action consisting of the provision of notice, by a communication described by Penal Code 30.06 or 30.07 that states or implies that a license holder who is carrying a handgun under the authority of Government Code Chapter 411 is prohibited from entering or remaining on a premises or other place owned or leased by the district unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or 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":

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.07, Penal Code

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(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].

Penal Code 46.035(c), (i)

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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

The U.S. Government has exclusive sovereignty of airspace of the United States. *49 U.S.C. 40103*

Small Unmanned Aircraft

"Small unmanned aircraft" means an unmanned aircraft weighing less than 55 pounds on takeoff, including everything that is on board or otherwise attached to the aircraft.

Small Unmanned Aircraft ~~Systems~~System

"Small unmanned aircraft system" (small UAS) means a small unmanned aircraft and its associated elements (including communication links and the components that control the small unmanned aircraft) that are required for the safe and efficient operation of the small unmanned aircraft in the national airspace system.

14 C.F.R. 1.1

Operation of Small UAS

The registration, airman certification, and operation of civil small UAS within the United States is subject to 14 C.F.R. Part 107. Part 107 does not apply to the following:

1. Air carrier operations;
2. Any aircraft subject to the provisions of 14 C.F.R. Part 101; 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~~49 U.S.C. 44807, unless otherwise specified in the exemption.

14 C.F.R. 107.1, .3

~~*Model Aircraft*~~

~~A "model aircraft" is an~~

Exception for Limited Recreational Operation

A person may operate a small unmanned aircraft ~~that is capable of sustained flight in~~without specific certification or operating authority from 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~~Federal Aviation Administration (FAA) if the operation ~~of a model aircraft (or an aircraft being developed as a model aircraft) that meets~~ adheres to all of the following ~~conditions~~limitations:

1. The aircraft is flown strictly for ~~hobby or~~ recreational ~~use;~~purposes.

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2. The aircraft is operated in accordance with ~~a community-based set of safety guidelines and~~ or within the programming of a ~~nationwide~~ community-based ~~organization;~~organization's set of safety guidelines that are developed in coordination with the FAA.

~~3. The aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;~~

3. The aircraft is flown within the visual line of sight of the person operating the aircraft or a visual observer co-located and in direct communication with the operator.

4. The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft~~; and~~.

5. ~~When flown~~ In Class B, Class C, or Class D airspace or within ~~five miles of~~the lateral boundaries of the surface area of Class E airspace designated for an airport, the operator ~~of the~~ obtains prior authorization from the administrator of the FAA or designee before operating and complies with all airspace restrictions and prohibitions.

6. In Class G airspace, the aircraft ~~provides the airport~~is flown from the surface to not more than 400 feet above ground level and complies with all airspace restrictions and prohibitions.

~~5.~~7. The operator ~~and the airport air traffic control tower (when~~has passed an ~~air traffic facility is located at the airport) with prior notice of the operation~~aeronautical knowledge and safety test and maintains proof of test passage to be made available to the FAA or law enforcement upon request.

~~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*~~

8. The aircraft is registered and marked in accordance with 49 U.S.C. Chapter 441 and proof of registration is made available to the FAA or law enforcement upon request.

49 U.S.C. 44809(a)

State Law

Regulation Limited

A political subdivision, including a school district, may not adopt or enforce any ordinance, order, or other similar measure regarding the operation of an unmanned aircraft. An ordinance, order, or other similar measure that violates this provision is void and unenforceable. *Gov't Code 423.009(b), (d)*

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Exception

A political subdivision may adopt and enforce an ordinance, order, or other similar measure regarding:

1. The use of an unmanned aircraft during a special event;
2. The political subdivision's use of an unmanned aircraft; or
3. The use of an unmanned aircraft near a facility or infrastructure owned by the political subdivision, if the political subdivision:
    a. Applies for and receives authorization from the Federal Aviation Administration to adopt the regulation; and
    b. After providing reasonable notice, holds a public hearing on the political subdivision's intent to apply for the authorization.

"Special event" means a festival, celebration, or other gathering that involves the reservation and temporary use of all or a portion of a public park, road, or other property of a political subdivision; and entertainment, the sale of merchandise, food, or beverages, or mass participation in a sports event; and requires a significant use or coordination of a political subdivision's services.

Gov't Code 423.009(a)(2), (c)

Privacy Law

It is lawful to capture an image using an unmanned aircraft in this state for the reasons listed in Government Code 423.002, including:

1. With the consent of the individual who owns or lawfully occupies the real property captured in the image; or
2. From a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception.

Gov't Code 423.002(a)

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Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of School Health Advisory Committee Membership Recommendations
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	John Graham, Bryan Miller
Attachments:	School Health Advisory Committee Membership Recommendation – Final as of 10/1/2020

Background Information:

The attached list is the final recommendation for the 2020-2021 School Health Advisory Committee (SHAC). Highlighted names have been added to the recommendation list since the previous Board Meeting on September 24, 2020.

Administrative Recommendation:

The Administration recommends that the Board of Trustees approve the recommended members for the 2020-2021 Student Health Advisory Committee with the addition of Board Member Aaron Johnson.

Sample Motion:

I move that the Board of Trustees approve the recommended members for the 2020-2021 Student Health Advisory Committee with the addition of Board Member Aaron Johnson.

2020-2021 School Health Advisory Committee Membership Applicants

First Name	Last Name	Role	Children at Campus or Organization/Dept Represented
Denise	Abele	Parent	River Ridge EM, Canyon Ridge MS, & Vandegrift HS
Tori	Algiere	Community Member	Mental Health Provider
Melinda	Allen	Parent	Steiner Ranch/Canyon Ridge
Kristin	Andrews	District	Nutrition Coordinator II
Melina	Berduo	Parent	Vista Ridge
Stephanie	Bercu	Parent	Parent Running Brushy MS, Leander HS
Timothy	Broad	Community Member	Owner of Sports World, Inc.
Denise	Bruerton	Parent	Cypress EM, Cedar Park MS
Heidii	Bugbee	Parent	Rutledge EM
Amie	Campbell	Parent	Knowles EM
Jessica	Cance	Community Member	Adolescent Public Health Manager
Katie	Carruth	Parent	Rutledge EM
Steve	Crawford	District	Principal at Four Points Middle School
Steve	Clark	District	Director of Counseling Services
Jennifer	Collins	District	Assistant Superintendent Instruction
Jessica	Cooper	District	Teacher at Running Brushy
Staci	Cote	District	Counselor at Canyon Ridge MS
KB	DeBoard	District	Assistant Athletic Director
Anne	Duffy	Parent	Henry MS & Cedar Park HS
Grant	Easdon	District	Teacher at Leander Middle School
Dianne	Erwin	Parent	River Place EM & Four Points MS
Brandon	Evans	District	Executive Director Support Services
Sade	Fashokun	Parent	Westside EM
Dena	Gifford	District	Teacher at Vista Ridge HS
Jessica	Grate	Parent	Glenn HS
Desaray	Granzow	Parent	Pleasant Hill EM
Alexandru	Harangus	Parent	Henry MS
Elizabeth	Hunter	Parent	Cedar Park HS
Doug	James	Community Member	Clergy
Lucas	Janda	Parent	Parkside/Stiles825

Aaron	Johnson	District	Board Member
Melissa	Leijon	Parent	Grandview Hills/Four Points
Brian	Liddiard	Community Member	Business Owner
Alison	Lough	District	Student & Family Support Team
Greg	Madsen	Parent	Deer Creek EM, Cedar Park MS
Don	Massey	Parent	Westside EM
Bryan	Miller	District	Senior Director of Student Support Services
Jessica	Miller	Community Member	Mental Health Provider
Tara	Mills	Community Member	Obstetrician/Gynecologist
Cara	Owen	Parent	Mason EM
Stephanie	Reyes Rand	Parent	Plain EM
Shelley	Roberts	District	Principal at River Ridge EM
Stephanie	Rotellini	Parent	Bush EM, Canyon Ridge MS
Amber	Russell	Parent	River Place/Four Points
Melissa	Sanchez	Parent	Westside EM
Kathleen	Schoening	Parent	Rouse HS
Tracie	Schwab	Parent	Leander MS, Leander HS
Amber	Shammas	Parent	Mason EM, Running Brush MS
Sarah	Smith	District	Assistant Director of Child Nutrition Services
Cristin	Wicketts	District	District Nurse
Autumn	Willmann	Parent	Henry MS

Summary of Membership:

28	Parents
7	Community Members ● Health Professional (4) ● Owner of Sports World ● Clergy ● Business Owner
16	District Staff ● Board Member (1) ● Mental Health (2) ● Nutrition (2) ● Nurse (1) ● Counselor (1) ● Principal (2) ● Athletics (1) ● Central Office (3) ● Teacher (3)

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of a Resolution Nominating an Individual to the Travis Central Appraisal District (TCAD) Board of Directors
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Elaine Cogburn
Attachments:	Resolution Nominating an Individual to the Travis Central Appraisal District Board of Directors John Havenstrite – Bio Tom Buckle - Resume

Background Information:

The Travis Central Appraisal District (TCAD) has advised us of our opportunity to nominate an individual to serve on the TCAD Board of Directors. Any nominations for the TCAD Board must be made by resolution and submitted to the Chief Appraiser, Marya Crigler, prior to October 15, 2020.

To be eligible to serve on the Board of Directors for TCAD, an individual must be a resident of Travis County and must have resided in the TCAD District for at least two years immediately preceding the date he or she takes office. The current TCAD Board of Directors member representing Leander ISD is Tom Buckle. The administration has received an additional nomination of John Havenstrite (bio included).

Once the district submits its nomination to the Chief Appraiser, a ballot will be prepared from all the nominations submitted and returned to the district prior to November 2, 2020. The Board will need to cast the District's votes through a resolution by the November 19, 2020 Board meeting in order to meet the December 2, 2020 deadline for submission of votes to the Chief Appraiser.

Administrative Recommendation:

The recommendation is that the Board of Trustees nominate _____(to be determined) to the Travis Central Appraisal District Board through adoption of the attached resolution formally making that nomination.

Sample Motion:

I move that the Board approve the Resolution to nominate _____(to be determined) to the Travis Central Appraisal District Board.

RESOLUTION NO. _____

WHEREAS, Section 6.03 (g) of the Property Tax Code provides for the governing body of taxing units to nominate individuals for each position to be filled on the Travis Central Appraisal District Board of Directors, and

WHEREAS, the Leander Independent School District wishes to nominate the following individual(s):

_____

NOW THEREFORE BE IT RESOLVED BY Leander Independent School District Board of Trustees that Leander Independent School District hereby nominates the individual(s) listed above for the Travis Central Appraisal District Board of Directors.

RESOLVED this 8th day of October 2020.

Signed: _____
Presiding Officer

Attest: _____
Secretary

JOHN HAVENSTRITE
506 BROOKHAVEN TRAIL
AUSTIN, TEXAS 78746
John.havenstrite@yahoo.com

RE: Travis County Appraisal District
Board of Directors Candidacy

September 23, 2020

John Havenstrite is a Principal Account Manager for the Lower Colorado River Authority (LCRA) where he works to enhance emergency communication among first responders throughout Central Texas. Specifically, John helps electeds, and policy makers solve problems that impede first responder interoperability.

However, John began his career in municipal finance. For fourteen years he served as the Tax Assessor Collector for dozens of municipalities that served many tens of thousands of commercial and residential property owners scattered across four urban and rural Texas counties. In that capacity John became expertly familiar with the varying functions, responsibilities, and operations of the region's appraisal districts, the tax assessment and collection cycle, and the relationship each has with municipal finance and economic development.

Prior to moving to Austin in 2004, John was a partner and vice president of a Houston based urban planning firm. Here he gained experience creating and managing virtually all public/private municipal entities permitted in Texas. All of which are dependent upon a reliable, well-functioning appraisal district, and tax assessment collection team.

John is currently the Vice President of the Eanes ISD Board of Trustees. He was elected to the Board in 2017, and will serve a second term beginning in November 2020. John has also served as the Secretary of the Central Texas School Board Association (CTSBA) for the past two years, and is a 2020 graduate of Leadership-TASB (L-TASB). John also serves on advisory committees related to public safety, telecommunications, and the utility industry.

John grew up in New Orleans, and graduated from Louisiana State University (LSU) with degrees in History, Political Science, and Journalism. He volunteers regularly at his church, and in his community whenever he can. But more important than any of the foregoing, John is the proud father of two Westlake High School students, and the unwitting owner of two dogs, two cats, and three chickens.

###

W.THOMAS BUCKLE

EXPERIENCE

2019-present **Scanlan, Buckle & Young, P.C** **Austin, TX**

Of Counsel

Primary Areas of Practice: Commercial and Residential Real Estate, including all aspects of land use controls; Wills, Trusts and Estate Planning, Probate and Guardianship and the creation and representation of various business entities.

1995-2019 **Scanlan Buckle and Young, P.C.** Austin, TX

Principal

Primary Areas of Practice: Litigation, Municipal Law, Commercial and Residential Real Estate, including all aspects of land use controls; Wills, Trusts and Estate Planning, Probate and Guardianship and the creation and representation of various business entities.

1988-1995 **Scanlan & Buckle, P.C.**

Principal

- Primary Areas of Practice: Litigation, Commercial and Residential Real Estate; Muncipal Law; and Wills, Trusts and Estate Planning; Probate and Guardianship; and, the creation and representation of various business entities.

1978-1987 **Scanlan, Buckle & Fleckman** Austin, TX

Partner

Primary Areas of Practice: Litigation, Environmental law, Commercial and Residential Real Estate. Highly active in the State Bar's Environmental Law Section and also lecturing at a number of continuing legal education seminars concerning environmental matters.

1975–1978 **Office of the Attorney General** Austin, TX

Assistant Attorney General

- Primary Areas of Practice: Environmental Protection Division of the Attorney General's office representing the state's environmental agencies advising them on air pollution matters. Litigated cases throughout the State of Texas and was directly involved with the congressional revisions to the Clean Air Act. Worked closely with Senator Lloyd Bentsen's staff and various congressmen from Houston's area.

1973-1975 **Texas Air Control Board** Austin, TX

Staff Attorney

- Primary Areas of Practice: Staff attorney for agency responsible for

controlling air pollution in the State of Texas.

1970–1973 **Legal Aid Society of Travis County** Austin, TX

Staff Attorney/Executive Director

- Primary Areas of Practice: Staff Attorney from 1970-1972 before serving on the Board of Directors. As Acting Director in 1971-1972, supervised 20 employees and was responsible for administering six grants which funded the Legal Aid program.

EDUCATION

1970 **University of Texas School of Law** Austin, TX

Doctor of Juriprudence degree.

1967 **Rice University** Houston, TX

B. A., Political Science

LICENSES/ADMISSIONS/MEMBERSHIPS

Licenses: State Bar License for State of Texas (1970)

Admissions: United States District Court, Western District of Texas, (1980); Southern District of Texas, (1985)

Professional Memberships: State Bar of Texas, 1970 to present; Travis County Bar Association, 1972 to present; Texas Bar Foundation, 1987 to present; Austin Bar Foundation, 2004 to present.

Memberships: State Bar District 9 Grievance Committee Member 1986 to 1993; City of Jonestown Planning & Zoning Commission Member 1998 to 2005; City of Jonestown City Council Member 2005-2006; 2007 to 2013; 2015 to present.

Board of Directors: State Bar of Texas, Environmental Law Section, 1979 to 1982; Chair 1981-1982; Legal Aid Society of Central Texas, 1974-1978, President, 1978; Travis County Bar Association 1974; Twilight Concerts, 2005 to present, Family Eldercare, 2006 to 2012; Travis Central Appraisal District, 2010 to present.

Officer: Treasurer, State Bar of Texas, Environmental Law Section, 1982 to 1983; Vice Chair, Environmental Section of State Bar, 1984; Chair Elect, Environmental Section of State Bar, 1985; Chair, Environmental Section of State Bar, 1986; Chair, State Bar District 9 Grievance Committee, January 1992 to June 1993; Chair, City of Jonestown Planning & Zoning Commission 2000 to 2005; Mayor Pro Tem, City of Jonestown, 2007 to 2013; 2015 to present; Treasurer, Family Eldercare 2008 and 2009; Chair Travis Central Apprasil District 2019.

Assistant City Attorney: City of Westlake Hills, Texas, 1979 to 1985; City of Lakeway, Texas, 1981 to 1990; City of Sunset Valley, Texas 1982 to 1990.

City Attorney: City of Jonestown, Texas, 1985 to 1995; City of Lakeway,

Texas, 1990 to 2007; City of Sunset Valley, Texas, 1990 to 2020; Village of Volente, Texas, 2004 to 2017.

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Consider Approval of Interlocal Agreement with Travis County – Allocation and Use of Funds for Crossing Guards
Purpose (this meeting):	☐ Discussion Item/Report Only ☒ Action Requested
Administrator Responsible:	Elaine Cogburn
Attachments:	Travis County Interlocal Agreement for Allocation and Use of Funds Under Transportation Code Section 502.403

Background Information:

Travis County has provided crossing guards from its allocation of the Child Safety Fee for campuses within Travis County but outside of the City of Austin. The district has been notified that this practice is being discontinued and the County would move to a system of providing funds to school districts to help offset the cost of crossing guards.

The Interlocal Agreement specifies that a portion of the County's net revenue from the Child Safety Fee ($1.50 per motor vehicle registration) will be distributed to the district and four other Travis County public school districts. The Agreement period is the date of last execution by the Parties through July 31, 2021. The funds received will be used to offset costs incurred by the district to hire crossing guards in the Steiner Ranch area.

Administrative Recommendation:

The recommendation is for the Board of Trustees to approve the Interlocal Agreement with Travis County – Allocation and Use of Funds to secure funding to be used towards the cost of crossing guards.

Sample Motion:

I move that the Board of Trustees approve the Interlocal Agreement with Travis County – Allocation and Use of Funds to secure funding to be used towards the cost of crossing guards.

TRAVIS COUNTY INTERLOCAL AGREEMENT
FOR ALLOCATION AND USE OF FUNDS UNDER
TRANSPORTATION CODE SECTION 502.403

This Agreement is entered into by the following Parties: County of Travis, a corporate and political subdivision of Texas, ("County"), and the Leander Independent School District, a public school district located wholly or partly in Travis County, Texas ("District"), collectively, the "Parties."

RECITALS

This Agreement provides for the distribution to District of certain Fee Revenue collected by the Travis County Tax Office pursuant to Section 502.403 of the Texas Transportation Code.

County has the authority under Government Code Chapter 791 to contract with other local governments for government functions and services. District is a "local government" as defined by Texas Government Code § 791.003(4)(A). The Parties desire to enter into this Agreement pursuant to Chapter 791.

In 1991, the Travis County Commissioners Court approved the collection of an additional $1.50 motor vehicle registration fee, as authorized by Section 502.403 Texas Transportation Code, designated as the Child Safety Fee. The Travis County Tax Office collects, allocates and distributes the Child Safety Fee. County receives an Administrative Fee of 10% of the total amount of Fee Revenue collected. The remaining 90% of the Fee Revenue is distributed to County and 16 other local government entities based on population percentages from the 2010 Census (the "Net Revenue"). County receives a prorated allocation of the Net Revenue in proportion to the population of the unincorporated areas of Travis County. Additionally, County receives funds from Justice Courts from fines imposed under Section 102.014 of the Texas Code of Criminal Procedure.

Section 502.403 of the Transportation Code requires counties to apply its allocation of the Child Safety Fee solely for purposes allowed by Sub-section 102.014(g) of the Texas Code of Criminal Procedure, including the operation of a school crossing guard program. Sub-section 102.014(h) authorizes County to distribute to public school districts the Section 102.014 funds it receives from Justice Courts.

County previously expended its allocation of the Net Revenue to fund a school crossing guard program serving children residing in unincorporated areas of the county and attending public schools, including District. On April 7, 2020, the Commissioners voted unanimously to transition the administration and operation of its school crossing guard program to the independent school districts currently served by the county's program beginning with the 2020-2021 academic year.

County desires to contract with District for the distribution of a portion of County's Child Safety Fee allocation. District agrees to expend the allocation for child safety services, specifically for

funding its school crossing guard program serving children attending District schools within Travis County, and for no other purposes.

The Parties desire to enter into this Agreement for these purposes.

AGREEMENT

1. TERM:

1.1 The term of this Agreement begins on August 1, 2020, or on the date of last execution by the Parties, and continues until July 31, 2021, unless terminated earlier as provided in this agreement.

1.2 Subject to continued availability of the Child Safety Fee, this Agreement will thereafter automatically renew on August 1st of each subsequent year.

2. DEFINITIONS:

2.1 "Fee Revenue" means the Child Safety Fee, an additional $1.50 motor vehicle registration fee which is authorized by section 502.403 Texas Transportation Code.

2.2 "Net Revenue" means Fee Revenue less 10% Administrative Fee, and represents the total amount of revenue available to allocate and distribute to eligible local governmental entities.

2.3 "Administrative Fee" means an amount equal to 10% of the Fee Revenue collected by the Travis County Tax Office and used by Travis County to administer the collection, allocation and distribution of the Child Safety Fee to eligible local government entities.

2.4 "Eligible Child Safety Fee Expenditures" means necessary expenditures incurred in providing a school crossing guards program serving children attending District schools in Travis County, in compliance with Article 102.014(g) of the Texas Code of Criminal Procedure.

2.5 "Program Documentation" means the District's comprehensive written plan for its School Crossing Guard Program, including required equipment, resource deployment, service hours, and locations of guards.

2.6 "School Crossing Guard Program" means a program initiated, funded, and managed by the District to employ, equip, and deploy personnel to assist students crossing streets while travelling to and from District schools within Travis County.

2.7 "Public Information Act" means Texas Government Code, Chapter 552.

2.8 "Records" means any invoices, receipts, and other appropriate supporting documentation, papers, reports, records, books, data, and other documents that are reasonably pertinent to the fulfillment of the requirements of this Agreement.

2.9 "Fine Revenue" means funds provided to County by Travis County Justice Courts under Section 102.014 of the Texas Code of Criminal Procedure.

3. ALLOCATION PERCENTAGE:

3.1 County Allocation. County receives an Administrative Fee of 10% of the total amount of Fee Revenue collected by the Travis County Tax Office as provided by Section 502.403 Texas Transportation Code. County also receives an allocation of approximately 20.099% of the Net Revenue based on the percentage of the population of Travis County living outside municipal boundaries. The allocation is based on the 2010 Census. County's allocation will be recalculated based on each new decadal United States Census, when each becomes available.

3.2 Distribution to District. County will distribute a prorated portion of its allocation of Net Revenue and Fine Revenue to District and four other Travis County public school districts. District's prorated distribution for the current school year is 8.79%, based on the number of District students currently served by the Free and Reduced Lunch program, as determined from the Public Education Information Management System (PEIMS) Economically Disadvantaged Status Reports provided by Texas Education Agency for the most current academic year available. The PEIMS Report is updated annually. District's distribution percentage will be recalculated on each subsequent July 1, or as soon thereafter when the data is available.

4. **FUNDING:**

4.1 Taxpayer Identification. Before any distributions are payable, District shall provide the Travis County Auditor with an Internal Revenue W-9 Request for Taxpayer Identification Number and Certification that is completed in compliance with the Internal Revenue Code, its rules and regulations.

4.2 Payment by Direct Deposit. District must contact the Travis County Auditor at suppliersetup@traviscountytx.gov to obtain an electronic form to set up direct deposit into District's account through electronic ACH deposit.

4.3 In-Kind Distribution. Travis County is authorized by Texas Local Government Code, section 263.152 (a) (4) to declare certain used supplies and equipment used by crossing guards, such as signs, gloves, and flags, without Travis County logo or insignia, as surplus property. Surplus property can be disposed of by distributing to District as part of and in consideration of entering into this Agreement, without competitive bidding or auction, provided that such

donation serves a public purpose. Further, that selling such surplus property would result in either no bids or a bid price that is less than the County's expense and District is providing County with adequate consideration by agreeing to continue operation of a school crossing guard program for the safety of children. If District is commencing a new School Crossing Guard Program, County may make an in-kind distribution of surplus crossing guard equipment, if any.

4.4 Monthly Distributions. Beginning with Fee Revenue and Fine Revenue collected in July, 2020, County will make monthly distributions to District on the first business day of the second month following the month in which the Revenue was collected. By way of example, the distribution for Fee Revenue collected in July, 2020, will be made to District on or about the first business day of September, 2020.

4.5 Fiscal Funding Clause. Despite any provision in this Agreement, the obligations of County under it are expressly contingent upon the availability of funding for each obligation in it for the duration of the Agreement. District has no right of action against County if County is unable to fulfill its obligations under this Agreement as a result of lack of sufficient funding for obligation from any source used to fund this Agreement.

5. REPRESENTATIONS AND WARRANTIES OF DISTRICT:

5.1 District represents and warrants that District will use all of the funds allocated to District by County under this Agreement for District's School Crossing Guard Program, and for no other purpose.

5.2 District represents and warrants that District does not intend to and will not use funds allocated to District under this Agreement to fill shortfalls in District's budget, but will in fact be expended to provide school crossing guards assisting students crossing Travis County roads, streets, and highways.

5.3 District represents and warrants that District will refund to County any funds allocated to District under this Agreement if its Records or Program Documentation indicate the funds were expended in violation of this Agreement.

6. RIGHTS AND OBLIGATIONS OF DISTRICT:

6.1 District has the right and obligation to initiate or continue an existing School Crossing Guard Program to serve the District's Travis County public school students. District will be solely responsible for its program, and to employ, equip, and deploy its own personnel to assist students crossing streets while travelling to and from District schools within Travis County.

7. RIGHTS AND OBLIGATIONS OF COUNTY:

7.1 County's obligation to make distributions under this Agreement is expressly conditioned on County's prior receipt of its allocation of Net Revenue from the Travis County Tax Office. County's sole obligation under this Agreement is to make distributions of the allocation of Net Revenue actually received by County in the manner provided herein.

7.2 County may require District to provide copies of its Program Documentation and Records to verify that all funds distributed to it are used solely to fund its School Crossing Guard Program, whether such program is now existing or is initiated following the effective date of this Agreement.

7.3 In the event District fails to provide Program Documentation and Records upon County's reasonable request, or fails to use distributions for the intended purpose, or otherwise defaults in performance of any of its obligations under the Agreement, County may: (i) withhold further disbursements to District until District is no longer in default, or (ii) terminate this Agreement and reallocate District's distributions to other district, or (iii) both (i) and (ii).

7.4 County's right to request copies of District's Program Documentation and Records is solely to verify that District's use of distributions complies with the requirements of this Agreement and Article 102.014(g) of the Texas Code of Criminal Procedure.

8. PROGRAM DOCUMENTATION AND RECORDS

8.1 Maintenance and Retention of Records. District shall keep and maintain Project Documentation and Records that are reasonably pertinent to the fulfillment of the requirements of this Agreement in standard accounting form. District shall make these Records available to Travis County for inspection by County or authorized County personnel upon request. District must keep and maintain these Records for at least four (4) years and ninety (90) days after termination or expiration of this Agreement. If any litigation, claim, or audit involving these Records begins before that specified time period expires, District must keep these Records after the four (4) years and ninety (90) days and until all litigation, claims, or audit findings are resolved. **District is strictly prohibited from destroying or discarding any Records reasonably pertinent to the fulfillment of the requirements of this Agreement, unless the time period for maintaining them under this subsection 8.1 has lapsed. Destruction is deemed non-compliance.**

8.2 Access to Records and Audit. District grants County, any of its duly authorized representatives, timely and unrestricted access to any District Program Documentation and Records that are pertinent to the fulfillment of the requirements of this Agreement, to perform audits, examinations, excerpts, transcripts, and to substantiate the provision of services under this Agreement. District shall furnish all Records at reasonable times and within reasonable periods. This right also includes the right to timely and reasonable access to District's personnel for the purpose of reviewing, interviewing, evaluating, monitoring and making copies of Records

related to these audits and examinations. The Travis County Auditor, her delegates or assigns, and those of any other governmental entity approved by County have the unrestricted right to audit all Records that are reasonably pertinent to the fulfillment of the requirements of this Agreement.

9. CONFIDENTIALITY:

9.1 District shall not disclose privileged or confidential communications or information acquired during performance under this Agreement, unless authorized by law. District shall adhere to all applicable confidentiality requirements, as required by law, for performance under this Agreement.

9.2 Public Information Act. The Parties acknowledge that County and District are subject to the Texas Public Information Act. Despite any other provision, the Parties agree that if any provision of this Agreement, or other documents related to this Agreement, including any exhibit, attachment, amendment, addendum, or other incorporated document, is in conflict with the Public Information Act, that provision shall not have any force or effect. The Parties expressly acknowledge and agree that the County, Travis County Commissioners Court, the County Judge, any Elected County Officials, County Department Heads or County Employees ("County Requestors") may request advice, decisions and opinions of the Attorney General of Texas about the application of the Public Information Act to any item, data or information, or any software, hardware, firmware, or any part of them, or any other equipment or thing or item furnished to or in the possession or knowledge of County. The Parties further acknowledge and agree that County Requestors have the right and obligation by law to rely on the advice, decisions and opinions of the Attorney General of Texas. District releases County Requestors from any liability or obligation of any type, kind or nature regarding any disclosure of any software, hardware, firmware, or any part of them, or other equipment or item, data or information, or any other thing or item furnished by District or in the possession or knowledge of the County that is determined by County in reliance on any advice, decision or opinion of the Attorney General of Texas to be available to the public or any persons.

9.3 The Party that receives a Public Information Act request for documents related to this Agreement or any program undertaken pursuant to this Agreement shall handle that request.

10. ALLOCATION OF RISK:

THE PARTIES AGREE TO BE RESPONSIBLE EACH FOR THEIR OWN NEGLIGENT ACTS OR OMISSIONS, OR OTHER TORTIOUS CONDUCT IN THE COURSE OF PERFORMANCE OF THIS AGREEMENT. THE PARTIES AGREE THAT ANY LIABILITY OR DAMAGES OCCURRING DURING THE PERFORMANCE OF THIS AGREEMENT CAUSED BY THE JOINT OR COMPARATIVE NEGLIGENCE OF THE PARTIES, OR THEIR EMPLOYEES, AGENTS OR OFFICERS, SHALL BE DETERMINED IN ACCORDANCE WITH COMPARATIVE RESPONSIBILITY LAWS OF TEXAS. THIS PARAGRAPH SHALL NOT BE INTERPRETED TO CREATE OR GRANT ANY RIGHTS, OR WAIVE ANY IMMUNITY,

CONTRACTUAL OR OTHERWISE, IN OR TO ANY PERSONS OR ENTITIES NOT A PARTY TO THIS AGREEMENT.

FURTHER, COUNTY ASSUMES NO LIABILITY OF ANY NATURE FOR DISTRICT'S SCHOOL CROSSING GUARD PROGRAM. COUNTY WILL NOT EVALUATE, STUDY, OR INVESTIGATE DISTRICT'S PROGRAM, OTHER THAN TO VERIFY EXISTENCE OF THE PROGRAM AND TO VERIFY THAT THE FUNDS DISTRIBUTED TO DISTRICT BY COUNTY ARE BEING EXPENDED SOLELY TO FUND THE PROGRAM.

11. INSURANCE:

At all times during this Agreement, District and County shall maintain insurance coverage commensurate with that Party's obligations under this Agreement in full force or, to the extent permitted by applicable laws, maintain self-funded insurance reserves commensurate with that Party's obligations under this Agreement and in accordance with sound risk management practices. District and County are responsible for the respective costs of this insurance, including any deductible amounts in any policy and any denials of coverage made by their own respective insurers.

12. AMENDMENTS AND CHANGES IN THE LAW:

12.1 A modification, amendment, novation, or other alteration of this Agreement shall not be effective unless mutually agreed upon in writing, approved by Travis County Commissioners Court and executed by the Parties.

12.2 Any alteration, addition or deletion to this Agreement which is required by changes in federal law, federal guidance, or state law are automatically incorporated into this Agreement without written amendment to it and are effective on the date designated by that law or guidance.

13. ASSIGNMENT:

District may not assign its rights and duties under this Agreement. Any assignment attempted shall be null and void.

14. REMEDIES FOR NON-COMPLIANCE AND TERMINATION:

14.1 If County determines that District materially fails to comply with any term of this Interlocal Agreement, County, in its sole discretion may take actions including:

14.1 Temporarily withholding disbursements pending correction of the deficiency or more severe enforcement action by County;

14.2 Wholly or partially suspending or terminating this Interlocal Agreement;

14.3 Requiring return or offset of previous reimbursements;

14.4 Prohibiting the District from applying for or receiving additional funds for other grant programs administered by County until repayment to County is made and any other compliance or audit finding is satisfactorily resolved;

14.5 Taking other remedies or appropriate actions.

14.3 Termination. At its option and without prejudice to any other remedy to which it may be entitled to at law or in equity, or elsewhere in this Agreement, County may terminate this Agreement, in whole or part, with or without cause, by giving thirty (30) days prior written notice to District. County's termination of this Agreement shall not subject County to liability for any reason.

14.3.1 Without Cause: Each Party may terminate this Agreement, in whole or in part, without cause, upon thirty (30) days prior written notice to the other Party.

14.3.2 With Cause: County has the right to terminate this Agreement immediately, in whole or in part, at its sole discretion, by giving written notice to District.

14.3.2.1 Non-performance by District or District's failure or inability to perform or substantially perform under this Agreement within the time specified, for whatever reason, including due to judicial order, injunction or any other court proceeding;

14.3.2.2 District's improper use, misuse, or inept use of distributions under this Agreement;

14.3.2.3 District's submission of Records and/or Project Documentation that are incorrect, incomplete, or false in any way; or

14.3.2.4 District's failure to comply applicable federal, state, or local laws, rules, regulations and ordinances, or any other provision stated in this Agreement.

15. NOTICE:

15.1 Method. Any notice to be given under this Agreement is deemed to have been given if given in writing and delivered in person or mailed by overnight or Registered Mail, postage pre-paid, to the party who is to receive the notice at the addresses stated in 15.2. Such notice is deemed to have been given three (3) Working Days after the date it was delivered or mailed.

15.2 Addresses for Notice.

TO COUNTY:
Judge Samuel T. Biscoe
Travis County
700 Lavaca Avenue St. 2nd Floor
Austin, Texas 75701 (512) 854-9555 (office)

TO DISTRICT:
Dr. Bruce Gearing
Superintendent
Leander Independent School District
204 W. South Street P.O. Box 218
Leander, Texas 78646

With a copies to:

Cynthia McDonald, (or successor)
County Executive
Travis County Transportation and Natural Resources
P.O. Box 1748
Austin, Texas 78767

Bonnie S. Floyd, MBA, CPPO, CPPB
Purchasing Agent
Travis County Purchasing Office
700 Lavaca Avenue St. 8th Floor
Austin, Texas 75701 (512) 854-9700 (office)

15.3 Change of Address. Each Party may change its address for notice by giving Notice of the new address. County and District shall give notice to each other of any change in its address, including a change in the person to whom attention is directed, within fifteen (15) Days of the change.

16. IMMUNITY:

County Immunity. This Agreement is expressly made subject to County's Sovereign Immunity, Title 5 of the Texas Civil Practices and Remedies Code and all applicable federal and state law. The Parties expressly agree that no provision of this Agreement is in any way intended to constitute a waiver of any immunities from suit or from liability that the County has by operation of law.

17. COMPLIANCE WITH LAWS:

District shall comply with all federal, state, and local statutes, ordinances, rules, regulations and federal Executive Orders applicable to the performance of this Agreement. District is responsible for ensuring this compliance.

18. BINDING AGREEMENT:

This Agreement is binding upon District and County and their respective heirs, successors, executors, administrators and assigns.

19. INTERPRETATIONAL GUIDELINES:

19.1 Contra Proferentem. The doctrine of contra proferentem shall not apply to this Agreement. If an ambiguity exists in this Agreement, the Agreement shall not be interpreted against the Party that drafted the Agreement and that Party is not responsible for the language used.

19.2 Law and Venue. The laws of the State of Texas govern the interpretation of this Agreement. All obligations under this Agreement are performable in Travis County, Texas. The state or federal courts in Travis County shall be the sole and exclusive venue for any litigation between the Parties based on this Agreement.

19.3 Severability. If any portion of this Agreement is ruled invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement remains valid and enforceable.

19.4 Interpretation of Time. All times stated in this Contract, are stated in Central Time. Standard and Daylight Savings are applied based on the time in Austin, Texas on the stated date. In computing periods of time under this Contract, exclude the first Day and include the last Day. If the last Day is not a Working Day, extend the period until the next Working Day.

19.5 Number and Gender. The singular includes the plural and the plural includes the singular. Words of one gender include the other genders.

19.6 Headings. The headings and titles in this Agreement are for convenience only and are not to be used in interpreting this Contract.

20. PERSONS NOT A PARTY NOT TO BENEFIT:

The obligations of each Party to this Agreement shall inure solely to the benefit of the other Party, and no other person or entity may be a third person beneficiary of this Agreement or have any right to enforce any obligation created or established under it.

21. ENTIRE AGREEMENT:

This Agreement including the Exhibits incorporated as a part of it are the entire agreement relating to the subject matter of it between the Parties and supersedes any other agreement about the subject matter of this transaction, whether oral or written, and except as provided in Section 12, this Agreement may not be modified. Each Party acknowledges that the other Party,

or anyone acting on behalf of the other Party has not made any representations, inducements, promises or agreements, orally or otherwise, unless those representations, inducements, promises or agreements are stated in this Agreement, expressly or by incorporation.

22. INDEPENDENT CONTRACTOR:

District, including its employees, agents and licensees, is an independent contractor and not an agent, servant, joint venture or employee of County. District is responsible for its own acts, omissions, forbearance, negligence and deeds, and for those of its agents or employees in conjunction with the performance of services or disbursement of funds under this Agreement. District is specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the requirements of this Agreement. There shall be no contractual relationship between County and any subcontractor, agent, employee or supplier of District by virtue of this Agreement.

23. DUPLICATE ORIGINALS:

This Agreement may be executed in duplicate originals and is effective when executed by both Parties.

24. SIGNATORY WARRANTY

The persons signing this Agreement for the Parties represent and warrant that they are officers of entity for which they have executed this Agreement and that they have full and complete authority to enter into this Agreement on behalf of their respective entity and that their executions are the acts of the Parties involved and have been delivered and constitute legal, valid and binding obligations of the respective Parties.

25. ACCEPTANCES

By their signatures below, the duly authorized representatives of County and District accept the terms of this Agreement in full.

COUNTY OF TRAVIS, STATE OF TEXAS	**LEANDER INDEPENDENT SCHOOL DISTRICT**
_____	_____
BY: Samuel T. Biscoe Travis County Judge	BY: Bruce Gearing Leander Independent School District Superintendent
Date: _____	Date: _____

Approved as to Form:

_____

Assistant County Attorney
Travis County Attorney's Office

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Core Beliefs and Commitments: Vision/Mission
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Administrator Responsible:	Sarah Grissom, Bruce Gearing
Attachments:	N/A

Background Information:
This item is on the agenda to provide an opportunity for the Board of Trustees to establish core beliefs and commitments. Additionally, the Board will consider a district mission statement, and will review, and modify if necessary, the district's current vision statement of "Engage, inspire, achieve for life-long success."

Administrative Recommendation:
N/A

Sample Motion:
N/A

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Design Process for Elementary 29	
Purpose (this meeting):	☒ Discussion Item/Report Only	☐ Action Requested
Administrator Responsible:	Jimmy Disler	
Attachments:	N/A	

Background Information:

The long-range building plan included in the 2019 demographic update showed that Nancy Tarvin Elementary (Elementary 28) was needed in the fall of 2021 and Elementary 29 in the fall of 2022. In order to open Elementary 29 in the fall of 2022, design typically would have started in August 2020. However, due to the COVID-19 pandemic, we held off starting the design process in order to gain a better understanding of the impact COVID-19 would have on enrollment. Population & Survey and Analysts (PASA) will be presenting its annual update to the Board of Trustees at the October 22 meeting.

Preliminary discussions with PASA indicate that Elementary 29 is still projected to be needed in the fall of 2022. Based on these discussions, and the assumption that the final report continues with that projection, administration plans to begin the design process following the October 22 meeting in order to prepare for the opening of Elementary 29 in 2022.

Administrative Recommendation:

N/A

Sample Motion:

N/A

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	Resolution Ratifying City of Georgetown Easements
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Action Requested (future meeting):	Thursday, October 22, 2020
Administrator Responsible:	Jimmy Disler
Attachments:	Resolution Executed Temporary Construction Easement Executed Waterline Easement

Background Information:

This past summer, the City of Georgetown requested that an easement be granted for the placement of a water line along the perimeter of one side of LISD property at Parkside Elementary. Typically, the execution of the Resolution Determining Need when acquiring a property grants the Superintendent the authority to sign easements necessary for the development of the property. The Parkside Elementary property was purchased in 2006 and the Resolution Determining Need did not explicitly spell out the authority to execute easements after development is complete. The City's title company has requested proof that the Superintendent has authority to sign the easements. The attached Resolution will ratify and confirm the Superintendent's signature authority and action in executing the Waterline Easement and Temporary Construction Easement. Work related to the easements was completed in August 2020. The easements did not negatively affect the property.

Administrative Recommendation:

Administration recommends the Board approve the Resolution authorizing, ratifying, and confirming the grant of a waterline easement (and temporary construction easement) to the City of Georgetown.

Sample Motion:

I move that the Board approve the Resolution authorizing, ratifying, and confirming the grant of a waterline easement (and temporary construction easement) to the City of Georgetown.

RESOLUTION RATIFYING CITY OF GEORGETOWN EASEMENTS

A RESOLUTION OF THE BOARD OF TRUSTEES OF LEANDER INDEPENDENT SCHOOL DISTRICT, AUTHORIZING, RATIFYING, AND CONFIRMING THE GRANT OF A WATERLINE EASEMENT (AND TEMPORARY CONSTRUCTION EASEMENT) TO THE CITY OF GEORGETOWN.

WHEREAS, the City of Georgetown, Texas ("Georgetown") requested that Leander Independent School District (the "District") convey a Waterline Easement (and accompanying Temporary Construction Easement) across a portion of the elementary school site known as Parkside Elementary; and

WHEREAS, whereas the Superintendent negotiated an agreement with Georgetown to convey said Easement in exchange for a payment of $25,000; and

WHEREAS, said Easement does not have a negative effect on District property, nor the educational facilities on said District property, nor will it affect future plans for said District property; NOW, THEREFORE:

BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE LEANDER INDEPENDENT SCHOOL DISTRICT:

PART 1: That the Board of Trustees of Leander Independent School District authorizes the Superintendent to negotiate the conveyance of a Waterline Easement and Temporary Construction to the City of Georgetown, across a portion of the Parkside Elementary property, in exchange for a payment of $25,000.

PART 2: That the Board of Trustees of Leander Independent School District hereby ratifies and confirms the Superintendent's authority to negotiate and execute the Waterline Easement and Temporary Construction attached hereto, and all related documents necessary to accomplish such purpose, including documents required by the title company.

PART 3: That this resolution shall take effect immediately from and after its passage, but that the Superintendent's signature and action dated July 9, 2020, in executing the Waterline Easement and Temporary Construction Easement is hereby ratified and confirmed.

ADOPTED this ___ day of October, 2020.

ATTEST:

_____	_____
SECRETARY, Board of Trustees, Leander Independent School District	PRESIDENT, Board of Trustees, Leander Independent School District

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS**
COUNTY OF WILLIAMSON §

This instrument is made on the ____ day of _____, 20__, at Georgetown, Texas, between Board of Trustees, Leander Independent School District, whose address is PO Box 218 Leander, Texas 78646 (hereinafter referred to as "Grantor"), and the City of Georgetown, a Texas home-rule municipal corporation, whose address is P.O. Box 409, Georgetown, Texas, 78627 (herein referred to as "Grantee").

1. For the good and valuable consideration described in Paragraph 2 below, Grantor hereby GRANTS, SELLS and CONVEYS to Grantee, its successors and assigns, a temporary construction easement and right-of-way on, over, under, and across the following described property of the Grantor, to wit:

   Being all that certain tract, piece or parcel of land lying and being situated in the County of Williamson, State of Texas, depicted on the diagram in **Exhibit A** attached hereto and made a part hereof for all purposes (herein referred to sometimes as the "Temporary Construction Easement Area" or the "Property").

2. This Easement and the rights and privileges herein conveyed are granted for and in consideration of the sum of ONE AND NO/100 DOLLARS ($1.00) and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged and confessed.

3. This Temporary Construction Easement, with its rights and privileges, shall be used by Grantee only for construction purposes, namely for the purpose of temporarily storing supplies, trucks, construction vehicles, construction equipment, and utility equipment and related facilities on and within the Property, and for the purpose of traversing on, over and across the Property in connection with the proposed project to construct and install waterline improvements either within an adjoining waterline easement area or within the Property (the "Project).

4. This instrument and the Temporary Construction Easement shall be in effect from the date construction begins on the Project and shall expire upon completion of construction of the Project and the adjoining drainage easement, but no later than August 9, 2020, whichever occurs first.

5. Grantee expressly agrees to return the Temporary Construction Easement Area to like or better condition, or as close thereto as is reasonably possible.

6. Grantor and Grantor's heirs, personal representatives, successors, and assigns are and shall be bound to WARRANT and FOREVER DEFEND the Temporary Construction Easement and the rights conveyed in this instrument to Grantee and Grantee's successors and assigns, against every person lawfully claiming or to claim all or any part thereof.

7. This Temporary Construction Easement, and the rights and privileges granted by this conveyance, are EXCLUSIVE to Grantee for the duration of this instrument, and Grantor covenants not to convey any other easement, license or other conflicting rights to use the area (or any portion of the area) covered by this grant for the duration of this instrument.

8. This instrument contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this instrument shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by all parties.

9. The terms of this instrument shall be binding upon Grantor, and Grantor's heirs, personal representatives, successors, and assigns; shall bind and inure to the benefit of the Grantee and any successors or assigns of Grantee; and shall be deemed to be a covenant running with the land.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 9th day of JULY, 2020.

GRANTOR:
BOARD OF TRUSTEES, LEANDER INDEPENDENT SCHOOL DISTRICT

By: _____
Name: BRUCE GEARING
Title: SUPERINTENDENT

State of Texas §

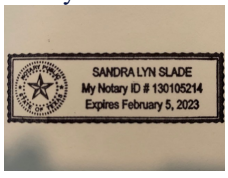
County of Williamson §

Before me, Sandra Lyn Slade, on this day personally appeared by means of an interactive two-way audio and video communication Dr. Bruce Gearing, Superintendent for Leander Independent School District, who is known to me, and provided satisfactory evidence of identity in accordance with Chapter 406, Texas Government Code, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purpose and consideration therein expressed. This notarial act was an online notarization.

Given under my hand and seal of office this 9th day of July, 2020.

State of Texas Online Notary: Sandra Lyn Slade, ID#130105214, Exp. February 5, 2023

Notary



Digital Certificate
https://rb.gy/pnlygw

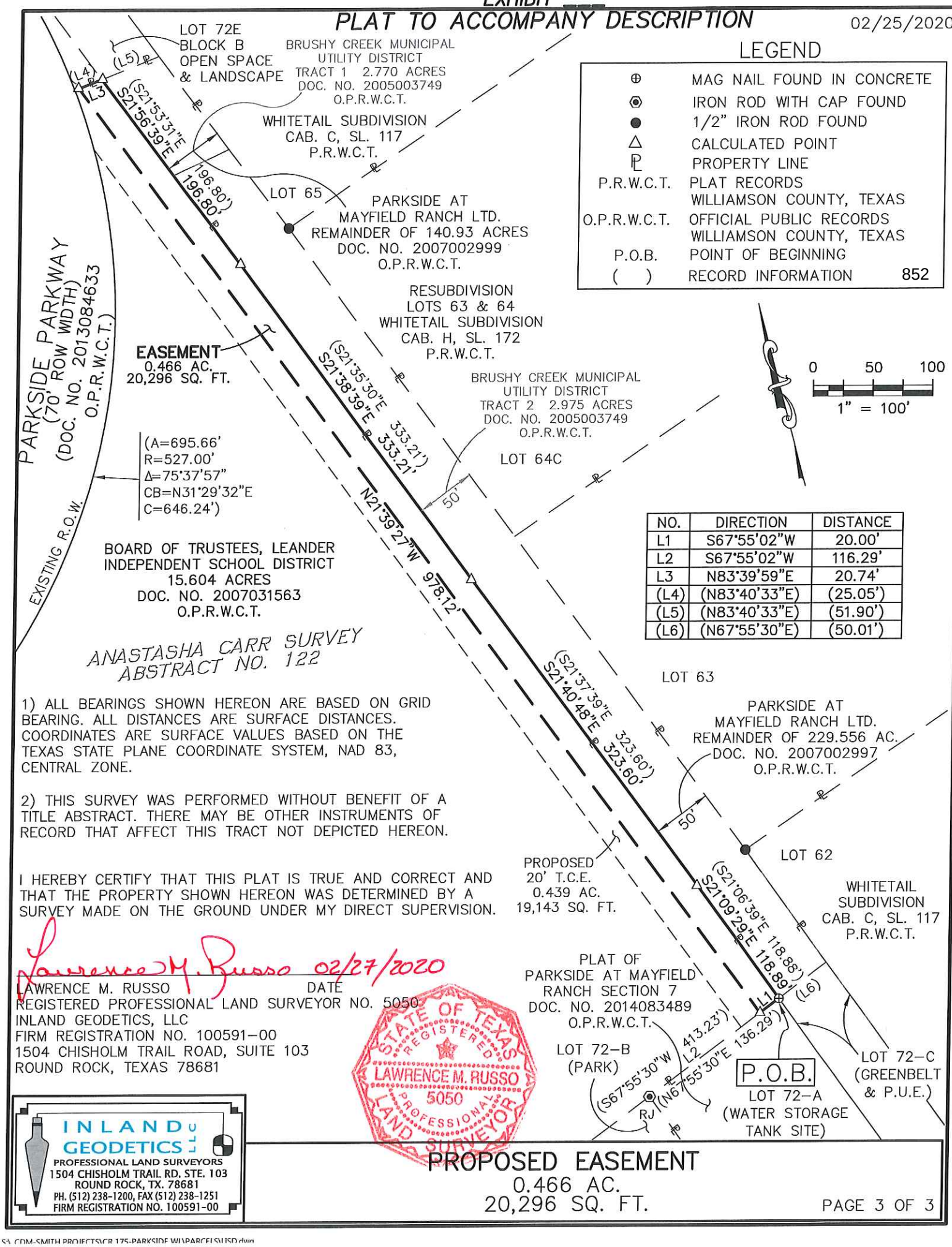
APPROVED AS TO FORM:

_____,Assistant City Attorney

EXHIBIT A

PLAT TO ACCOMPANY DESCRIPTION

02/25/2020



LEGEND

⊕	MAG NAIL FOUND IN CONCRETE
◉	IRON ROD WITH CAP FOUND
●	1/2" IRON ROD FOUND
△	CALCULATED POINT
℄	PROPERTY LINE
P.R.W.C.T.	PLAT RECORDS WILLIAMSON COUNTY, TEXAS
O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
P.O.B.	POINT OF BEGINNING
( )	RECORD INFORMATION

852

NO.	DIRECTION	DISTANCE
L1	S67°55'02"W	20.00'
L2	S67°55'02"W	116.29'
L3	N83°39'59"E	20.74'
(L4)	(N83°40'33"E)	(25.05')
(L5)	(N83°40'33"E)	(51.90')
(L6)	(N67°55'30"E)	(50.01')

1) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARING. ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE.

2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

Lawrence M. Russo 02/27/2020

LAWRENCE M. RUSSO DATE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050
INLAND GEODETICS, LLC
FIRM REGISTRATION NO. 100591-00
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 78681

STATE OF TEXAS
REGISTERED
LAWRENCE M. RUSSO
5050
PROFESSIONAL
LAND SURVEYOR

INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

PROPOSED EASEMENT
0.466 AC.
20,296 SQ. FT.

S:\A_CDM-SMITH PROJECTS\CR 175-PARKSIDE W\PARCELS\USD.dwg

WATER LINE EASEMENT

STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF WILLIAMSON §

This Agreement (this "Agreement") is made on the _____ day of _____, 20_, at Georgetown, Texas, between Board of Trustees, Leander Independent School District, whose address is PO Box 218 Leander, Texas 78646 (hereinafter referred to as "Grantor"), and the City of Georgetown, a Texas home-rule municipal corporation, whose address is P.O. Box 409 Georgetown, Texas 78627, ATTN: Georgetown City Secretary (herein referred to as "Grantee").

1. For the good and valuable consideration described in Paragraph 2 below, Grantor hereby GRANTS, SELLS and CONVEYS to Grantee, its successors and assigns, an EXCLUSIVE easement and right-of-way (the "Easement") for the placement, construction, operation, repair, maintenance, replacement, upgrade, rebuilding, relocation and/or removal of water lines and related facilities (provided such water lines and related facilities must all be underground) (collectively, the "Facilities") on, over, under, and across the following described property of the Grantor, to wit:

   Being all that certain tract, piece or parcel of land lying and being situated in the County of Williamson, State of Texas, being more particularly described by metes and bounds in **Exhibit A** and by diagram in **Exhibit B** attached hereto and made a part hereof for all purposes (herein sometimes referred to as the "Easement Area" or the "Property").

2. The Easement and the rights and privileges herein conveyed, are granted for and in consideration of the sum of One and No/100 Dollars ($1.00) and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged and confessed.

3. The Easement, with its rights and privileges, shall be used only for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, upgrading, relocating, and/or removing the Facilities. The Easement additionally includes the following rights: (1) the right to change the size of the Facilities; (2) the right to relocate the Facilities within the Easement; (3) the right to remove from the Easement all trees and parts thereof, or other obstructions, which are added after the date of this Easement, which endanger or may interfere with the efficiency and maintenance of the Facilities; and (4) the right to remove from the Easement, but only with the written permission of Grantor, any trees or other obstructions existing as of the date of this Easement. Grantee acknowledges that there is an existing grove of oak trees within or nearby the Easement, and Grantee agrees to use a boring technique to try and minimize damage or destruction to existing trees within that area. In the event that one or more of such existing trees dies or is fatally damaged within 12 months from the date of installation of the Facilities as a result of work by Grantee (as

determined by a certified arborist), then Grantee agrees to replace an equal number of inches of the same species of tree at a location to be designated by Grantor. Grantee further agrees to restore any damage to existing walking trails, landscaping, or vegetation after installation of the Facilities.

4. The duration of the Easement is perpetual.

5. Grantor and Grantor's heirs, personal representatives, successors, and assigns are and shall be bound to WARRANT and FOREVER DEFEND the Easement and the rights conveyed in this Agreement to Grantee and Grantee's successors and assigns, against every person lawfully claiming or to claim all or any part thereof, subject only to matters of public record or as would be determined by an on-the-ground survey.

6. The Easement, and the rights and privileges granted by this Agreement, are EXCLUSIVE to Grantee, and Grantee's successors and assigns. Grantor reserves the right to construct driveways and utilities, including water, gas, telecommunication, and electrical lines, at generally perpendicular angles to the Facilities, as well as curbing, sidewalks, and trails (collectively, the "Grantor Improvements") across the Easement Area, and to grant public or private easements for such purposes subject to the following requirements: (1) the construction, placement, maintenance, inspection, operation, repair, alteration, replacement and/or removal of the Grantor Improvements shall not materially interfere with Grantee's rights herein, (2) Grantor shall first obtain from Grantee a license, not to be unreasonably withheld, for the encroachment of any Grantor Improvements installed into the Easement Area after the date hereof, but not including any repair, restoration, or reconstruction of any existing Grantor Improvements, and (3) Grantor shall first obtain Grantee's consent, not to be unreasonably withheld, to the granting of any public or private easements across the Easement Area after the date hereof. Grantor hereby RELEASES AND HOLDS GRANTEE HARMLESS from any responsibility and liability to repair, replace, maintain, or compensate Grantor for damages to surface improvements within the Easement Area incidental to Grantee's exercise of its rights and privileges granted herein, except as otherwise provided in this Easement.

7. This Agreement contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by all parties.

8. The terms of this Agreement shall be binding upon Grantor, and Grantor's heirs, personal representatives, successors, and assigns; shall bind and inure to the benefit of the Grantee and any successors or assigns of Grantee; and shall be deemed to be a covenant running with the land.

9. Any access by Grantee to Grantor's lands must be with prior written notice to Grantor, and must comply with all of Grantor's access restrictions imposed on visitors and guests as school safety policies for the protection of students.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 9th day of JULY, 2020.

GRANTOR:
BOARD OF TRUSTEES, LEANDER INDEPENDENT SCHOOL DISTRICT

By: _____

Name: Dr. Bruce Gearing

Title: Superintendent

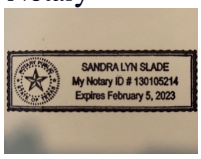
State of Texas §

County of Williamson §

Before me, Sandra Lyn Slade, on this day personally appeared by means of an interactive two way audio and video communication Dr. Bruce Gearing, Superintendent for Leander Independent School District, who is known to me, and provided satisfactory evidence of identity in accordance with Chapter 406, Texas Government Code, to be the person whose name is subscribed to the foregoing instrument and acknowledged to me that they executed the same for the purpose and consideration therein expressed. This notarial act was an online notarization.

Given under my hand and seal of office this 9th day of July, 2020.
State of Texas Online Notary: Sandra Lyn Slade, ID#130105214, Exp. February 5, 2023

Notary



Digital Certificate
https://rb.gy/pnlygw

APPROVED AS TO FORM:

_____

_____, Asst. City Attorney

TEMPORARY CONSTRUCTION EASEMENT

STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS**
COUNTY OF WILLIAMSON §

This instrument is made on the 31 day of August, 2020, at Georgetown, Texas, between Board of Trustees, Leander Independent School District, whose address is PO Box 218 Leander, Texas 78646 (hereinafter referred to as "Grantor"), and the City of Georgetown, a Texas home-rule municipal corporation, whose address is P.O. Box 409, Georgetown, Texas, 78627 (herein referred to as "Grantee").

1. For the good and valuable consideration described in Paragraph 2 below, Grantor hereby GRANTS, SELLS and CONVEYS to Grantee, its successors and assigns, a temporary construction easement and right-of-way on, over, under, and across the following described property of the Grantor, to wit:

   > Being all that certain tract, piece or parcel of land lying and being situated in the County of Williamson, State of Texas, depicted on the diagram in **Exhibit A** attached hereto and made a part hereof for all purposes (herein referred to sometimes as the "Temporary Construction Easement Area" or the "Property").

2. This Easement and the rights and privileges herein conveyed are granted for and in consideration of the sum of ONE AND NO/100 DOLLARS ($1.00) and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged and confessed.

3. This Temporary Construction Easement, with its rights and privileges, shall be used by Grantee only for construction purposes, namely for the purpose of temporarily storing supplies, trucks, construction vehicles, construction equipment, and utility equipment and related facilities on and within the Property, and for the purpose of traversing on, over and across the Property in connection with the proposed project to construct and install waterline improvements either within an adjoining waterline easement area or within the Property (the "Project).

4. This instrument and the Temporary Construction Easement shall be in effect from the date construction begins on the Project and shall expire upon completion of construction of the Project and the adjoining drainage easement, but no later than August 9, 2020, whichever occurs first.

5. Grantee expressly agrees to return the Temporary Construction Easement Area to like or better condition, or as close thereto as is reasonably possible.

6. Grantor and Grantor's heirs, personal representatives, successors, and assigns are and shall be bound to WARRANT and FOREVER DEFEND the Temporary Construction Easement and the rights conveyed in this instrument to Grantee and Grantee's successors and assigns, against every person lawfully claiming or to claim all or any part thereof.

7. This Temporary Construction Easement, and the rights and privileges granted by this conveyance, are EXCLUSIVE to Grantee for the duration of this instrument, and Grantor covenants not to convey any other easement, license or other conflicting rights to use the area (or any portion of the area) covered by this grant for the duration of this instrument.

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9. The terms of this instrument shall be binding upon Grantor, and Grantor's heirs, personal representatives, successors, and assigns; shall bind and inure to the benefit of the Grantee and any successors or assigns of Grantee; and shall be deemed to be a covenant running with the land.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 31 day of August, 2020.

GRANTOR:
BOARD OF TRUSTEES, LEANDER INDEPENDENT SCHOOL DISTRICT

By: _____
Name: Bruce Gearing
Title: Superintendent

STATE OF Texas §
§
COUNTY OF Williamson §

This instrument was acknowledged before me on this the 31 day of August, 2020, by Dr Bruce Gearing, Superintendent of the Leander Independent School District, on behalf of said district.

JANICE RENEE FELPS
Notary Public, State of Texas
Comm. Expires 04-11-2024
Notary ID 130614263

_____
Notary Public, State of Texas

APPROVED AS TO FORM:

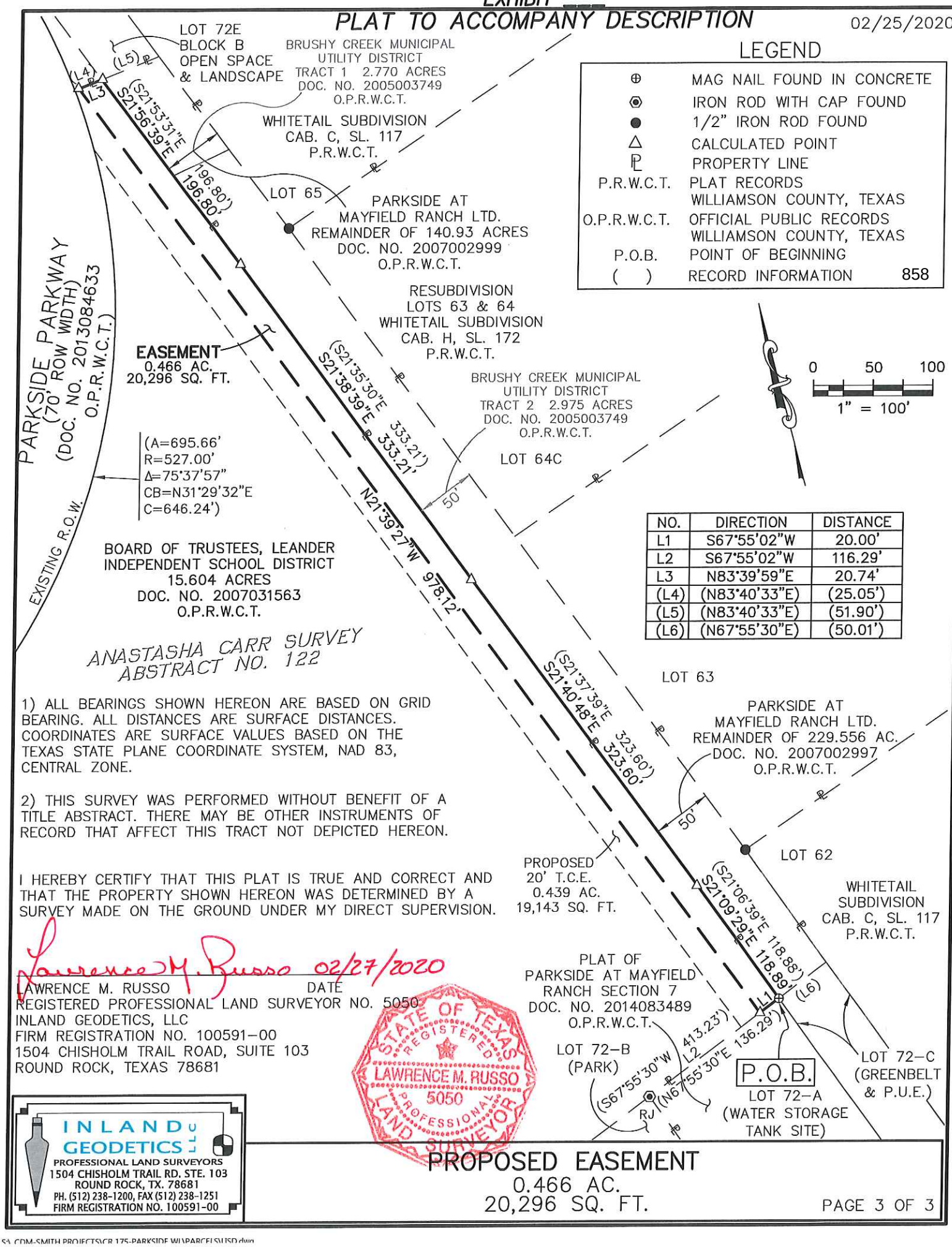
_____

_____,Assistant City Attorney

EXHIBIT A

PLAT TO ACCOMPANY DESCRIPTION

02/25/2020



LEGEND

⊕	MAG NAIL FOUND IN CONCRETE
◉	IRON ROD WITH CAP FOUND
●	1/2" IRON ROD FOUND
△	CALCULATED POINT
℄	PROPERTY LINE
P.R.W.C.T.	PLAT RECORDS WILLIAMSON COUNTY, TEXAS
O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
P.O.B.	POINT OF BEGINNING
( )	RECORD INFORMATION

858

NO.	DIRECTION	DISTANCE
L1	S67°55'02"W	20.00'
L2	S67°55'02"W	116.29'
L3	N83°39'59"E	20.74'
(L4)	(N83°40'33"E)	(25.05')
(L5)	(N83°40'33"E)	(51.90')
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Lawrence M. Russo 02/27/2020

LAWRENCE M. RUSSO DATE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050
INLAND GEODETICS, LLC
FIRM REGISTRATION NO. 100591-00
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 78681

STATE OF TEXAS
REGISTERED
LAWRENCE M. RUSSO
5050
PROFESSIONAL
LAND SURVEYOR

INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

PROPOSED EASEMENT
0.466 AC.
20,296 SQ. FT.

S:\A_CDM-SMITH PROJECTS\CR 175-PARKSIDE W\PARCELS\USD.dwg

WATER LINE EASEMENT

STATE OF TEXAS §
§ **KNOW ALL MEN BY THESE PRESENTS:**
COUNTY OF WILLIAMSON §

This Agreement (this "Agreement") is made on the 31 day of August, 2020 at Georgetown, Texas, between Board of Trustees, Leander Independent School District, whose address is PO Box 218 Leander, Texas 78646 (hereinafter referred to as "Grantor"), and the City of Georgetown, a Texas home-rule municipal corporation, whose address is P.O. Box 409 Georgetown, Texas 78627, ATTN: Georgetown City Secretary (herein referred to as "Grantee"). 859

1. For the good and valuable consideration described in Paragraph 2 below, Grantor hereby GRANTS, SELLS and CONVEYS to Grantee, its successors and assigns, an EXCLUSIVE easement and right-of-way (the "Easement") for the placement, construction, operation, repair, maintenance, replacement, upgrade, rebuilding, relocation and/or removal of water lines and related facilities (provided such water lines and related facilities must all be underground) (collectively, the "Facilities") on, over, under, and across the following described property of the Grantor, to wit:

   > Being all that certain tract, piece or parcel of land lying and being situated in the County of Williamson, State of Texas, being more particularly described by metes and bounds in **Exhibit A** and by diagram in **Exhibit B** attached hereto and made a part hereof for all purposes (herein sometimes referred to as the "Easement Area" or the "Property").

2. The Easement and the rights and privileges herein conveyed, are granted for and in consideration of the sum of One and No/100 Dollars ($1.00) and other good and valuable consideration to Grantor in hand paid by Grantee, the receipt and sufficiency of which is hereby acknowledged and confessed.

3. The Easement, with its rights and privileges, shall be used only for the purpose of placing, constructing, operating, repairing, maintaining, rebuilding, replacing, upgrading, relocating, and/or removing the Facilities. The Easement additionally includes the following rights: (1) the right to change the size of the Facilities; (2) the right to relocate the Facilities within the Easement; (3) the right to remove from the Easement all trees and parts thereof, or other obstructions, which are added after the date of this Easement, which endanger or may interfere with the efficiency and maintenance of the Facilities; and (4) the right to remove from the Easement, but only with the written permission of Grantor, any trees or other obstructions existing as of the date of this Easement. Grantee acknowledges that there is an existing grove of oak trees within or nearby the Easement, and Grantee agrees to use a boring technique to try and minimize damage or destruction to existing trees within that area. In the event that one or more of such existing trees dies or is fatally damaged within 12 months from the date of installation of the Facilities as a result of work by Grantee (as

determined by a certified arborist), then Grantee agrees to replace an equal number of inches of the same species of tree at a location to be designated by Grantor. Grantee further agrees to restore any damage to existing walking trails, landscaping, or vegetation after installation of the Facilities.

4. The duration of the Easement is perpetual.

5. Grantor and Grantor's heirs, personal representatives, successors, and assigns are and shall be bound to WARRANT and FOREVER DEFEND the Easement and the rights conveyed in this Agreement to Grantee and Grantee's successors and assigns, against every person lawfully claiming or to claim all or any part thereof, subject only to matters of public record or as would be determined by an on-the-ground survey. 860

6. The Easement, and the rights and privileges granted by this Agreement, are EXCLUSIVE to Grantee, and Grantee's successors and assigns. Grantor reserves the right to construct driveways and utilities, including water, gas, telecommunication, and electrical lines, at generally perpendicular angles to the Facilities, as well as curbing, sidewalks, and trails (collectively, the "Grantor Improvements") across the Easement Area, and to grant public or private easements for such purposes subject to the following requirements: (1) the construction, placement, maintenance, inspection, operation, repair, alteration, replacement and/or removal of the Grantor Improvements shall not materially interfere with Grantee's rights herein, (2) Grantor shall first obtain from Grantee a license, not to be unreasonably withheld, for the encroachment of any Grantor Improvements installed into the Easement Area after the date hereof, but not including any repair, restoration, or reconstruction of any existing Grantor Improvements, and (3) Grantor shall first obtain Grantee's consent, not to be unreasonably withheld, to the granting of any public or private easements across the Easement Area after the date hereof. Grantor hereby RELEASES AND HOLDS GRANTEE HARMLESS from any responsibility and liability to repair, replace, maintain, or compensate Grantor for damages to surface improvements within the Easement Area incidental to Grantee's exercise of its rights and privileges granted herein, except as otherwise provided in this Easement.

7. This Agreement contains the entire agreement between the parties relating to its subject matter. Any oral representations or modifications concerning this Agreement shall be of no force and effect. Any subsequent amendment or modification must be in writing and agreed to by all parties.

8. The terms of this Agreement shall be binding upon Grantor, and Grantor's heirs, personal representatives, successors, and assigns; shall bind and inure to the benefit of the Grantee and any successors or assigns of Grantee; and shall be deemed to be a covenant running with the land.

9. Any access by Grantee to Grantor's lands must be with prior written notice to Grantor, and must comply with all of Grantor's access restrictions imposed on visitors and guests as school safety policies for the protection of students.

IN WITNESS WHEREOF, Grantor has caused this instrument to be executed on this 31 day of August, 2020.

GRANTOR:
BOARD OF TRUSTEES, LEANDER INDEPENDENT SCHOOL DISTRICT

861

By: _____

Name: Dr. Bruce Gearing

Title: Superintendent

STATE OF Texas §
§
COUNTY OF Williamson §

This instrument was acknowledged before me on this the 31 day of August, 2020, by Bruce Gearing, Superintendent of the Leander Independent School District, on behalf of said district.

JANICE RENEE FELPS
Notary Public, State of Texas
Comm. Expires 04-11-2024
Notary ID 130614263

_____
Notary Public, State of Texas

APPROVED AS TO FORM:

_____

_____, Asst. City Attorney

EXHIBIT A

County: Williamson
Parcel: Proposed Easement
Project: Leander Independent School District

PROPERTY DESCRIPTION

DESCRIPTION OF A 0.466 ACRE (20,296 SQUARE FOOT) TRACT OF LAND SITUATED IN THE ANASTASHA CARR SURVEY, ABSTRACT NO. 122, IN WILLIAMSON COUNTY, TEXAS, BEING A PORTION OF THAT CALLED 15.604 ACRE TRACT OF LAND DESCRIBED IN A SPECIAL WARRANTY DEED TO BOARD OF TRUSTEES, LEANDER INDEPENDENT SCHOOL DISTRICT RECORDED IN DOCUMENT NO. 2007031563 OF THE OFFICIAL PUBLIC RECORDS OF WILLIAMSON COUNTY, TEXAS, SAID 0.466 ACRE (20,296 SQUARE FOOT) TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING at a PK nail found, being the common north corner of Lot 72-A (Water Storage Tank Site) and Lot 72-C (Greenbelt & Public Utility Easement) both of Parkside at Mayfield Ranch Section 7, a subdivision of record in Document No. 2014083489, of the Official Public Records of Williamson County, Texas, same being the southeasterly corner of said 15.604 acre tract, also being in the westerly easement line of that called 2.975 acre (Tract 2) of land described in Water Line Easement to Brushy Creek Municipal Utility District recorded in Document No. 2005003749 of the Official Public Records of Williamson County, Texas, same being the westerly boundary line of that called 229.556 acre remainder tract of land described in a Special Warranty Deed to Parkside at Mayfield Ranch Ltd., recorded in Document No. 2007002997, of the Official Public Records of Williamson County, Texas, for the southeasterly corner and **POINT OF BEGINNING** of the herein described tract;

1) **THENCE,** departing the westerly boundary line of said 2.975 acre easement tract and the remainder of said 229.556 acre tract, with the common boundary line of said Lot 72-A and said 15.604 acre tract, **S67°55'02" W,** for a distance of **20.00** feet to the calculated southwesterly corner of the herein described tract, and from which, an iron rod with a plastic cap stamped "RJ-Surveying" found, being the northeasterly corner of Lot 72-B (Park), same being the northwesterly corner of said Lot 72-A bears S 67°55'02" W, at a distance of 116.29 feet;

2) **THENCE,** departing the northerly boundary line of said Lot 72-A, through the interior of said 15.604 acre tract, **N 21°39'27" W,** for a distance of **978.12** feet to a calculated point, being in the southerly boundary line of Lot 72E, Block B, (Open Space & Landscape), of Parkside Parkway Phase 2, a subdivision of record in Document No. 2013084633, of the Official Public Records of Williamson County, Texas, same being in the northerly boundary line of said 15.604 acre tract, for the northwesterly corner of the herein described tract;

3) **THENCE,** with the common boundary line of said Lot 72E and said 15.604 acre tract, **N 83°39'59" E,** for a distance of **20.74** feet to a calculated point, being in the westerly boundary line of said 2.975 acre easement tract, same being the westerly boundary line of said 229.556 acre remainder tract, also being the easterly boundary line of said 15.604 acre tract, for the northeasterly corner of the herein described tract;

THENCE, departing said Lot 72E, with the common boundary line of the westerly boundary line of said 2.975 acre easement tract and said westerly boundary line of said 229.556 acre remainder tract, same being the easterly boundary line of said 15.604 acre tract, the following four (4) courses:

4) **S 21°56'39" E,** for a distance of **196.80** feet to a calculated angle point;

5) **S 21°38'39" E,** for a distance of **333.21** feet to a calculated angle point;

6) **S 21°40'48" E,** for a distance of **323.60** feet to a calculated angle point;

7) **S 21°09'29" E,** for a distance of **118.89** feet to the **POINT OF BEGINNING**, containing 0.466 acres (20,296 square feet) of land, more or less.

NOTE: This parcel is accompanied by a 20' wide T.C.E. (Temporary Construction Easement) being coincident with, parallel, and westerly of the above described course 2 as shown on the accompanying sketch.

This property description is accompanied by a separate parcel plat.

All bearings recited herein are based on the Texas State Plane Coordinate System, Central Zone No. 4203, NAD 83.

THE STATE OF TEXAS §
§ KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF WILLIAMSON §

That I, Lawrence M. Russo, a Registered Professional Land Surveyor, do hereby certify that the above description is true and correct to the best of my knowledge and belief and that the property described herein was determined by a survey made on the ground under my direction and supervision.

WITNESS MY HAND AND SEAL at Round Rock, Williamson County, Texas.

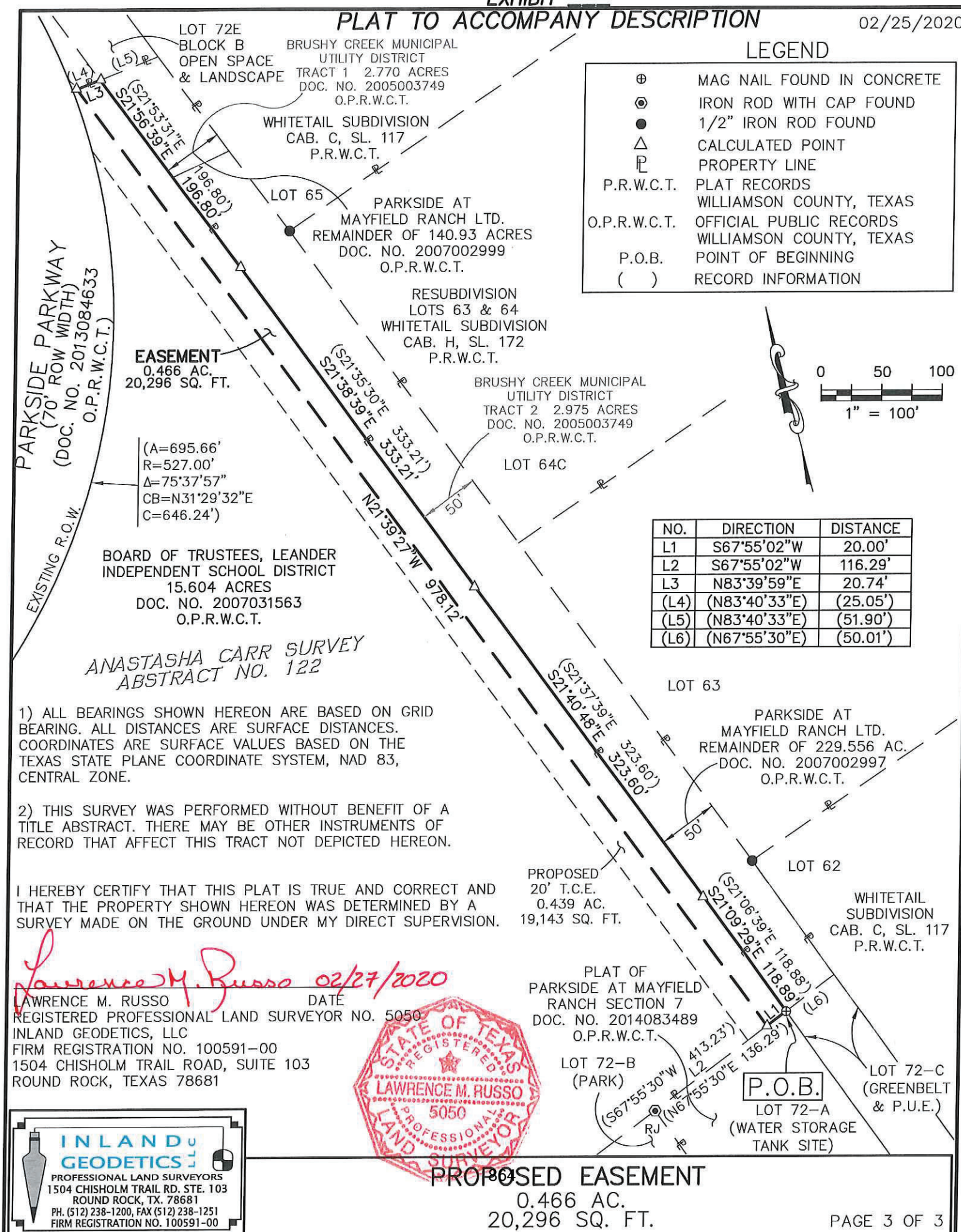
Lawrence M. Russo 02/27/2020
Lawrence M. Russo Date
Registered Professional Land Surveyor No. 5050
Inland Geodetics, LLC
Firm Registration No: 100591-00
1504 Chisholm Trail Road, Suite 103
Round Rock, TX 78681



EXHIBIT B

PLAT TO ACCOMPANY DESCRIPTION

02/25/2020



LEGEND

⊕	MAG NAIL FOUND IN CONCRETE
◉	IRON ROD WITH CAP FOUND
●	1/2" IRON ROD FOUND
△	CALCULATED POINT
℄	PROPERTY LINE
P.R.W.C.T.	PLAT RECORDS WILLIAMSON COUNTY, TEXAS
O.P.R.W.C.T.	OFFICIAL PUBLIC RECORDS WILLIAMSON COUNTY, TEXAS
P.O.B.	POINT OF BEGINNING
( )	RECORD INFORMATION

NO.	DIRECTION	DISTANCE
L1	S67°55'02"W	20.00'
L2	S67°55'02"W	116.29'
L3	N83°39'59"E	20.74'
(L4)	(N83°40'33"E)	(25.05')
(L5)	(N83°40'33"E)	(51.90')
(L6)	(N67°55'30"E)	(50.01')

1) ALL BEARINGS SHOWN HEREON ARE BASED ON GRID BEARING. ALL DISTANCES ARE SURFACE DISTANCES. COORDINATES ARE SURFACE VALUES BASED ON THE TEXAS STATE PLANE COORDINATE SYSTEM, NAD 83, CENTRAL ZONE.

2) THIS SURVEY WAS PERFORMED WITHOUT BENEFIT OF A TITLE ABSTRACT. THERE MAY BE OTHER INSTRUMENTS OF RECORD THAT AFFECT THIS TRACT NOT DEPICTED HEREON.

I HEREBY CERTIFY THAT THIS PLAT IS TRUE AND CORRECT AND THAT THE PROPERTY SHOWN HEREON WAS DETERMINED BY A SURVEY MADE ON THE GROUND UNDER MY DIRECT SUPERVISION.

Lawrence M. Russo 02/27/2020

LAWRENCE M. RUSSO DATE
REGISTERED PROFESSIONAL LAND SURVEYOR NO. 5050
INLAND GEODETICS, LLC
FIRM REGISTRATION NO. 100591-00
1504 CHISHOLM TRAIL ROAD, SUITE 103
ROUND ROCK, TEXAS 78681

STATE OF TEXAS REGISTERED LAWRENCE M. RUSSO 5050 PROFESSIONAL LAND SURVEYOR

INLAND GEODETICS
PROFESSIONAL LAND SURVEYORS
1504 CHISHOLM TRAIL RD. STE. 103
ROUND ROCK, TX. 78681
PH. (512) 238-1200, FAX (512) 238-1251
FIRM REGISTRATION NO. 100591-00

PROPOSED EASEMENT
0.466 AC.
20,296 SQ. FT.

S:\A_CDM-SMITH PROJECTS\CR 175-PARKSIDE WI\PARCEL SUI.SD.dwg

Leander ISD Board Meeting Agenda Item Information

Meeting Date: Thursday, October 8, 2020

Agenda Item:	General Construction Update
Purpose (this meeting):	☒ Discussion Item/Report Only ☐ Action Requested
Administrator Responsible:	Jimmy Disler
Attachments:	General Construction Update Presentation

Background Information:
Jimmy Disler will present information regarding the status of current or ongoing construction projects.

Administrative Recommendation:
N/A

Sample Motion:
N/A

LEANDER ISD

General Construction Update

October 8, 2020

Tarvin Elementary School (ES 28)

New Construction

Work happening in November

- Continue structural steel and tilt-wall panel erection in appropriate areas
- Continue tilt-wall forming and pouring
- Install door frames and duct work in appropriate areas
- Continue geothermal drilling

GMP Summary		
	Approval Date	Amount
GMP 1	April 23, 2020	$11,142,202
GMP 2	May 21,2020	$20,499,886
	GMP Total	***$31,642,088***





Cedar Park MS

HVAC Update – HVAC, lights, paint, carpet and Security Upgrades

Work happening in the future

- Phase 3 (final phase) expected to begin Summer 2021

868

GMP Summary		
	Approval Date	Amount
GMP 1	February 21, 2019	$11,462,917
	GMP Total	***$11,462,917***

Steiner Ranch ES

HVAC Update – HVAC, lights, paint, carpet and Security Upgrades

Work happening in the future

- Phase 2 (final phase) expected to begin Summer 2021

869

GMP Summary		
	Approval Date	Amount
GMP 1	February 27, 2020	$1,634,800
GMP 2	April 23,2020	$6,460,189
	GMP Total	***$8,094,989***

Discussion