Regular

Monday, August 23, 2004 6:00 PM
Granbury ISD Board Room, 600 West Pearl St., Granbury, TX 76048, W Pearl St, Granbury, TX 76048

1. **Call to order**
2. **Public hearing for tax rate and budget**
3. **Convene in closed session under the Texas Open Meetings Act, Texas Government Codes, Chapter 551.074 - personnel matters and 551.072 purchase, exchange, lease or value of real property**
   a. Appointments and retirements
   b. Authorize the Superintendent to negotiate the purchase/sale of real estate
4. **Reconvene in open session at 7:00 p.m.**
5. **Invocation**
6. **Pledges - U.S. Flag & Texas Flag**
7. **Superintendent's Report - Goals 1, 2, 3, 6, 7**
   a. Financial statements for period ending 7/31/04
   b. Update 73
   c. Opening school update
8. **Board members special reports**
9. **Consider Consent Agenda Items - Goals 2, 3, 5**
   a. Consider August 9, 2004 regular board meeting minutes
   b. Consider budget amendments
   c. Consider bus refurbishing & collision repair bid no. 2003-41 (renewal)
   d. Consider custodial chemicals and supplies bid no. 2004-17
   e. Consider remanufactured transmissions bid no. 2004-19
   f. Consider automotive filters bid no. 2004-20
   g. Consider fencing services bid no. 2004-21
   h. Consider certified appraisers and appraisal calendar
10. **Consider resolution amending authorized representatives for TexPool**
11. **Consider Aramark custodial services contract amendment**
12. **Consider creating a facility planning committee**
13. **Set 2004 - 2005 tax rate**
14. **Adopt the 2004-2005 budget**
15. **Public comments/audience participation**
16. **Real Estate**
    a. Authorize the Superintendent to negotiate the purchase/sale of real estate
17. **Personnel - Goal 6**
    a. Consider appointments and retirements
18. **Adjourn**

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Information

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: August 17, 2004
RE: 07/31/04 Financial Statements

SUMMARY:

Attached are the financial statements for the period ended July 31, 2004 for the general operating fund.

The statements for the period ended July 31, 2004 include only those transactions that occurred between the period of September 1, 2003 and July 31, 2004. Revenue collected to date equal 93.68% of the budgeted amount compared to 91.48% last year. Expenditures to date represent 91.22% of the budget compared to 84.93% last year.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Sharay Boynton
Emmett Whitefield

Date Submitted: August 17, 2004

GRANBURY INDEPENDENT SCHOOL DISTRICT
GENERAL OPERATING FUND
INTERIM STATEMENT OF REVENUES AND EXPENDITURES
FOR THE PERIOD ENDED JULY 31, 2004

	ANNUAL BUDGET	YTD ACTUAL	REMAINING BALANCE	YTD PERCENT
REVENUES				
5700 LOCAL SOURCES	34,765,752	35,008,842	-243,089	100.70%
5800 STATE SOURCES	8,158,446	5,236,862	2,921,584	64.19%
5900 FEDERAL SOURCES	201,000	153,430	47,570	76.33%
TOTAL REVENUES	**43,125,198**	**40,399,133**	**2,726,065**	**93.68%**
EXPENDITURES				
6100 PAYROLL COSTS	32,177,970	27,800,523	4,377,447	86.40%
6200 PROFESSIONAL & CONTRACTED SERVICES	3,935,317	3,074,928	860,389	78.14%
6300 SUPPLIES/MATERIALS	2,381,992	1,922,420	459,571	80.71%
6400 OTHER OPERATING	1,091,701	1,034,431	57,270	94.75%
6500 DEBT SERVICE	0	0	0	#DIV/0!
6600 CAPITAL OUTLAY	3,219,422	5,217,315	-1,997,894	162.06%
TOTAL EXPENDITURES	**42,806,402**	**39,049,618**	**3,756,784**	**91.22%**
OTHER SOURCES AND USES				
7900 OTHER RESOURCES	0	0	0	0.00%
8900 OTHER USES	0	0	0	0.00%
OTHER SOURCES(USES)	**0**	**0**	**0**	**0.00%**
EXCESS (DEFICIENCY) OF REVENUES OVER EXPENDITURES	**318,797**	**1,349,516**	**(1,030,719)**	

GRANBURY INDEPENDENT SCHOOL DISTRICT
GENERAL OPERATING FUND - SORTED BY FUNCTION CODE
INTERIM STATEMENT OF REVENUES AND EXPENDITURES
FOR THE PERIOD ENDED JULY 31, 2004

		ANNUAL BUDGET	YTD ACTUAL	REMAINING BALANCE	YTD PERCENT	PRIOR YTD PERCENT
REVENUES						
5700	LOCAL					
	PROPERTY TAXES	33,550,000	34,114,705	-564,705	101.68%	99.46%
	INVESTMENT INCOME	275,000	198,906	76,094	72.33%	66.05%
	OTHER LOCAL INCOME	940,752	695,231	245,521	73.90%	88.58%
5800	STATE					
	STATE FUNDING	8,158,446	5,236,862	2,921,584	64.19%	68.52%
5900	FEDERAL					
	FEDERAL PROJECTS	201,000	153,430	47,570	76.33%	127.31%
	TOTAL REVENUES	**43,125,198**	**40,399,133**	**2,726,065**	**93.68%**	**91.48%**
EXPENDITURES						
11	INSTRUCTION	22,642,827	19,669,698	2,973,128	86.87%	83.98%
12	INSTRUCTIONAL RESOURCES & MEDIA	1,722,602	1,572,521	150,081	91.29%	87.55%
13	CURRICULUM & STAFF DEVELOPMENT	578,415	433,216	145,199	74.90%	86.33%
21	INSTRUCTIONAL LEADERSHIP	467,498	390,129	77,369	83.45%	60.53%
23	SCHOOL LEADERSHIP	2,383,230	2,036,890	346,340	85.47%	87.28%
31	GUIDANCE/COUNSELING	1,386,100	1,172,690	213,411	84.60%	88.46%
33	HEALTH SERVICES	299,187	239,590	59,597	80.08%	79.69%
34	TRANSPORTATION	2,471,897	2,093,164	378,733	84.68%	98.65%
36	CO-CURRICULAR/EXTRACURRICULAR	1,432,708	1,286,160	146,548	89.77%	90.88%
41	GENERAL ADMINISTRATION	2,002,423	1,629,177	373,246	81.36%	87.78%
51	PLANT MAINTENANCE	5,829,587	4,822,693	1,006,894	82.73%	81.71%
52	SECURITY & MONITORING SERVICES	263,365	250,707	12,658	95.19%	91.79%
53	DATA PROCESSING	64,332	63,853	479	99.25%	87.13%
61	COMMUNITY EDUCATION	118,877	107,451	11,425	90.39%	88.84%
71	DEBT SERVICE	0	0	0	#DIV/0!	
81	FACILITIES CONSTRUCTION & ACQUISITION	1,143,353	3,281,678	(2,138,325)	287.02%	78.34%
93	PAYMENTS TO FISCAL AGENT					
	TOTAL EXPENDITURES	**42,806,402**	**39,049,618**	**3,756,784**	**91.22%**	**84.93%**
	OTHER SOURCES (USES)	0	0	0	0.00%	0.00%
	EXCESS (DEFICIENCY) OF REVENUE OVER EXPENDITURES	**318,797**	**1,349,516**	**(1,030,719)**		

Granbury
Independent School District

William Harris
Superintendent

OFFICE OF SUPERINTENDENT

For:	**Board of Trustees**
Date:	**August 23, 2004**
Action:	**Information**

SUMMARY:

Update 73 is attached for your review. The board of trustees must adopt LOCAL policies within the update. Update 73 will be brought back to the board at the September 13, 2004 board meeting for adoption.

If you have any questions regarding any of the LOCAL policies within the update, please contact my office prior to the September 13, 2004 board meeting.

Respectfully submitted,

William Harris

William Harris
Superintendent

600 West Pearl • Granbury, Texas 76048 • Phone (817) 408-4007 • Fax (817) 408-4014
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Texas Association
of School Boards

Localized Policy Manual

Update 73

Mr. William Harris
Granbury ISD

Your Localized Update 73 encompasses new rules on such diverse topics as graduation plans, immunization requirements, and overtime compensation. In addition, Update 73 reflects the impact of recent attorney general's opinions on a number of policies and includes a major rewriting of TASB's recommended complaint processes.

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

To better focus Board attention and expedite its review, your Localized Update 73 packet contains:

- ***Vantage Points—A Board Member's Guide to Update 73***, copies of which may be found in the separately wrapped package accompanying this packet. ***Vantage Points*** offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute *Vantage Points* to your Board members** at the earliest possible opportunity, preferably with their review copies of this update.

- Your Localized Update, which includes:

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

  EXPLANATORY NOTES . . . summarizing changes in the policies in each code and how those changes affect your policy manual. Please note that, where appropriate, the Explanatory Notes ask you to **verify that a particular policy continues to reflect your current prac-**

tice and to advise us of changes needed so that our records and your manual accurately track the District's actual practice.

Update 73 materials can be identified by the DATE ISSUED—07/22/2004—located in the lower left corner of each page. If you have any questions concerning this Update, please call your Policy Consultant/Analyst, Kaye Teaff, at 800-580-7529 or 512-467-0222.

Regarding Board action on Update 73 . . .

- Board action on Localized Update 73 must occur within a properly posted, open meeting of the Board and may be addressed on the agenda posting as "Review updated (LEGAL) policies and act on (LOCAL) policies (see attached list)." Using the Instruction Sheet as a guide, create and attach to the posting a list of the (LOCAL) policy codes **and the titles/subtitles of those policies**.

- An appropriate motion for Board action on Localized Update 73 is as follows:

  "I move that the Board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 73 [with the following changes:]"

- The Board's action on Localized Update 73 must be reflected in Board minutes. The Instruction Sheet—annotated to reflect any changes made by the Board—and the Explanatory Notes for the update should be filed with the Board minutes where they comprise the authoritative historical record of your District's manual. Also include in the historical record a copy of the replaced or rescinded (LOCAL) policies.

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

Regarding manual maintenance and administrative regulations . . .

- The update should be incorporated into each of the District's Localized Policy Manuals as soon as practicable. If the District uses *Policy On Line*, please notify us of the Board's action on Update 73 so this action may be reflected in your District's Localized Policy Manual as it appears on TASB's Web server. *Policy On Line* staff may be reached by phone (800–580–7529 or 512–467–0222), fax (512–467–3618; see the pink form enclosed), e-mail (pol-support@tasb.org), or Internet feedback form (http://www.tasb.org/policy/pol/private/polfdbk.html).

- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 73 policy changes should be inspected and revised as needed. If the District routinely submits (REGULATIONS) to Policy Service for processing or desires that the updated (REGULATION) be included in the District's *Policy On Line* manual, please submit these changes to your Policy Consultant/Analyst at your earliest convenience.

PLEASE NOTE: This Localized Update 73 packet and the Update 73 ***Vantage Points*** may not be considered as legal advice and are not intended as a substitute for the advice of the Board's own legal counsel.

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Instruction Sheet

TASB Localized Policy Manual Update 73

District Granbury ISD

Code		Action To Be Taken	Note
BBB	(LEGAL)	Replace policy	Revised policy
BBFA	(LEGAL)	Replace policy	Revised policy
BBFA	(EXHIBIT)	Replace exhibit	Revised exhibit
BE	(LEGAL)	Replace policy	Revised policy
BEC	(LEGAL)	Replace policy	Revised policy
BED	(LEGAL)	Replace policy	Revised policy
BED	(LOCAL)	Replace policy	Revised policy
BJA	(LEGAL)	Replace policy	Revised policy
BJA	(LOCAL)	No policy enclosed	See explanatory note
BJCE	(LEGAL)	Replace policy	Revised policy
BJCF	(LOCAL)	Replace policy	Revised policy
BJCG	(LEGAL)	Replace policy	Revised policy
CFEA	(LEGAL)	Replace policy	Revised policy
CHF	(LEGAL)	Replace policy	Revised policy
CMD	(LEGAL)	Replace policy	Revised policy
CNB	(LEGAL)	Replace policy	Revised policy
CO	(LEGAL)	Replace policy	Revised policy
CPAB	(LEGAL)	Replace policy	Revised policy
CRD	(LEGAL)	Replace policy	Revised policy
CRF	(LEGAL)	Replace policy	Revised policy
CRF	(LOCAL)	Replace policy	Revised policy
CVA	(LEGAL)	Replace policy	Revised policy
CVE	(LEGAL)	Replace policy	Revised policy
DBE	(LEGAL)	Replace policy	Revised policy
DC	(LEGAL)	Replace policy	Revised policy
DC	(EXHIBIT)	DELETE exhibit	See explanatory note
DCD	(LEGAL)	Replace policy	Revised policy
DEA	(LEGAL)	Replace policy	Revised policy
DEA	(LOCAL)	Replace policy	Revised policy
DEE	(LEGAL)	Replace policy	Revised policy
DFBB	(LOCAL)	Replace policy	Revised policy

Instruction Sheet

TASB Localized Policy Manual Update 73

Code		Action To Be Taken	Note
DGA	(LOCAL)	Replace policy	Revised policy
DGBA	(LEGAL)	Replace policy	Revised policy
DGBA	(LOCAL)	Replace policy	Revised policy
DGBA	(EXHIBIT)	No exhibit enclosed	See explanatory note
DH	(LOCAL)	Replace policy	Revised policy
DK	(LOCAL)	Replace policy	Revised policy
EFE	(LEGAL)	Replace policy	Revised policy
EFE	(LOCAL)	Replace policy	Revised policy
EFE	(EXHIBIT)	DELETE exhibit	See explanatory note
EHBK	(LEGAL)	Replace policy	Revised policy
EIC	(LEGAL)	Replace policy	Revised policy
EIF	(LEGAL)	Replace policy	Revised policy
EIF	(LOCAL)	No policy enclosed	See explanatory note
EIF	(EXHIBIT)	Replace exhibit	Revised exhibit
EK	(LEGAL)	Replace policy	Revised policy
EK	(LOCAL)	DELETE policy	See explanatory note
FEA	(LOCAL)	Replace policy	Revised policy
FFAA	(LEGAL)	Replace policy	Revised policy
FFAB	(LEGAL)	Replace policy	Revised policy
FFAB	(EXHIBIT)	Replace exhibit	Revised exhibit
FFG	(EXHIBIT)	Replace exhibit	Revised exhibit
FM	(LOCAL)	Replace policy	Revised policy
FNC	(LOCAL)	Replace policy	Revised policy
FNCB	(LOCAL)	DELETE policy	See explanatory note
FNCF	(LOCAL)	DELETE policy	See explanatory note
FNCG	(LEGAL)	Replace policy	Revised policy
FNCG	(LOCAL)	DELETE policy	See explanatory note
FNG	(LEGAL)	Replace policy	Revised policy
FNG	(LOCAL)	Replace policy	Revised policy
FNG	(EXHIBIT)	No exhibit enclosed	See explanatory note
FO	(LEGAL)	Replace policy	Revised policy
FOC	(EXHIBIT)	Replace exhibit	Revised exhibit
GBA	(EXHIBIT)	Replace exhibit	Revised exhibit
GE	(LOCAL)	Replace policy	Revised policy

Instruction Sheet

TASB Localized Policy Manual Update 73

Code		Action To Be Taken	Note
GF	(LEGAL)	ADD policy	New policy
GF	(LOCAL)	Replace policy	Revised policy
GF	(EXHIBIT)	No exhibit enclosed	See explanatory note
GKA	(LEGAL)	Replace policy	Revised policy
GKA	(LOCAL)	Replace policy	Revised policy
GND	(LEGAL)	Replace policy	Revised policy
GRA	(LEGAL)	Replace policy	Revised policy

Explanatory Notes

TASB Localized Policy Manual Update 73

District: Granbury ISD

BBB (LEGAL) BOARD MEMBERS
ELECTIONS

The temporary shift in the May election date—from the first Saturday in May to the third Saturday in May—expires on January 1, 2005. As a result, the May 2004 election was held on May 15; elections in 2005 and thereafter will return to the first Saturday in May, as noted at GENERAL ELECTION DATE, on page 1. (This one-year shift was effected by HB 1549 from the 2003 Regular Legislative Session. HB 1 from the Third Called Session repealed the change, effective January 1, 2005.)

A new section regarding PLURALITY appears on page 5. Added for clarity, the section recites Election Code language defining this term.

BBFA (LEGAL) ETHICS
CONFLICT OF INTEREST

This policy has undergone major structural and text changes, made in light of the Attorney General's opinion (GA–123), that would prohibit a superintendent vested by the Board with final hiring authority from hiring his or her own relatives within the prohibited degree. This significant change no longer allows simply replacing "public official" or "public servant"—the language of statute—with "trustee" or "Board member." Many subtle distinctions in the language of the law must be considered.

Consequently, throughout the policy, care has been taken to precisely track the terminology of statute, whether drawn from the Local Government Code, the Penal Code, the Government Code, or the Education Code. Key distinctions between the nuanced terminology of the various codes are expressed in the new DEFINITIONS section on page 1. When reading the policy, it is crucial to note the source of the recited material and refer to the appropriate definition for that source to understand which positions the material controls.

Other substantive changes in the policy are as follows:

- At ABUSE OF OFFICE, on page 4, the definition of "misuse" has been added for clarity.
- At GIFTS, on page 5, a reference has been added to narrowly drawn statutory exceptions to the prohibition against accepting gifts. Those exceptions are found at Penal Code 36.10. Before accepting any gift that may be permitted by these exceptions, a Trustee should confer with legal counsel.
- At NEPOTISM, on page 6, are added the Attorney General's opinion and a subsequent clarification (GA–177). The latter opinion states that, when the Board has delegated final hiring authority for a contract employee, a restriction related to nepotism would nevertheless apply to a Board member in the event the Board subsequently acts on the employee's status (e.g., contract renewal or nonrenewal).
- At HONORARIA AND EXPENSES, also on page 6, language from the Penal Code has been added prohibiting a "public servant" ("an officer, employee, or agent of the District or a candidate....") from accepting an honorarium or expense reimbursement for services that he or she "would not have been requested to provide but for his or her official position or duties."

BBFA (EXHIBIT) ETHICS
CONFLICT OF INTEREST

These exhibits have been revised in light of the Attorney General's opinion (GA–123) that a superintendent vested with final authority becomes a public official and will be subject to the same constraints as Board members.

- Exhibit A provides a form by which the local public official—a term that may now include superintendents as well as Board members—may disclose his or her substantial interest (or the substantial interest of someone related to the official in the first degree) in a business entity or real property.

- Exhibit B may be used for the "public servant"—a term that may include superintendents, Board members, and Board candidates—to disclose his or her interest in property that is to be acquired with District funds.

BE (LEGAL) BOARD MEETINGS

A new section titled SOCIAL FUNCTION OR CONVENTION has been added on page 1 as an exception to the definition of a 'MEETING.' This long-standing Government Code provision clarifies that such gatherings are not "meetings" subject to the Open Meetings Act if the social function is unrelated to the public business of the Board or the attendance of the Board at a workshop or convention that does not entail discussion of public business or formal action in that regard. The LEGISLATIVE COMMITTEE OR AGENCY MEETING exception, previously found on page 6, has been moved to this page as well.

Please note that, as a result of HB 2292 in the 78th Regular Session, the Texas Commission for the Deaf and Hard of Hearing was one of four state services consolidated into the new Texas Department of Assistive and Rehabilitative Services. Services previously provided by the Commission are now provided by the DARS Division for Deaf and Hard of Hearing Services. This new name is reflected at HEARING–IMPAIRED PERSONS on page 6.

BEC (LEGAL) BOARD MEETINGS
CLOSED MEETINGS

Provisions previously found in a section titled EMPLOYEE–EMPLOYEE COMPLAINTS now appear as a third paragraph under PERSONNEL MATTERS on page 1. Those provisions speak to the authority of the Board to hear in closed meeting a complaint brought by one employee against another unless the employee who is the subject of the compliant requests an open hearing in writing.

BED (LEGAL) BOARD MEETINGS
PUBLIC PARTICIPATION

A new section has been added regarding the UNITED STATES CONSTITUTION expressing the First Amendment right to petition the Board for redress of grievances and reflecting case law affirming the latitude of the Board to control its agenda and hold nonpublic sessions, with the caveat that in public meetings the Board may not discriminate among speakers on the basis of viewpoint.

Also added are:

- Cross-references to policies governing Board meetings and outlining processes for grievances; and
- A new section on RESPONSE TO COMPLAINTS presenting the case law holding that the Board is not required to respond to complaints other than to "stop, look, listen, and consider."

BED (LOCAL) BOARD MEETINGS
PUBLIC PARTICIPATION

We have reorganized for clarity the provisions on LIMIT ON PARTICIPATION. Also, the COMPLAINTS AND CONCERNS section now states that, although persons wishing to address the Board during public comment may use that time to express comments or concerns, persons seeking resolution of an issue should be referred to one of three "sign post" policies:

- DGBA, for complaints brought by an employee
- FNG, for complaints brought by a student or parent

- GF, for complaints by a member of the public

Each of these policies defines the general process to follow and points to specialized processes when appropriate (e.g., instructional materials, harassment/abuse, contract actions).

DISRUPTION has been modified to give the presiding officer discretion to request assistance in removing a person who persists in disrupting a Board meeting.

BJA (LEGAL) SUPERINTENDENT
QUALIFICATIONS AND DUTIES

A new item 3—making recommendations regarding the selection of personnel—has been isolated as a separate duty and now includes a reference to policy DBE where the effects of the Attorney General's recent opinion (GA–123) may be found. That opinion held that the Superintendent is a public official for purposes of the nepotism statute in regard to hiring decisions for which he or she has final authority.

BJA (LOCAL) SUPERINTENDENT
QUALIFICATIONS AND DUTIES

Many districts that use the framework developed by TASB for the evaluation of the Superintendent have found the job description currently in your manual too activity-specific to complement the "systems" approach of the evaluation. Consequently, we have developed a BJA(LOCAL) aIternative that categorizes the Superintendent's responsibilities in a way that is consistent with the evaluation framework.

If your District would like to consider this alternative language, please contact your Policy Consultant/Analyst.

BJCE (LEGAL) SUPERINTENDENT
DISMISSAL

Deleted from this policy are State Board for Educator Certification rules, now largely replaced by statute, obligating the District to report to SBEC "knowledge of information indicating" an educator's criminal history, or an educator's termination or resignation based on a determination that he or she committed certain illegal acts.

Revised and codified by the 78th Legislature by means of SB 1488, Education Code 21.006 now specifies:

- Reporting must occur when the Superintendent has "reasonable cause to believe" such an offense has occurred.
- The report must be in a form prescribed by SBEC.
- The Superintendent is no longer required to warn an employee resigning under any of the circumstances listed that a report will be made to SBEC. As before, the Superintendent must provide the Board and the employee a copy of the report filed.
- A superintendent who, acting in his or her official capacity, files a report in good faith is sheltered from civil and criminal liability that might otherwise incur.

Neither SBEC rules nor Education Code 21.006 impose a like responsibility on the Board President when the person who is believed to have engaged in such an offense is the Superintendent or an applicant for the superintendency. Consequently, all reference to that reporting requirement has been deleted here; the new statutory material appears at DF(LEGAL), issued at Update 72.

BJCF (LOCAL) SUPERINTENDENT
NONRENEWAL

TASB attorneys' periodic review of nonrenewal policies in light of nonrenewal cases, evolving statutes, and recommendations from the TASB Council of School Attorneys suggests the following revisions to this policy, pertaining to the nonrenewal of the Superintendent's contract:

- Refined language at items 8 and 9, dealing with alcohol and drug use.
- More explicit language at item 14, relating to a disability not otherwise protected by law.
- New language at item 16, regarding any breach by the Superintendent of his or her contract.
- Broadened language at item 18, regarding assault on an employee, student, parent, or other person.
- Language at item 19 regarding use of profanity.
- Language at item 21 regarding omission of employment information.
- A new item 25, pertaining to withholding information from a parent or employee.
- Clarified language at item 26, referencing "good cause."

We have removed from the list an item regarding "immorality," a difficult-to-define description of actions that would likely be more directly addressed by one of the other REASONS provided.

At HEARING PROCEDURE, on page 3, we have added a new item 1 to address reasonable time limits for presentations and closing arguments.

BJCG (LEGAL) SUPERINTENDENT
RETIREMENT OR RESIGNATION

As explained at BJCE(LEGAL), State Board for Educator Certification rules obligating the District to report to SBEC "knowledge of information indicating" an educator's criminal history, or an educator's termination or resignation based on a determination that he or she committed certain illegal acts, have been replaced by statute.

Since notifying SBEC is not a Board responsibility, all reference to the reporting requirement has been deleted here in favor of DF(LEGAL)—issued at Update 72—which states that such reporting is the responsibility of the Superintendent.

CFEA (LEGAL) PAYROLL PROCEDURES
SALARY DEDUCTIONS AND REDUCTIONS

Item 4 has been revised to reflect the new terminology applied by the 78th Legislature to what was previously known as the Texas Public School Employees Group Benefits Fund.

CHF (LEGAL) PURCHASING AND ACQUISITION
PAYMENT PROCEDURES

In the second paragraph at ALTERNATIVE VENDOR REMEDY FOR NONPAYMENT OF CONTRACT, on page 2, language has been deleted allowing the suspension of performance to occur not later than the 20th day following vendor notice; this provision of HB 2397 from the 78th Regular Session applies only for Texas Department of Transportation contracts for construction or maintenance of a highway or related facility.

As it relates to districts, the legislation allows a vendor to suspend performance of a contract with the District if the District fails to pay the vendor's undisputed invoice on a timely basis: within 31 days or, if the Board meets monthly, 45 days. To suspend performance the vendor must give the District appropriate notice; performance may then terminate at any time after 10 days of this notice.

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

At ANNUAL INVENTORY, on page 3, appears a recently enacted prohibition against the Board's requiring an employee to pay for a textbook or instructional technology that is stolen, misplaced, or not returned by a

student. This HB 2072 provision, from the 78th Regular Session, became effective June 20, 2003, and applied at the beginning of the 2003–04 school year.

CNB (LEGAL) TRANSPORTATION MANAGEMENT
DISTRICT VEHICLES

At IDENTIFICATION, on page 2, provisions of SB 557 from the 75th Legislature have been added restating the qualification for exempt license plates. The applicant must now certify that the name of the District is printed on each side of the vehicle and allows for emblems in lieu of letters, with requirements as follows:

- The name of the District must be in letters at least two inches high or in an emblem that is at least 100 square inches in size.
- The letters or emblem must be in a color significantly different from that of the vehicle and clearly legible from 100 feet away.

CO (LEGAL) FOOD SERVICES MANAGEMENT

The previous policy, issued in 2002, expressed only key provisions of the Texas Department of Agriculture's "Foods of Minimal Nutritional Value Policy," first issued in 2002. The department's policy was subsequently revised on July 28, 2003; changes were effective for the 2003–04 school year. Another cycle of change occurred on March 3, 2004, and the newly revised document becomes effective on August 1, 2004.

CO(LEGAL) has been streamlined to reflect only the introductory statement of the now substantially expanded department policy; the department's current policy and related information may be found at http://www.agr.state.tx.us/foodnutrition/ntn_policy.htm.

CPAB (LEGAL) OFFICE COMMUNICATIONS
MAIL AND DELIVERY

At POLITICAL ADVERTISING, provisions added at Update 72 to reflect HB 736 from the 78th Regular Session have been refined. An exception allowing use of the internal mail system for "political advertising . . . related to an official proceeding of the District" has been deleted; this provision applies to state agencies or municipalities but not to school districts. Remaining is the broad prohibition that the District's internal mail system may not be used for any political advertising—unless delivered by the U.S. Postal Service. Also from HB 736, the definition of "political advertising" has been added.

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

At STATE CONTRIBUTION TO HRA ACCOUNT, on page 3, the reference to the $1,000 state contribution to the health reimbursement arrangement (HRA) account after September 1, 2004, has been deleted. While this figure was authorized by statute, the General Appropriations Act for the current biennium failed to fund the contribution to this level. Also deleted is the now-obsolete provision regarding the "pass-through" of $500 for each nonadministrative full-time employee and $250 for each part-time employee. This provision was in force only for the 2003–04 school year.

At PROFESSIONAL STAFF are found new TRS rules defining "professional staff members" ineligible to receive the state contribution toward an HRA. Further information regarding the rules may be found at http://www.trs.state.tx.us/hraccount/hra_info.htm.

Please note: The TRS board, charged by the legislature with administering the HRAs, "temporarily suspended implementation" of the program in June for 30 days to resolve inconsistencies between legislation

and the General Appropriations Act from the 78th Regular Session. On July 23, 2004, the TRS board approved a motion "to continue [the September 1, 2004] implementation of the TRS–HRA Account program." A report of the board's action is accessible at the Web site above.

CRF (LEGAL) INSURANCE AND ANNUITIES MANAGEMENT
UNEMPLOYMENT INSURANCE

At OPTIONS, item 3 has been revised to more closely track statute. In addition, the name of the agency administering unemployment compensation taxes has been changed from the Texas Employment Commission to its current name: the Texas Workforce Commission.

CRF (LOCAL) INSURANCE AND ANNUITIES MANAGEMENT
UNEMPLOYMENT INSURANCE

The language of this policy has been streamlined. Determining the content and timing of the letters and identifying recipients are administrative functions best addressed in administrative procedures. Sample language may be found in the ***TASB Regulations Resource Manual***, accessible to superintendents and designated policy administrators through "MyTASB" on the TASB Web site.

CVA (LEGAL) FACILITIES CONSTRUCTION
COMPETITIVE BIDDING

SB 1331, from the 78th Regular Session, requires the District to designate an engineer or architect to prepare construction documents as a prerequisite for selecting a contractor for construction services through competitive bidding. This requirement applies to solicitations on or after September 1, 2003; previous law applies to projects before that date. This new requirement is found at ENGINEER OR ARCHITECT RESPONSIBILITY, on page 2.

CVE (LEGAL) FACILITIES CONSTRUCTION
CONSTRUCTION MANAGER–AT–RISK

SB 1331, referenced above, also affected construction managers-at-risk: "CMR" provisions of the Education Code are brought in line with those of the Government Code. Consequently, a district's engineer, architect, or construction manager-agent for a project may serve alone or in combination with another as CMRs under a separate or concurrent procurement. A district's engineer or architect may provide "customary construction phase services under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws." This language may be found at ARCHITECT/ENGINEER.

DBE (LEGAL) EMPLOYMENT REQUIREMENTS AND RESTRICTIONS
NEPOTISM

This policy has been redeveloped in light of a recent Attorney General's opinion (GA–123) and to more closely track the scope and language of statute. That opinion, published on November 18, 2003, stated that—in a district in which the board has delegated final hiring authority to the superintendent—the nepotism statute prohibits the Superintendent from hiring his or her own relatives within the prohibited degree. This opinion, set within the terms of the Education Code as rewritten in 1995, replaces language from *Pena v. Rio Grande City CISD*, a 1981 case previously cited in this policy, that found the Superintendent "merely an employee or agent of the Board" and, as such, not subject to the nepotism statutes.

Key revisions are as follows:

- A DEFINITION section has been added, on page 1, to clarify the meaning of "appoint" throughout this policy.

- At NEPOTISM PROHIBITED, the statutory language is blended with the Attorney General's opinion, restated at SUPERINTENDENT. The term "member of the Board" that previously appeared in this section has been reflected here—and elsewhere, where appropriate, in this policy—with "public official," the language of the statute.
- At COMPENSATION OF PROHIBITED EMPLOYEE, long-standing language from the nepotism statute has been added. Violation of this statute carries criminal penalties.
- CONSANGUINITY and AFFINITY, on pages 1 and 2, have been revised and amended to reflect more fully the statutory language.
- EXCEPTIONS to continuous employment, on page 3, now reflect:
  - The 2001 Attorney General's opinion regarding the calculation of the continuous-employment exception in cases where the Superintendent is vested with final hiring authority.
  - An exception for RETIREES, from a 2004 Attorney General's opinion, under which an employee's retirement ends his or her entitlement to the continuous employment exception.
- At ABSTENTION, two AG opinions have been added defining "change in status" apart from compensation and requiring action "taken with respect to a bona fide category of employees" to be based on objective criteria.
- At TRADING, additional statutory language has been included and the now-superfluous NOTE, providing an example of trading, has been deleted.
- At PENALTIES, on page 4, the statutory consequences for a public official who violates the nepotism statute have been added.

Other sections of this policy are essentially unchanged, apart from format and margin notes.

DC (LEGAL) EMPLOYMENT PRACTICES

In addition to a general tightening of language to more closely track statute and the deletion of provisions that are redundant of material found elsewhere in your Localized Policy Manual, this policy reflects the following substantive changes:

- NEPOTISM, on page 1, now includes text reflecting the Attorney General's opinion (GA–123) that legal constraints regarding nepotism would apply to personnel over whom the Superintendent has final hiring authority.
- NOTICE TO TRS reflects new TRS rules, enacted in March 2003, regarding monthly certification by the District to include information on service or disability retirees who are providing services to the District under an agreement with a third-party entity.
- VERIFICATION OF EMPLOYMENT ELIGIBILITY, on page 2, includes updated Federal Immigration and Naturalization Service rules regarding the District's obligation to verify employment eligibility of new hires as well as employees whose I–9 employment authorization expires.
- SOCIAL SECURITY NUMBERS reflects disclosure requirements triggered by the District asking a prospective employee his or her Social Security Number.
- Added at CONTRACT POLICY, on page 3, is the current statutory definition of "classroom teacher."
- CRIMINAL HISTORY RECORD, beginning on page 3, now includes the specification that criminal histories may be run on a volunteer or employee no more frequently than twice each year.
- At NEW HIRE REPORTING, on page 4, the more detailed state regulatory requirements for reporting have replaced the federal statutory requirements previously recited here. Please note that state rules

permit filing telephonically, allow the District to provide optional information, and provide that the reports are timely filed if postmarked or electronically received by the due date.

DC (EXHIBIT) EMPLOYMENT PRACTICES

A new model for the exit interview form found at this code has been developed by TASB. This administrative document is accessible to superintendents, policy administrators, and TASB program contacts through the following MyTASB resources:

- Policy Service's ***Regulations Resource Manual*** (at https://www.tasb.org/docs–mytasb/gov_svcs/policy_svc/rrm_show.shtml)
- Human Resource Services' ***Member Library*** (at https://www.tasb.org/docs–mytasb/gov_svcs/human_rsc_svcs/memlib/index.shtml.cfm)
- Risk Management Services' ***Unemployment Compensation Administration Manual*** (at https://www.tasb.org/docs–mytasb/risk_mgmt/uc_manual/index.shtml.cfm)

Since your District does not routinely house administrative regulations and exhibits in your Localized Policy Manual, we recommend deletion of this exhibit from the manual and administrative review of your current form in light of the revised model.

DCD (LEGAL) EMPLOYMENT PRACTICES
AT–WILL EMPLOYMENT

A new section on NEPOTISM has been added on page 1 to address the Attorney General's opinion (GA–123) that legal constraints regarding nepotism would apply to personnel over whom the Superintendent has final hiring authority.

DEA (LEGAL) COMPENSATION AND BENEFITS
SALARIES, WAGES, AND STIPENDS

As at CRD(LEGAL), obsolete provisions regarding the $500/$250 "pass through" have been deleted and text based on current statute has been refined to tie the state's annual contribution to a health reimbursement arrangement account to the amount specified in the General Appropriations Act.

DEA (LOCAL) COMPENSATION AND BENEFITS
SALARIES, WAGES, AND STIPENDS

We have edited the introductory paragraph and PAY SYSTEMS DESCRIPTION for clarity and to remove provisions that are redundant with the DEA(LEGAL) policy.

New provisions are as follows:

- At EXEMPT, language has been added to clarify that the salaries of exempt employees are intended to cover all hours worked and that the District will not make deductions prohibited by the Fair Labor Standards Act. An employee who believes that an improper deduction has occurred is directed to DGBA for resolution of his or her complaint; reimbursement and corrective action will occur if the deduction is found to be improper.

  This language has been drafted to address the "safe harbor" provision of the new FLSA regulations. Under previous law, an employer that made an improper deduction from the salary of an exempt employee lost the exemption for that employee and became liable for overtime compensation. Under

the new provision, the exemption will remain if the employer has a "clearly communicated policy that prohibits improper deductions and includes a complaint procedure" and the employer makes no further deductions after the complaint is made.

- At NONEXEMPT, the language has been redeveloped to state that nonexempt employees may be paid on an hourly basis or, increasingly commonplace among paraprofessional classifications, on a salary basis. Overtime accrues after 40 hours are worked whether or not the nonexempt employee is an hourly or salaried employee.

  As before, overtime work must be authorized beforehand. The language newly provides that, if an employee fails to receive prior approval, he or she will be subject to discipline.
- At COMPENSATORY TIME, the first paragraph now speaks to the District's option to require a nonexempt employee to take comp time or to pay the employee for the accumulated overtime. The 60-hour requirement remains unchanged and reflects TASB Human Resource Services' thinking that 60 hours is sufficient to handle peak or crisis situations that would prompt a nonexempt employee to work more than 40 hours per week. Such a limit is also seen as sufficiently low to prevent the financial and scheduling burden that a larger accumulation would cause since all overtime is compensable at time and a half, whether "paid" in hours off or in money. We have added a provision that the employee will be informed in advance whether the overtime will accrue compensatory time or pay.

  For clarity, we have added a sentence affirming that the District will pay the employee overtime for all unused comp time remaining at the end of the fiscal year.
- At WORKWEEK DEFINED, on page 2, we have added a provision specifying precisely when the workweek begins and ends, for FLSA purposes. This is a commonly used definition; if the District prefers a different workweek, please advise your Policy Consultant/Analyst.

Please note: DEA(LOCAL) might be one of the "employment policies" that Education Code 21.204(d) requires to be provided to all term contract employees. For further information regarding this requirement and recommendations regarding other employee notifications, please refer to the Policy Service ***Employee Notification Alert*** found at http://www.tasb.org/policy/pa/notification_alert.shtml. Bear in mind as well that the new FLSA regulations affirm the need to disseminate the "safe harbor" provision (explained above) "by providing a copy of the policy to [exempt] employees at the time of hire, publishing the policy in an employee handbook, or publishing the policy on the employer's intranet."

DEE (LEGAL) COMPENSATION AND BENEFITS
EXPENSE REIMBURSEMENT

This policy has been substantially augmented to address the CLASSROOM SUPPLY REIMBURSEMENT authorized by HB 1844 and HB 3459 from the 78th Regular Session. This program is wholly dependent on state appropriations or TEA's identification of available funds at its disposal. Any district that desires to participate must annually apply for reimbursement grants.

Key features of the new program include the following:

- The District must match funds provided to the District for reimbursement.
- The teacher may use the funds at his or her discretion provided they are expended for classroom supplies solely for the benefit of students.
- Reimbursements from program funds to individual teachers are capped at $200 per year.
- The District retains ownership of all durable goods purchased under the program.
- The District must return unexpended grant funds to TEA.
- Final judgment regarding reimbursement disputes rests with the District (unless the complainant alleges a violation of the school laws of the state or a violation of the employment contract causing monetary harm to the employee).

Commissioner's rules implementing the program were adopted on December 26, 2003, and may be found at http://www.tea.state.tx.us/rules/tac/chapter061/ch61hh.html. According to TEA's May 21, 2004, "To the Administrator Addressed" correspondence, $2 million in funding has been identified for the implementation of this program. Region 20 ESC, administering the program for TEA, began accepting applications on June 30. Funds will be awarded according to the order in which applications are received. Further information on the grant and the application process is available at http://www.tea.state.tx.us/taa/depcomm063004.html.

Please note: Items 4 and 5 under ELIGIBILITY REQUIREMENTS speak to the development of local policy to ensure each teacher fulfills the requirement that expenditures benefit students and to allow, if the District deems it appropriate, teachers to retain ownership of goods with nominal value. If your District participates in this program, please contact your Policy Consultant/Analyst regarding the local policy requirement.

DFBB (LOCAL) TERM CONTRACTS
NONRENEWAL

As noted at BJCF(LOCAL), Legal Service's periodic review of nonrenewal policies in light of nonrenewal cases, evolving statutes, and recommendations from the TASB Council of School Attorneys suggests a number of revisions to this policy, pertaining to the nonrenewal of term contract employees other than the Superintendent.

Changes recommended for the various reasons for nonrenewal include:

- Removal of unnecessary wording from item 3, pertaining to incompetency or inefficiency.
- Clarified language at item 4, dealing with inability to maintain discipline.
- A new item 7, pertaining to excessive absences.
- Refined language at items 10 and 11, dealing with alcohol and drug use.
- More explicit language at item 16, relating to a disability not otherwise protected by law.
- Rephrased language at item 18, regarding a breach of contract.
- Clarified phrasing at item 20, dealing with a lack of student progress.
- A new item 21, dealing with endangerment of students or others.
- Broadened language at item 22, regarding assault on an employee, student, parent, or other person.
- Language, at item 23, regarding use of profanity.
- Language, at item 25, regarding omission of employment information.
- Updated language at item 27, pertaining to certification requirements.
- A new item 28, relating to "highly qualified" status required by the NCLBA.
- A broadened item 30, pertaining to withholding information from a parent or employee.
- A new item 31, encompassing any reason voiding the employment relationship.
- Clarified language at item 32, referencing "good cause."

Removed from the list is an item regarding "immorality," a difficult-to-define description of actions that would likely be more directly addressed by one of the other REASONS provided.

At HEARING PROCEDURE, on page 4, a new item 1 has been added to address reasonable time limits for presentations and closing arguments.

Please note: DFBB(LOCAL) might be one of the "employment policies" that Education Code 21.204(d) requires to be provided to all term contract employees. For further information regarding this requirement

and recommendations regarding other employee notification, please refer to the Policy Service ***Employee Notification Alert*** found at http://www.tasb.org/policy/pa/notification_alert.shtml.

DGA (LOCAL) EMPLOYEE RIGHTS AND PRIVILEGES
FREEDOM OF ASSOCIATION

Recent case law speaking to nonstudent use of school facilities prompted TASB Legal and Policy Services to release a ***Starting Points*** policy development tool kit on nonschool use of school facilities and distribution of nonschool literature on school property. That tool kit distinguished between access by nonschool groups (addressed at GKD and GKDA) and access by school-related users, such as employee organizations (addressed at this policy code), student organizations (addressed at FM), and parent organizations (addressed at GE). None of these school-related groups would be subject to the provisions of GKD or GKDA.

The enclosed (LOCAL) policy addresses:

- Key rights and responsibilities of an employee's involvement in organization activities, and
- Use of school facilities, with approval of the appropriate administration, for meetings of organizations representing professional, paraprofessional, and/or support employees.

Our records indicate that we have not received your worksheet on the GKD/GKDA ***Starting Points***, available at http://www.tasb.org/policy/sp/sp_nonschool/index.shtml. If you need any assistance or wish to revise the language of the enclosed DGA(LOCAL) policy, please contact your Policy Consultant/Analyst at 800–580–7529.

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

A new section regarding the UNITED STATES CONSTITUTION has been added expressing the First Amendment right to petition the Board for redress of grievances and reflecting case law affirming the latitude of the Board to control its agenda and hold nonpublic sessions, with the caveat that in public meetings the Board may not discriminate among speakers on the basis of viewpoint.

Other changes are as follows:

- TEXAS CONSTITUTION includes case law holding that the Board is not required to respond to complaints other than to "stop, look, listen, and consider."
- FEDERAL LAWS now includes Section 504, ADA, and Title IX text that specifically requires adoption of grievance procedures providing for prompt and equitable resolution of complaints brought under those Acts.
- At GRIEVANCES CONCERNING WAGES, HOURS, CONDITIONS OF WORK, on page 2, a definition of "conditions of work"—derived by an Attorney General's opinion and case law—and case law speaking to GROUP GRIEVANCES—have been added.
- WHISTLEBLOWER COMPLAINTS, on page 3, recites a Government Code requirement that an employee filing for "whistleblower" relief under the Code must initiate a grievance in accordance with the District's grievance procedure.

Throughout the policy, language has been refined to more closely track the authority cited.

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

Complaint policies at DGBA (for employees), FNG (for students or parents), and GF (for others) have been extensively revised based upon feedback from members of the TASB Council of School Attorneys as well

as local districts. The changes are designed to more closely align these three processes (filing requirements, time lines, etc.), to avoid confusion in handling complaints, to sidestep to some extent time line complications presented by holidays, to provide more time for individuals to take the first and subsequent steps in the formal complaint process, and to further clarify language.

New to the three policies are the following:

- GUIDING PRINCIPLES, on page 1, encourages informal resolution of concerns or complaints at the lowest possible administrative level and in a timely fashion. If an informal approach is unsuccessful, the employee bringing the complaint may initiate the formal process defined at Level One in this policy. The employee has 15 days from the date he or she first becomes aware of the action prompting the complaint to file a formal complaint. During this period the employee may continue to seek an informal resolution and may withdraw a formal complaint at any time.
- At DEFINITIONS, beginning on page 2, provisions newly address:
  - Appropriate means of FILING a timely complaint form or appeal notice.
  - The nature of the administrative RESPONSE, now required in writing at Levels One and Two of the process.
  - The meaning of DAYS as District business days, rather than calendar days as before. In addition to this definitional shift, the number of days for filing complaints or appeals and for administrative responses has been extended throughout the policy.
  - The designation of a REPRESENTATIVE for the employee and a statement that, if an employee designates a representative shortly before a scheduled conference or hearing, the District may reschedule in order to include its own attorney.
- Under UNTIMELY FILINGS, on page 3, a complaint or appeal may now be dismissed if filed late. The employee may appeal the dismissal at the same level, but, in line with guidance provided by the Commissioner, the appeal is limited to the issue of timeliness.
- At COMPLAINT FORM the language also addresses the need to attach documentation to the form and the possibility that incomplete filings may be dismissed; complaints may be refiled, however, so long as the time period for filing has not expired.
- At LEVEL ONE, on page 4, language guides the employee in filing the complaint with the appropriate administrator and in identifying the appropriate level for initiating the complaint.
- LEVEL TWO provisions note that the employee appealing the Level One result must file an appeal notice on a form provided by the District. Issues addressed at Level Two are limited to information presented at Level One.
- As reflected at LEVEL THREE, on page 5, the District will determine whether the Level Three complaint will be presented in open or closed meeting, as permitted by the Texas Open Meetings Act and other applicable law. This language replaces previous language that defaulted to closed meetings for complaints against the Board or employees (unless the person who was the subject of the complaint opted for an open proceeding). TASB attorneys note that the law regarding application of the various—and occasionally competing—exceptions to the Texas Open Meetings Act is very complex, as demonstrated by decisions of the Attorney General and Commissioner of Education. While the deleted statement regarding closed meetings for complaints against employees was an accurate reflection of one of many possible closed meeting exceptions, boards should consult local legal counsel to determine, on a case-by-case basis, whether a closed meeting is appropriate.

  Also in this section, the manner of recording the proceeding—a critical record should the employee pursue legal action or appeal to the Commissioner of Education—has been clarified. The Board must make a separate record of its Level Three proceedings, and the record must include, at a minimum, “oral testimony or argument”—the language of statute—but the Board’s deliberations need not be recorded.

A significant change has occurred regarding the Board's decision. Previously, policy required the Board to declare its decision orally (in the employee's presence) or in writing at any time up to and including the next regularly scheduled Board meeting. New language clarifies that if the Board does not reach a decision by the end of the next regularly scheduled meeting, the administrative decision in Level Two is upheld.

Please note: DGBA(LOCAL) may be among the "employment policies" that Education Code 21.204(d) requires to be provided to all term contract employees. For further information regarding this requirement and recommendations regarding other employee notification, please refer to the Policy Service ***Employee Notification Alert*** found at http://www.tasb.org/policy/pa/notification_alert.shtml.

The ***TASB Model Employee Handbook***, published by TASB Human Resources Services, recommends including the entire policy verbatim in locally developed handbooks. If your locally developed handbook recites the previous policy, however, replacement pages should be published.

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

Policy Service has recently released exhibits that align with the (LOCAL) policy recommendations in this update. The new forms are found in the ***TASB Regulations Resource Manual***, available online to superintendents and policy administrators through MyTASB at http://www.tasb.org/policy/index.shtml.

DH (LOCAL) EMPLOYEE STANDARDS OF CONDUCT

Key changes are as follows:

- At ALCOHOL AND DRUGS, we have clarified the prohibition to include manufacture, possession, or dispensing a prohibited substance.
- Text at EXCEPTIONS explains the application of that provision.
- At MORAL TURPITUDE, we have moved text addressing acts involving public intoxication, previously included at item 4, to a separate item 5 for clarity.

We have retained unaltered the District's locally developed text beginning in the second paragraph and continuing until SAFETY REQUIREMENTS.

Please note: DH(LOCAL) may be among the "employment policies" that Education Code 21.204(d) requires to be provided to all term contract employees. For further information regarding this requirement and recommendations regarding other employee notification, please refer to the Policy Service ***Employee Notification Alert*** found at http://www.tasb.org/policy/pa/notification_alert.shtml.

DK (LOCAL) ASSIGNMENT AND SCHEDULES

We recommend revisions clarifying the authority of the Superintendent to establish WORK CALENDARS AND SCHEDULES, within the constraints of the adopted budget and employment contracts.

Please note: DK(LOCAL) may be among the "employment policies" that Education Code 21.204(d) requires to be provided to all term contract employees. For further information regarding this requirement and recommendations regarding other employee notification, please refer to the Policy Service ***Employee Notification Alert*** found at http://www.tasb.org/policy/pa/notification_alert.shtml.

EFE (LEGAL) INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIAL

At EXCLUSIVE RIGHTS and FAIR USE, the text has been revised to more closely track the statute.

At PERFORMANCES AND DISPLAYS, on page 2, the text now expresses the Teach Amendments to the Copyright Act of 2002, which allows performances or displays of work by instructors or pupils during teaching activities of nonprofit educational institutions; however, such use of motion pictures or other audiovisual work is not permitted if the performance of the work or the display of individual images is given by means of an illegally made copy and the person responsible for the performance knew or had reason to believe that the copy was not lawfully made. Other exceptions, generally applicable to secondary transmissions and library and archive copying, may apply.

Provisions of the Digital Millennium Copyright Act, 1998, and amendments to the On Line Copyright Infringement Liability Limitation Act have been added to the end of this policy. In order to qualify for the limitation on liability, the District must designate an agent to receive complaints, file the designation with the U.S. Copyright Office, post notice of the designation on the District's Web site, not interfere with technical measures to protect copyrighted materials, and adopt a policy providing that frequent copyright infringers may have their user privileges terminated. Further information and forms for filing this designation may be found at http://www.copyright.gov/onlinesp/#agent.

EFE (LOCAL) INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIAL

New provisions requiring lawful use of District technology have been added. As described at EFE(LEGAL), included in this policy is a requirement to designate an agent to receive complaints concerning copyright infringement, which is essential for the District to invoke the liability limitations under the Digital Millennium Copyright Act.

Text in the last paragraph at COMPUTER SOFTWARE has been updated and streamlined and outmoded text at DEFINITIONS has been deleted.

EFE (EXHIBIT) INSTRUCTIONAL RESOURCES
COPYRIGHTED MATERIAL

The current (EXHIBIT) in your localized manual is an extraction of key provisions from federal regulations and, because it is inherently an incomplete rendering of the regulations, may mislead users into an unwitting copyright violation. To better communicate the federal restrictions, we recommend deleting this exhibit.

To provide manual users a clear line of sight regarding the regulations, we have included the Internet URL (www.copyright.gov) for these specifics in the EFE(LEGAL) policy in this packet. For *Policy On Line* users, this URL will be an automated link; hardcopy users may access the regulations by entering the URL in their Web browsers.

EHBK (LEGAL) SPECIAL PROGRAMS
OTHER INSTRUCTIONAL INITIATIVES

Reflected at CELEBRATE FREEDOM WEEK, on pages 1 and 2, are State Board of Education rules implementing HB 1776, from the 78th Regular Session, which move the commemoration from September to the week in November in which Veterans' Day is observed. The legislation allows local boards discretion to observe the week at an alternate time. The rules, effective on December 7, 2003, essentially restate the language of the legislation regarding APPROPRIATE INSTRUCTION, RECITATION, and EXCEPTION.

The CPR INSTRUCTION section, beginning on page 2, has been edited to more closely track statutory language. The final paragraph is drawn from the statement of legislative intent found in HB 821 from the 77th Regular Session.

EIC (LEGAL) ACADEMIC ACHIEVEMENT
CLASS RANKING

This policy has been reorganized for clarity; provisions have been refined to more closely track statute, and citations have been revised as needed. No substantive changes have been made.

EIF (LEGAL) ACADEMIC ACHIEVEMENT
GRADUATION

This policy has been revised to incorporate State Board of Education rules adopted on November 7, 2003, that became effective on December 7, 2003. These rules require students entering grade 9, beginning with the 2004–05 school year, to take courses necessary to complete the requirements of either the Recommended High School Program or the Distinguished Achievement Program, unless a school official, the student, and the student's parent determine that the student should be permitted to take courses under the Minimum High School Program. (See STATE GRADUATION REQUIREMENTS, on pages 3 and 4).

Please note: At SUBSTITUTIONS, on page 5, is reflected the rule change disallowing substitutions for Distinguished Achievement Program courses, unless provided by State Board rule.

EIF (LOCAL) ACADEMIC ACHIEVEMENT
GRADUATION

Please review your current (LOCAL) policy at this code in light of the new graduation requirements and to confirm that the optional provisions—physical education waivers and substitutions and reading improvement—detailed in the (LEGAL) policy are appropriately addressed in the (LOCAL) policy. Please contact your Policy Consultant/Analyst if revisions are needed.

EIF (EXHIBIT) ACADEMIC ACHIEVEMENT
GRADUATION

Deleted from this exhibit series are the three graduation plans applicable to students who entered grade 9 prior to the 2001–02 school year. The remaining exhibits—previously Exhibit D, Exhibit E, and Exhibit F—have been recoded as Exhibit A, Exhibit B, and Exhibit C, respectively.

Each of these recoded exhibits has been adjusted to reflect newly prescribed state graduation requirements for students entering grade 9 in the 2004–05 school year or thereafter:

- In Exhibit A (Minimum High School Program), citations to the Electives section and the Substitutions/Alternatives section have been updated.
- In Exhibit B (Recommended High School Program) and Exhibit C (Distinguished Achievement Program), new State Board of Education rules for Technology Applications, specific to students entering grade 9 in the 2004–05 school year and beyond, have been incorporated.

  The addition describes the option whereby students may satisfy the Technology Applications requirement by completing three credits, consisting of two or more state-approved career and technology courses, including innovative courses, under the Recommended High School Program and Distinguished Achievement Program; however, students pursuing this option must demonstrate proficiency in technology applications (through credit by examination) prior to the beginning of grade 11.

EK (LEGAL) TESTING PROGRAMS

This policy has been substantially amended to reflect legislation and Commissioner's rules pertaining to districts offering high school equivalency programs.

SB 1470, passed during the 78th Regular Session, extended the authority of pilot high school equivalency programs (HSEP) previously approved by the Commissioner to continue operating and opened the door to authorize additional programs by individual districts or cooperatives of districts.

Students desiring to enter such a program must take the grade 9 assessment test (or higher grade level assessment) and, while enrolled in the program, take each grade level assessment administered to students

in the regular high school program. The act exempted students who were ordered by the court or the Texas Youth Commission to enroll in the program.

EK (LOCAL) TESTING PROGRAMS

Your current policy language addressing student testing programs long predates the advent of the TABS, TEAMS, TAAS, and TAKS state accountability tests. While this policy may have provided helpful guidance at the time it was adopted, the current state accountability system—and the reporting structure accompanying it—eliminates the need for such a policy.

Also, your current policy contains language regarding the District's hosting of a GED testing center, a provision that our experience suggests may not be consistent with current practice. Consequently, we have deleted this outdated language. If, however, your District continues to host a GED testing center, you are required to have a local policy concerning the operation of the center and the duty of the chief administrative officer or chief examiner of the center to prepare an annual report for the District's review. If your District hosts such a center, please contact your Policy Consultant/Analyst for replacement language.

FEA (LOCAL) ATTENDANCE
COMPULSORY ATTENDANCE

WITHDRAWAL FOR NONATTENDANCE has been revised to more closely align with statute and to refer readers to FEA(LEGAL) for withdrawal provisions applicable to students 18 or older with more than five unexcused absences in a semester.

FFAA (LEGAL) HEALTH REQUIREMENTS AND SERVICES
PHYSICAL EXAMINATIONS

Recent changes in statute and Texas Department of Health rules governing screening of students for health issues have prompted redevelopment and segmentation of this policy into the three distinct screening categories.

At VISION AND HEARING SCREENING is found the Health and Safety Code mandate that districts screen students for vision and hearing disorders. Also included are various TDH rules related to that screening:

- SCREENING SCHEDULE reflects revised TDH rules that now call for screening prekindergarten students but no longer require screening students in grade 9. Screening of first-time enrollees in any Texas school has been expanded to apply to any first-time enrollees—four years of age or older—in the District.
- OUTSIDE SCREENING rule provisions echo statute—allowing substitution of a previous year's outside screening but disallowing this substitution for students in kindergarten or grade 1.
- PROVISIONAL ADMISSION adds to previous TDH rule an affidavit requirement that the outside screening will occur promptly as a condition for admitting a student whose parent opts for outside screening. Please note, however, that the rule now allows the District to deny admission of a student until screening records are received by the District.
- RECORDS reflects a long-standing requirement that the District maintain screening records and new TDH rules that (1) allow transfer of screening records between districts without obtaining parental consent and (2) authorize the receiving district to honor "an original or true copy of the proofs of screening."
- REPORTS provisions remain essentially unchanged.

ACANTHOSIS NIGRICANS SCREENING, on page 2, is structured similarly, with the Health and Safety Code mandate prefacing specific requirements, from law and TDH rule, relating to the screening. Changes of note are as follows:

- APPLICABILITY has been extended to students attending public schools in three additional ESC regions—4, 10, and 11. Previously law required screening in regions 1, 2, 3, 13, 15, 18, 19, and 20.
- RECORDS provisions have been added from statute.

SPINAL SCREENING, on page 3, reprises this structure, leading off with the statutory mandate and following up with related provisions from the Heath and Safety Code and TDH rules. Changes include the following:

- SCREENING ON ENROLLMENT has been added, from TDH rule. Districts are encouraged to screen students new to the District in grades 10, 11, or 12 if there is no record of the student's having been screened previously.
- TRANSFER OF RECORDS has been added from TDH rule.

FFAB (LEGAL) HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

As with FFAA(LEGAL), recent changes in law and Texas Department of Health rules have prompted the restructuring of this policy.

In April 2004, TDH repealed previous regulations regarding immunization of students and adopted substantially revised rules:

- At IMMUNIZATION REQUIREMENT currently required immunizations are restated, with the exception of Haemophilus influenzae type B. The second paragraph requires vaccination, on a TDH prescribed schedule, for pertussis, hepatitis B, hepatitis A (in high incidence areas), and varicella. The third paragraph provides for requiring additional vaccination doses or boosters in the event of outbreak.
- At EXCEPTIONS, provisions remain essentially unchanged apart from the period of time for which they are granted:
  - Exceptions for MEDICAL REASONS may now be granted for more than a year provided the physician affirms in writing that the student has a lifelong condition.
  - Exceptions for REASONS OF CONSCIENCE are now valid for two years.

    Please note: TDH advises that the affidavits provided by TDH prior to the adoption of these rules specified that an exemption for reasons of conscience would be valid for five years. In that light, TDH advises that affidavits submitted to schools before March 11, 2004, continue to be valid for the full five-year period.
- At PROVISIONAL ADMISSION, on page 2, TDH rules clarify that a student must have at least one dose of each required, age-appropriate vaccine before he or she may be admitted and charges the school nurse or administration to monitor progress, excluding students who fail to receive the necessary immunizations as rapidly as medically feasible.
- At HOMELESS STUDENT, TDH rules have been included allowing the 30-day enrollment of a homeless student for whom acceptable evidence of vaccination is unavailable. A like provision applies to TRANSFER STUDENTS.
- At EVIDENCE OF IMMUNIZATION, beginning on page 2, TDH rules essentially restate previous requirements.
- At IMMUNIZATION RECORDS, on page 3, and CONSENT TO IMMUNIZATION, on page 4, TDH rules are restated with little substantive change.

- At DUTY TO PROVIDE INFORMATION, FORM OF CONSENT, and LIABILITY, on page 4, key provisions from existing statute, not previously recited in this policy, have been added.

FFAB (EXHIBIT) HEALTH REQUIREMENTS AND SERVICES
IMMUNIZATIONS

The Texas Department of Health maintains a chart of required immunizations, with its qualifying footnotes, at http://www.tdh.state.tx.us/immunize/docs/school/require_k–12.pdf. Because of the clarity with which the chart presents this information and since this chart is revised to keep current with TDH rule changes, we are replacing our own charting of regulatory requirements with the text of the TDH-published chart.

To provide manual users a clear line of sight regarding the regulations, we have included the Internet URL for this chart in the FFAB(LEGAL) policy in this packet. For *Policy On Line* users, this URL will be an active link to the Web site; hardcopy users may access the chart by entering the URL in their Web browsers.

FFG (EXHIBIT) STUDENT WELFARE
CHILD ABUSE AND NEGLECT

Revisions to the exhibit are as follows:

- New text has been added—with the question "Are there any restrictions on reporting?"—to reflect Education Code provisions (from SB 930, passed during the 78th Regular Session) that prohibit an employee from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug, or any other psychiatric or psychological testing or treatment of a child, as the sole basis for making a report of neglect, unless the employee believes there is a serious risk to the child. [See FFAC(LEGAL) in your District's localized policy manual]
- Also added is the Web address for reporting suspected child abuse or neglect to the Child Protective Services division of the Texas Department of Family and Protective Services (formerly the Department of Protective and Regulatory Services).

Please note: We have provided, in the first paragraph, blanks for the name and phone number of a District official to contact with questions about policies regarding child abuse and neglect. At "To whom do I make a report?", we have included a prompt for the contact information of authorities to whom an employee is required to report any suspicion of child abuse or neglect of a student. Please supply your Policy Consultant/Analyst with the appropriate information so that the completed exhibit can be returned to you for inclusion in your Localized Policy Manual.

FM (LOCAL) STUDENT ACTIVITIES

USE OF DISTRICT FACILITIES affirms that school-sponsored student groups are permitted to use District facilities with prior administrative approval. Such use is controlled by this policy, rather than FNAB where use by nonschool-sponsored groups is addressed.

We have retained unaltered the District's locally developed addition of 15 absences not related to post-district competition.

FNC (LOCAL) STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT CONDUCT

The code list appearing at BEHAVIORAL STANDARDS has been updated to reflect structural and content changes in the F and G sections.

FNCB (LOCAL) STUDENT CONDUCT
CARE OF SCHOOL PROPERTY

Issues of vandalism and care of school property are addressed in the Board-adopted Student Code of Conduct. This policy is unnecessary and could be in conflict with the Student Code of Conduct; we recommend its deletion.

FNCF (LOCAL) STUDENT CONDUCT
ALCOHOL AND DRUG USE

The laws defining alcohol and drug use have been expanded greatly over the past several years and now address such issues as abusable glue, paints, and volatile chemicals, and alcohol-free zones—issues that were not contemplated when this (LOCAL) policy was enacted.

The concepts expressed by this policy are addressed in significantly greater detail in law [see FNCF(LEGAL)] and the Student Code of Conduct. This (LOCAL) policy is no longer in tune with statutory requirements and may be unduly limited; we recommend its deletion.

FNCG (LEGAL) STUDENT CONDUCT
WEAPONS

This policy has been redeveloped to more precisely delineate the various weapons prohibitions found in Education Code 37.007, Penal Code 46.05(a), and Penal Code 46.03.

At EXPULSION OFFENSE is cited the Education Code prohibition against firearms, illegal knives, clubs, or other (statutorily) prohibited weapons at school or school-related activities.

The following section titled CRIMINAL OFFENSE adds Penal Code 46.03 nuances: "intentionally, knowingly, or recklessly" possessing or carrying these weapons, adding school vehicles, and providing an exception for the District's written regulations or authorization.

Education Code provisions specific to firearms appear next, followed by the expulsion requirement found in the federal Gun-Free Schools Act and the Penal Code 46.01 definitions of "firearm," "illegal knife," "club," and "prohibited weapon." Embedded in the ILLEGAL KNIFE section is the Education Code provision allowing districts to ban by local policy otherwise "legal" knives. The OTHER PROHIBITED WEAPONS section has been fine-tuned to more closely encompass and track the provisions of Penal Code 46.01.

FNCG (LOCAL) STUDENT CONDUCT
WEAPONS

Due to the increasing specificity of laws affecting student discipline and because the Board-adopted Student Code of Conduct already has the force of policy, this policy is essentially redundant. We recommend you delete it to avoid a possible conflict with the Student Code of Conduct.

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

As at DGBA(LEGAL) and GF(LEGAL) in this update, a new section addressing the UNITED STATES CONSTITUTION has been added expressing the First Amendment right to petition the Board for redress of grievances and reflecting case law affirming the latitude of the Board to control its agenda and hold nonpublic sessions, with the caveat that in public meetings the Board may not discriminate among speakers on the basis of viewpoint.

Other changes are as follows:

- TEXAS CONSTITUTION includes case law holding that the Board is not required to respond to complaints other than to "stop, look, listen, and consider."
- FEDERAL LAWS now includes Section 504, ADA, and Title IX text that specifically requires adoption of grievance procedures providing for prompt and equitable resolution of complaints brought under those Acts.
- Rights provided by Chapter 26 of the Education Code, along with the policy codes where these topics are further addressed have been cataloged at PARENTAL RIGHTS, on page 2. This listing replaces recitations of law previously found in this policy and duplicated at those policy codes.
- On page 3, OBJECTION TO SCHOOL ASSIGNMENT, from Education Code Chapter 25; CHALLENGE TO EDUCATION RECORDS, from federal regulations; and DENIAL OF CLASS CREDIT, also from Education Code Chapter 25, reflect additional parental rights.

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

As noted at DGBA(LOCAL), the complaint policies have been extensively revised based upon feedback from members of the TASB Council of School Attorneys as well as local districts. The changes are designed to more closely align DGBA(LOCAL), for employees, FNG(LOCAL), for students or parents, and GF(LOCAL), for others. In addition to reducing confusion among processes, the revisions sidestep to some extent time line complications presented by holidays, provide more time for individuals to take the first and subsequent steps in the formal complaint process, and further clarify language.

New to the three policies are the following:

- GUIDING PRINCIPLES, on page 1, encourages informal resolution of concerns or complaints at the lowest possible administrative level and in a timely fashion. If an informal approach is unsuccessful, the parent or student bringing the complaint may initiate the formal process defined in this policy. The parent or student has 15 days from the date he or she first becomes aware of the action prompting the complaint to file a formal complaint; during this period the parent or student may continue to work toward informal resolution and may withdraw the formal complaint at any time.
- At DEFINITIONS, on page 2, new provisions address:
  - Appropriate means of FILING a timely complaint form or appeal notice.
  - The nature of the administrative RESPONSE, now required in writing at Levels One and Two of the process.
  - The designation of a REPRESENTATIVE for the student or parent and a statement that, if the student or parent designates a representative shortly before a scheduled conference or hearing, the District may reschedule in order to include its own attorney.
  - The meaning of DAYS as District business days, rather than calendar days as before. In addition to this definitional shift, the number of days for filing complaints or appeals and for administrative responses has been extended throughout the policy.
- Under UNTIMELY FILINGS, on page 3, a complaint or appeal may now be dismissed if filed late. The parent or student may appeal the dismissal at the same level, but, in line with guidance provided by the Commissioner, the appeal is limited to the issue of timeliness.
- At COMPLAINT FORM the language also addresses the need to attach documentation to the form and the possibility that incomplete filings may be dismissed; complaints may be refiled, however, so long as the time period for filing has not expired.
- At LEVEL ONE, language guides the parent or student in filing the complaint with the appropriate administrator and in identifying the appropriate level for initiating the complaint.

- LEVEL TWO provisions, on page 4, note that a student or parent appealing the Level One result must file an appeal notice on a form provided by the District. Issues addressed at Level Two are limited to information presented at Level One.
- As reflected at LEVEL THREE, the District will determine whether the Level Three complaint will be presented in open or closed meeting, as permitted by the Texas Open Meetings Act and other applicable law. This language replaces previous language that defaulted to closed meetings for complaints against the Board or employees (unless the person who was the subject of the complaint opted for an open proceeding). TASB attorneys note that the law regarding application of the various—and occasionally competing—exceptions to the Texas Open Meetings Act is very complex, as demonstrated by decisions of the Attorney General and Commissioner of Education. While the deleted statement regarding closed meetings for complaints against employees was an accurate reflection of one of many possible closed meeting exceptions, boards should consult local legal counsel to determine, on a case-by-case basis, whether a closed meeting is appropriate.

  Also in this section, we have clarified the manner of the recording—a critical record should the parent or student pursue legal action or appeal to the Commissioner of Education. The Board must make a separate record of its Level Three proceedings, and the record must include, at a minimum, "oral testimony or argument"—the language of statute—but the Board's deliberations need not be recorded.

  A significant change has occurred regarding the Board's decision. Previously, policy required the Board to declare its decision orally (in the parent or student's presence) or in writing at any time up to and including the next regularly scheduled Board meeting. New language clarifies that, if the Board does not reach a decision by the end of the next regularly scheduled meeting, the administrative decision in Level Two is upheld.

Please note: Although structurally similar to previous policy, this revised policy should be made readily available to students and parents who wish to file a complaint. The ***TASB Model Student Handbook*** summarizes the previous policy in a way that will continue to describe the new policy. If your locally developed handbook recites verbatim the previous policy, however, replacement pages should be published for parents and students.

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

Policy Service has recently released exhibits that align with the (LOCAL) policy recommendations in this update. The new forms are found in the ***TASB Regulations Resource Manual***, available online to superintendents and policy administrators through MyTASB at http://www.tasb.org/policy/index.shtml.

FO (LEGAL) STUDENT DISCIPLINE

At CONTINUATION OF DISCIPLINARY ACTION, on page 2, is added a provision of HB 2061 from the 78th Regular Session, whereby a student cannot evade a disciplinary term by transferring to either another district or a charter school. Under the terms of the legislation, the former district will provide a copy of the discipline order at the same time it sends other records of the transferring student.

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

This exhibit has been revised to reflect changes in law from the 78th Regular Session, to more closely track statutory language, and to more fully present Title 5 offenses that rise to the level of a felony.

Changes from the 78th Regular Session are as follows:

- At Section 20A.02, Trafficking of Persons, a new felony offense added by HB 2096
- At Section 21.12, Improper Relationship between an Educator and a Student, a new felony offense added by HB 532
- At Section 22.01, Assault against..."a person the actor knows is a security officer" (added by HB 565) and "a person who contracts with the government to perform a service at a correctional facility or a secure correctional or detention facility for juveniles" (added by HB 2525)
- At Section 22.07, Terroristic Threat, "if the actor causes pecuniary loss of $1,500 or more to the owner of a building, room, place, or conveyance," added by HB 616
- Section 22.11: Harassment by Persons in Certain Correctional Facilities, revisions in designations of sites by HB 274

For completeness, additional felony offenses found in Title 5 have been added:

- Section 20.05: Unlawful Transport
- Section 22.015: Coercing, Soliciting, or Inducing Gang Membership

GBA (EXHIBIT) PUBLIC INFORMATION PROGRAM
ACCESS TO PUBLIC INFORMATION

The Texas Building and Procurement Commission, on the recommendation of the Open Records Steering Committee, has amended rules governing the cost of copies of public information. The amendments are essentially clarifying but also establish charges for various electronic media. This exhibit has been revised to reflect the rule changes.

GE (LOCAL) RELATIONS WITH PARENT ORGANIZATIONS

We have revised this policy for clarity. Please note that the groups described are permitted to use District facilities with the approval of the appropriate administrator; such use is not governed by GKD, as would be the case for other parent groups that are not District-affiliated.

GF (LEGAL) PUBLIC COMPLAINTS

This new policy echoes language also found at DGBA(LEGAL)—employee complaints—and FNG(LEGAL) —student or parent complaints:

- UNITED STATES CONSTITUTION expresses the First Amendment right to petition the Board for redress of grievances and reflects case law affirming the latitude of the Board to control its agenda and hold nonpublic sessions, with the caveat that in public meetings the Board may not discriminate among speakers on the basis of viewpoint.
- TEXAS CONSTITUTION speaks to the right of peaceable assembly to seek redress of grievances and the obligation of the Board to "stop, look, listen, and consider."
- FEDERAL LAWS recites Section 504 and ADA provisions that specifically require adoption of grievance procedures providing for prompt and equitable resolution of complaints brought under those Acts.

GF (LOCAL) PUBLIC COMPLAINTS

As noted at DGBA(LOCAL) and FNG(LOCAL), we have extensively revised the complaint policies here and at those codes, based upon feedback from members of the TASB Council of School Attorneys as well as local

districts. The changes are designed to more closely align all three complaint policies. In addition to reducing confusion among processes, the revisions sidestep to some extent time line complications presented by holidays, provide more time for individuals to take the first and subsequent steps in the formal complaint process, and further clarify language.

New to the three policies are the following:

- GUIDING PRINCIPLES, on page 1, encourages informal resolution of concerns or complaints at the lowest possible administrative level and in a timely fashion. If an informal approach is unsuccessful, the individual bringing the complaint may initiate the formal process defined in this policy. The individual has 15 days from the date he or she first becomes aware of the action prompting the complaint to file a formal complaint; during this period the individual may continue to work toward informal resolution and may withdraw the formal complaint at any time.
- At DEFINITIONS, provisions newly address:
  - Appropriate means of FILING a timely complaint form or appeal notice.
  - The nature of the administrative RESPONSE, now required in writing at Levels One and Two of the process.
  - The designation of a REPRESENTATIVE for the complainant and a statement that if a complainant designates a representative shortly before a scheduled conference or hearing, the District may reschedule in order to include its own attorney.
  - The meaning of DAYS as District business days, rather than calendar days as before. In addition to this definitional shift, the number of days for filing complaints or appeals and for administrative responses has been extended throughout the policy.
- Under UNTIMELY FILINGS, on page 2, a complaint or appeal may now be dismissed if filed late. The complainant may appeal the dismissal at the same level, but, in line with guidance provided by the Commissioner, the appeal is limited to the issue of timeliness.
- At COMPLAINT FORM the language also addresses the need to attach documentation to the form and the possibility that incomplete filings may be dismissed; complaints may be refiled, however, so long as the time period for filing has not expired.
- At LEVEL ONE, on page 3, language guides the individual in filing the complaint with the appropriate administrator and in identifying the appropriate level for initiating the complaint.
- LEVEL TWO provisions, on page 4, note that an individual appealing the Level One result must file an appeal notice on a form provided by the District. Issues addressed at Level Two are limited to information presented at Level One.
- As reflected at LEVEL THREE, the District will determine whether the Level Three complaint will be presented in open or closed meeting, as permitted by the Texas Open Meetings Act and other applicable law. This language replaces previous language that defaulted to closed meetings for complaints against the Board or employees (unless the person who was the subject of the complaint opted for an open proceeding). TASB attorneys note that the law regarding application of the various—and occasionally competing—exceptions to the Texas Open Meetings Act is very complex, as demonstrated by decisions of the Attorney General and Commissioner of Education. While the deleted statement regarding closed meetings for complaints against employees was an accurate reflection of one of many possible closed meeting exceptions, boards should consult local legal counsel to determine, on a case-by-case basis, whether a closed meeting is appropriate.

  Also in this section, we have clarified the manner of the recording—a critical record should the complainant pursue legal action or appeal to the Commissioner of Education. The Board must make a separate record of its Level Three proceedings, and the record must include, at a minimum, “oral testimony or argument”—the language of statute—but the Board’s deliberations need not be recorded.

A significant change has occurred regarding the Board's decision. Previously, policy required the Board to declare its decision orally (in the complainant's presence) or in writing at any time up to and including the next regularly scheduled Board meeting. New language clarifies that, if the Board fails to reach a decision by the end of the next regularly scheduled meeting, the administrative decision in Level Two is upheld.

Please note: Although structurally similar to previous policy, this revised policy should be made readily available to members of the public who wish to file a complaint. We recommend that you revise any publications that might contain the previous policy and replace that content as soon as practicable.

GF (EXHIBIT) PUBLIC COMPLAINTS

Policy Service has recently released exhibits that align with the (LOCAL) policy recommendations in this update. The new forms are found in the ***TASB Regulations Resource Manual***, available online to superintendents and policy administrators through MyTASB at http://www.tasb.org/policy/index.shtml.

GKA (LEGAL) COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

In addition to Penal Code 46.03, which prohibits carrying weapons onto school property, provisions have been added to this policy, on page 3, that are applicable to a CONCEALED HANDGUN LICENSE HOLDER. In brief, a licensed holder violates the Penal Code by having a handgun in a school building or at a school activity if he or she does so without consent and in violation of specific notice.

Exceptions are provided to the criminal statutes when the property is under the control of the District and is not a school building or other site on which handguns are prohibited by law. Examples of these excepted areas include the District's driveways, streets, sidewalks, parking lots, and parking garages.

Specific criminal penalties are provided when a license holder "intentionally, knowingly, or recklessly" carries a handgun:

- To a high school or interscholastic sporting event (unless the holder is participating in the event for which the handgun is to be used), or
- To a Board meeting (if notice was given).

GKA (LOCAL) COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

A general prohibition regarding weapons on District property—broadly stated—has been added to this policy. This prohibition would apply to not only the specific locations provided by law but other areas under the control of the District. An EXCEPTION has been added as well to allow weapons in the case of District-approved and supervised activities.

Please note: Prior to the 78th Regular Session, state law made it a crime to bring a properly licensed concealed handgun into a school building or a building or grounds where a school-sponsored activity was taking place.

Although it was not automatically a crime to bring a properly licensed concealed handgun onto other school grounds (e.g., driveways and parking lots), the District could post prohibitions on its property. Violators were subject to criminal trespass charges. SB 501, however, repealed this provision. As a consequence, districts may still prohibit by local policy and post signs, but it is no longer automatically a criminal trespass offense to bring a properly licensed concealed handgun onto these other school grounds. Districts may deal with violations by students or employees as disciplinary matters but have little recourse against violations by members of the public.

Explanatory Notes

TASB Localized Policy Manual Update 73

GND (LEGAL) RELATIONS WITH EDUCATIONAL ENTITIES
STATE EDUCATION AGENCY

In addition to updated citations and editorial refinements to more closely track statute, this policy reflects the following substantive revisions:

- At ACCREDITATION CRITERIA, on page 3, revisions reflect the State Board of Education's December 7, 2003, rule changes to align with statute:
  - "The effectiveness of the District's career and technology program" is no longer a PRIMARY criteria.
  - Items 2 through 7 have been added to OTHER criteria.
- At ACCREDITATION RATINGS, on page 5, the more detailed language of the rules replaces the language of statute.
- SBOE rules regarding CAMPUS RATINGS, no longer specifically addressed in the rules, have been deleted.

GRA (LEGAL) RELATIONS WITH GOVERNMENTAL ENTITIES
LOCAL GOVERNMENTAL AUTHORITIES

At CHILD PROTECTIVE SERVICES INVESTIGATIONS AT SCHOOL, on page 5, a recitation of the Attorney General's 1998 opinion (DM–476) has been deleted. That opinion held that a school official who denies a CPS investigator access to a student may be held to have interfered with the investigation. Since the opinion adds little to the Family Code provisions cited and may be misread to permit denial of access, the language has been deleted but the citation retained.

NUMBER AND TERM

The Board consists of seven Trustees serving terms of three years, with elections held annually. The terms of one–third of the Trustees, or as near to one–third as possible, expire each year. *Education Code 11.051(b), 11.059*

TERMS

Board policy shall state the schedule on which specific terms expire. *Education Code 11.059*

METHOD OF ELECTION

POSITION OR PLACE

Election of Trustees is by position or place in accordance with Texas law. The decision to elect Trustees by this method shall not be rescinded. *Education Code 11.058*

FILING INFORMATION

A declaration of write-in candidacy must be filed no later than 5:00 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed. An application of a candidate for a place on the ballot must be filed not later than 5:00 p.m. of the 62nd day before the day of the election. An application may not be filed earlier than the 30th day before the date of the filing deadline. The application shall include all statutorily required information, including a statement that the candidate is aware of the nepotism law. *Education Code 11.055(a), 11.056(b); Election Code 31.0021, 141.031(4)*

LOYALTY OATH

Before a candidate can have his or her name placed on the ballot, the candidate must execute and have notarized the loyalty oath. *Election Code 141.031; The Socialist Workers Party v. Martin, 345 F.Supp. 1132 (S.D. Tex. 1972), aff'd 483 F.2d 554 (5th Cir. 1973)*

NEPOTISM

A candidate shall not take affirmative action to influence a District employee or current Trustee regarding the appointment, reappointment, employment, confirmation, reemployment, change in status, compensation, or dismissal of a person related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE(EXHIBIT)] However, this prohibition does not apply to a candidate's actions taken with respect to a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

GENERAL ELECTION DATE

Election of Trustees of the District shall be on the May uniform election date. *Election Code 41.001*

CHANGING ELECTION DATES

The Board may, not later than December 31, 2004, change the date on which it holds its general election for officers to another authorized uniform election date. An election on the new date may not be held before the uniform election date in May 2004. *Election Code 41.0052(a)*

NOTICE

A call for an election shall be made not later than the 62nd day before election day. Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day be-

fore election day, in a newspaper published within the District's boundaries or in a newspaper of general circulation in the District if none is published within the District's boundaries. *Election Code 3.005, 4.003(a)(1)*

The notice shall state the nature and date of the election, the location of each polling place, and the hours the polls will be open. The Board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication and shall preserve that copy for 60 days after election day. *Election Code 4.004, 4.005, 66.058(a)*

POSTING

In addition to the notice described above, the District shall, not later than the 21st day before election day, post a copy of the notice on the bulletin board used for posting notices of the meetings of the Board. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the Board after the last posting is made. *Election Code 4.003(b), 4.005*

BALLOT, ELECTION OFFICIALS, POLLING PLACES

The ballot shall be printed in the form required by law. The Board shall appoint election judges, set the maximum number of election clerks, and designate polling places. Each polling place shall be accessible to and usable by the elderly and physically handicapped. *Election Code 32.005(a), 32.033(a), 43.004, 43.034, 52.061–.064, 52.069, 52.093–.094; Education Code 11.058(g)*

POSTING SIGNS AT POLLING PLACES PROHIBITED

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located. *Election Code 62.013(b)*

NOTICE OF VOTING RIGHTS HOTLINE

A notice, in the form prescribed by the secretary of state, informing voters of the telephone number and purpose of the secretary of state's toll-free hotline for reporting existing or potential abuse of voting rights, shall be continuously posted in a prominent location at each polling place during the early voting period and on election day for each election held on a uniform election date. *Election Code 31.0055*

BILINGUAL MATERIALS

The District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:

1. More than five percent of the citizens of voting age of the District are members of a single language minority and are limited-English proficient, or more than 10,000 of the citizens of voting age of the District are members of a single-language minority and are limited-English proficient; and

2. The illiteracy rate of the citizens in the language minority as a group is higher than the national illiteracy rate, illiteracy defined as the failure to complete the fifth primary grade.

The term "limited-English proficient" means unable to speak or understand English adequately enough to participate in the electoral process.

The term "language minorities" or "language minority group" means people who are American Indian, Asian American, Alaskan natives, or of Spanish heritage.

42 U.S.C. 1973aa–1a

Except as provided by Election Code 272.003, bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempt from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct's inhabitants.

Election Code 272.002, 272.003

VOTERS WITH DISABILITIES

A voting system that is acquired on or after September 1, 1999, must comply with Section 504 and Title II of the ADA and must also provide a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 122.0011*; *1 TAC 81.55–.57* [See GA]

This requirement is triggered only by the acquisition of a new voting system (or substantial modification of an existing system) that will change voters' interaction with the ballot at the polling sites. *1 TAC 81.55(2)*

WRITE–IN VOTING

A write-in vote may not be counted for a person who has not filed a declaration of write-in candidacy with the Secretary of the Board in the manner provided for write-in candidates in a general election for state and county officers. To the extent practicable and in accordance with rules adopted by the secretary of state, Election Code Chapter 146, Subchapter B, shall govern write-in voting in Trustee elections. *Education Code 11.056*

ELECTION OF UNOPPOSED CANDIDATE

In any county other than a county in which write-in votes may be counted only for names appearing on a list of write-in candidates, the Board may declare each unopposed candidate elected to the office if:

1. Each candidate whose name is to appear on the ballot is unopposed, and

2. No proposition is to appear on the ballot.

In the case of an election in which any members of the Board are elected from single-member districts, the unopposed candidate procedures can apply to the election in a particular single-member district if each candidate whose name is to appear on the ballot in that district is unopposed and the other requirements described above are met.

Election Code 2.051

The Board may declare each unopposed candidate elected to the office upon receipt of certification from the authority responsible for having the official ballot prepared. The certification must state that only one candidate's name is to appear on the ballot for that office and no candidate's name is to be placed on a list of write-in candidates for that office under applicable law. If the Board makes such a declaration, the election is not held. A copy of the order or ordinance must be posted on election day at each polling place that would have been used in the election. *Election Code 2.052, 2.053(a), (b)*

EARLY VOTING

The Board shall provide for early voting in Board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. *Election Code 81.001*

CANVASS RETURNS

The Board shall canvass the returns at the time set by the presiding officer not earlier than the eighth day or later than the 11th day after election day.

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

Election Code 67.003, 67.004(a)

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 that authority'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.

A recount petition shall delay 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. A candidate who has received a certificate of election and qualified for an office before the submission of a recount petition shall not be affected by the recount petition.

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

Election Code 67.016

CERTIFICATE OF ELECTION FOR UNOPPOSED CANDIDATE

A certificate of election shall be issued to each unopposed candidate 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(c)*

PLURALITY

To be elected to a public office, a candidate must receive a plurality of votes, more votes than any other candidate, except as otherwise provided by law. *Election Code 2.001*

DETERMINATION OF RESULTS

The candidate receiving the highest number of votes for each respective position voted on is entitled to serve as Trustee. *Education Code 11.057(a)*

MAJORITY VOTE OPTION

The board of an independent school district in which the positions of Trustees are designated by number may provide by resolution, not later than the 180th day before the date of an election, that a candidate must receive a majority of the votes cast for a position to be elected.

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

Education Code 11.057(c)

RUNOFF ELECTION

If no candidate for a particular office receives the vote necessary to be elected in an election requiring a majority vote, a runoff election for that office is required. *Election Code 2.021 et seq.*

TIE VOTES

SECOND ELECTION

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, unless the candidates agree to cast lots, one candidate withdraws, or an automatic recount resolves the tie. Not later than the fifth day after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable, the Board shall order the second election. This election shall be held not less than 20 nor more than 30 days after the automatic recount is completed or the final canvass following the automatic recount is completed, if applicable. Notice of the second election shall be given in the same manner as for the first election. Only the names of the tying candidates shall be printed on the ballot; write-in votes shall not be permitted. *Election Code 2.002(a)–(e)*

CASTING LOTS

The tying candidates may agree to cast lots to resolve the tie. The agreement shall be filed with the Board, and the Board President shall supervise the casting of lots. *Election Code 2.002(f)*

WITHDRAWAL OF CANDIDATE

A tying candidate may resolve the tie by filing with the Board a written statement of withdrawal signed and acknowledged by the candidate. On receipt of the statement of withdrawal, the remaining candidate is the winner, and a second election or casting of lots is not held. *Election Code 2.002(g)*

RECOUNT

If a tie vote is not resolved by casting lots or by a candidate withdrawing, an automatic recount shall be conducted in accordance with Election Code Chapter 216. *Election Code 2.002(i)*

The cost of the recount shall be paid by the District. *Election Code 216.005(b)*

VOTING SYSTEM MALFUNCTION

If no private vendor supports the District's voting system, the District must give notice to the Secretary of State within 24 hours of a malfunction of the District's voting system software or equipment in an election. The notice may be verbal or in writing. *1 TAC 81.64*

OFFICER'S STATEMENT

Newly elected and appointed Trustees, 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)* [See BBB(EXHIBIT)]

OATH OF OFFICE

After the officer's statement has been signed and certificates of election have been issued, but before entering upon the duties of the office, the Trustee shall take the oath or affirmation of office and shall file it with the President of the Board. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061* [See BBB(EXHIBIT)]

The oath may be administered and a certificate of the fact given by:

1. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
2. A notary public.
3. A justice of the peace or clerk of a justice court.
4. The secretary of state of Texas.
5. The speaker of the house of representatives.
6. The lieutenant governor of Texas.
7. The governor of Texas.
8. A legislator or retired legislator.
9. The attorney general.

Gov't Code 602.002, 602.006

VOTING RIGHTS ACT

The Board, being subject to the Voting Rights Act of 1965, shall submit any changes that affect elections to the U.S. Justice Department for preclearance and shall implement such changes unless the justice department interposes an objection within 60 days after the date of submission. *42 U.S.C. 1973c; 28 CFR 51.6; Garza v. Gates, 482 F.Supp. 1211 (D.C. Tex. 1980)*

DEFINITIONS

For purposes of this policy, the following definitions shall apply:

LOCAL PUBLIC OFFICIAL – LOCAL GOVERNMENT CODE

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

PUBLIC SERVANT — PENAL CODE

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

   a. An officer, employee, or agent of government; or

   b. A candidate for nomination or election to public office.

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

PUBLIC SERVANT — GOVERNMENT CODE

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

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

   b. An officer of government.

   Gov't Code 553.001

PUBLIC OFFICIAL — GOVERNMENT CODE

4. "Public official" shall mean:

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

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

   Gov't Code 573.001(3)

Note: When reading the following cited material, please note the source of the materials and apply the appropriate definition, from above.

BUSINESS ENTITY

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership,

trust, or any other entity recognized by law. *Local Gov't Code 171.001(2)*

SUBSTANTIAL INTEREST

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

1. The person owns at least:
   a. Ten percent of the voting stock or shares of the business entity, or
   b. Either ten percent or $15,000 of the fair market value of the business entity.
2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

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

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

Local Gov't Code 171.002

CONTRACTS PERMITTED

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

AFFIDAVIT AND ABSTENTION

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

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

MAJORITY CONFLICT

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

Local Gov't Code 171.004

SEPARATE VOTE ON BUDGET

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

PROHIBITED ACTS

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

1. Participate in a vote or decision on a matter involving a business entity or real property in which the local public official has a substantial interest if it is reasonably foreseeable that an action on the matter will have a special economic effect on the business entity or value of the property that is distinguishable from the effect on the public.
2. Act as surety for a business entity that has a contract, work, or business with the District.
3. Act as surety on any official bond required of an officer of the District.

Local Gov't Code 171.003

VIOLATIONS

The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the Board voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

OTHER CONFLICT

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

BRIBERY

1. A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:
    a. As consideration for the public servant's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
    b. As consideration for a violation of a duty imposed on the public servant by law.

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

BENEFIT

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

Penal Code 36.01(3), 36.02

ABUSE OF OFFICE

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

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

"Misuse" means to deal with property contrary to:

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

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

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

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

Penal Code 39.01(2)

BANK RELATIONS

3. A Trustee who is a stockholder, officer, director, or employee of a bank that has bid to become a depository for the District

shall not vote on the awarding of a depository contract to said bank. *Education Code 45.204*

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

INCOMPATIBILITY OF OFFICE

4. One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any powers properly attached to either of the other branches of government. *Texas Constitution, Art. II, Sec. 1; State v. Martin, 51 S.W.2d 815 (Tex. Civ. App. 1932); Thomas v. Abernathy County Line ISD, 290 S.W. 15 (Tex. Comm. App. 1927); Turner v. Trinity ISD, 700 S.W.2d 1 (Tex. Ct. App. 1983); Atty. Gen. Op. JM–634 (1987)*

TEXTBOOKS

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

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

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

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

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

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

   Education Code 31.152(b)–(d)

GIFTS

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

NEPOTISM

8. Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

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

   b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the Board by blood or marriage within a prohibited degree.

Gov't Code 573.002, 573.041; Atty. Gen. Op. JC–0184 (2000)

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

   A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible. *Gov't Code 573.083*

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

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

FORMER TRUSTEE EMPLOYMENT

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

HONORARIA AND EXPENSES

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

DISCLOSURE OF INTEREST IN PROPERTY

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

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

2. The affidavit must:

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

    b. Fully describe the property.

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

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

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

Gov't Code 553.002, 553.003

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

FINANCIAL STATEMENT

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

Not later than the 15th day after the date the Board adopts this resolution, the Board shall deliver a certified copy of the resolution to the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the resolution is adopted. A member of a board that has adopted a resolution is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year following the year in which the resolution is adopted.

The Commissioner by order shall require the members of the Board to file the financial statement required of state officers under

Subchapter B, Chapter 572, Government Code, in the same manner as the members of the Board that have adopted a resolution if the Commissioner determines that:

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

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

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

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

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

An offense under this section is a Class B misdemeanor.

Education Code 11.064

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

ETHICS: BBFA
CONFLICT OF INTEREST (EXHIBIT)

See the following pages for forms that may be used by the District.

Exhibit A: Disclosure of Substantial Interest in a Business Entity as defined in Local Government Code 171.002 — 2 pages

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

EXHIBIT A

DISCLOSURE OF SUBSTANTIAL INTEREST IN A BUSINESS ENTITY

STATE OF TEXAS
COUNTY OF _____

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

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

or

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

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

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

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

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

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

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

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

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

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

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

Signature of Official _____

Title _____

STATE OF TEXAS
COUNTY OF _____

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

_____, Notary Public in and for the State of Texas

EXHIBIT B

DISCLOSURE OF INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF _____

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

_____ as an officer of, or

_____ as a Board candidate for,

the _____ SD make this affidavit and hereby on oath state the following:

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

The property is fully described as follows:

_____.

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

_____.

(including, but not limited to, the percent of ownership)

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

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

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

Signature of Affiant

_____

_____ *(office, public title, or job designation)*

ACKNOWLEDGEMENT

STATE OF TEXAS
COUNTY OF _____

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

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

_____, Notary Public in and for the State of Texas

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

DEFINITIONS

'MEETING' "Meeting" means a deliberation among a quorum of the Board, or between a quorum of the Board and another person, during which public business or public policy over which the Board has supervision or control is discussed or considered, or during which the Board takes formal action. "Meeting" also means a gathering:

1. That is conducted by the Board or for which the Board is responsible;
2. At which a quorum of members of the Board is present;
3. That has been called by the Board; and
4. At which the Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the District, about the public business or public policy over which the Board has supervision or control.

Gov't Code 551.001(4)

'DELIBERATION' "Deliberation" means a verbal exchange during a meeting among a quorum of the Board, or between a quorum of the Board and another person, concerning any issue within the jurisdiction of the Board or any public business. *Gov't Code 551.001(2)*

SOCIAL FUNCTION OR CONVENTION The term "meeting" does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board at a regional, state, or national convention or workshop, if formal action is not taken and any discussion of public business is incidental to the social function, convention, or workshop. *Gov't Code 551.001(4)*

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

OPEN TO PUBLIC Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.084, Ch. 551, Subch. D, Subch. E* [See BDB and BEC]

PARENTAL ACCESS A parent, as defined in Education Code 26.002, is entitled to complete access to any meeting of the Board, other than a closed meeting held in compliance with the Open Meetings Act. *Education Code 26.007(a)*

RECORDING

All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any other means of aural or visual reproduction. The Board may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov't Code 551.023*

MINUTES

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. The minutes and tapes are public records and shall be available for public inspection and copying on request to the Superintendent or designee. *Gov't Code 551.021, 551.022*

NOTICE REQUIRED

The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. *Gov't Code 551.041*

INQUIRY DURING MEETING

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

LOCATION

The Board must hold each public meeting within the boundaries of the District, except:

1. As otherwise required by law; or
2. To hold a joint meeting with another district or with another governmental entity if the boundaries of the governmental entity are in whole or in part within the boundaries of the District.

Education Code 26.007(b)

TIME OF NOTICE AND ACCESSIBILITY

Notice of a Board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043, 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

SPECIFICITY OF AGENDA / NOTICE

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out

any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to the Superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the Board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin ISD, 706 S.W.2d 956 (Tex. 1986); Point Isabel ISD v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); Atty. Gen. Ops. M–494 (1969), H–419 (1974), H–662 (1975), H–1045 (1977)*

The terms "employee briefing" or "staff briefing" do not give adequate notice of the subject matter to be presented to the Board by employees or staff members. *Atty. Gen. Op. JC–0169 (2000)*

EMERGENCY MEETING OR EMERGENCY ADDITION TO AGENDA

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

Gov't Code 551.045

SPECIAL NOTICE TO NEWS MEDIA

The District shall provide special notice of each meeting by telephone or telegraph to any news media that has requested it and agreed to reimburse the District for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, the Board President shall notify by telephone or telegraph any news media who have previously requested special notice of all meetings. *Gov't Code 551.047, 551.052*

QUORUM

A majority of the Board (e.g., four members of a seven-member Board or five members of a nine-member Board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board. *Gov't Code 551.001(6), 311.013(b)*

SECRET BALLOT

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

MEETING BY CONFERENCE CALL

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

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

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

RECORDING — The conference call meeting shall be tape-recorded and made available to the public.

Gov't Code 551.125

MEETING BY VIDEOCONFERENCE CALL — Unless the District extends into three or more counties, a meeting may be held by videoconference call only if a quorum of the Board is physically present at one location of the meeting. If the District extends into three or more counties, a meeting may be held by videoconference call only if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

NOTICE OF LOCATIONS — The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call by a Board in a district that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board present at that location.

In addition, the notice of the meeting must specify as a location of the meeting each other location where a Board member who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.

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

QUALITY OF AUDIO AND VIDEO SIGNALS — Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified in the notice.

Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:

1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and
2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

REMOTE PARTICIPATION

The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in a meeting from a remote location.

Gov't Code 551.127; 1 TAC 209.2

INTERNET BROADCAST

The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. *Gov't Code 551.128*

ATTORNEY CONSULTATION

The Board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the Board or a private consultation with its attorney in a closed meeting of the Board. [See BEC]

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

EXCEPTION

This does not apply to a consultation with an attorney who is an employee of the District. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by the District, is an employee of the District.

Gov't Code 551.129

HEARING–IMPAIRED PERSONS

In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, “deaf or hearing impaired” means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov’t Code 558.001, 558.003

EXCEPTIONS FOR CLOSED MEETINGS

The Board may conduct a closed meeting for the purposes described in the following provisions.

ATTORNEY CONSULTATION

1. The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov't Code 551.071* [See BE for permissible methods of communication for attorney consultations]

REAL PROPERTY

2. The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.072*

PROSPECTIVE GIFT

3. The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.073*

PERSONNEL MATTERS

4. The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*

The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

EMPLOYEE–EMPLOYEE COMPLAINTS

The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov't Code 551.082*

STUDENT DISCIPLINE

5. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school

child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. *Gov't Code 551.082*

PERSONALLY IDENTIFIABLE STUDENT INFORMATION

6. The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

   Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the District that the directory information should not be released without prior consent. [See FL]

   This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

   Gov't Code 551.0821

MEDICAL OR PSYCHIATRIC RECORDS

7. The Board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

   a. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or

   b. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

   Gov't Code 551.0785

SECURITY DEVICES

8. The Board is not required to conduct an open meeting to deliberate the deployment, or specific occasions for implementation, of security personnel or devices. *Gov't Code 551.076*

ASSESSMENT INSTRUMENTS

9. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. *Education Code 39.030(a)*

EMERGENCY MANAGEMENT

10. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code Sections 418.175–418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. *Gov't Code 418.183(f)*

ECONOMIC DEVELOPMENT NEGOTIATIONS

11. The Board is not required to conduct an open meeting

    a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the District and with which the Board is conducting economic development negotiations; or

    b. To deliberate the offer of a financial or other incentive to such a business prospect.

    Gov't Code 551.087

PROCEDURES FOR CLOSED MEETINGS

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given [see BE] and the Board President has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. The Board shall reconvene the open meeting after a closed meeting prior to adjourning the meeting. *Education Code 39.030(a); Gov't Code 551.101*

VOTE OR FINAL ACTION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. *Gov't Code 551.102* [See BE]

CERTIFIED AGENDA OR TAPE RECORDING

The Board shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for private consultation with the District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the Board President at the beginning and end of the closed meeting indicating the date and time. The Board President shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the Board President at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*

Closed meetings may not be recorded by an individual Trustee against the wishes of a majority of the Board. *Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979)*

PRESERVATION

The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending. *Gov't Code 551.104(a)*

PUBLIC ACCESS

A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(b), (c)*

PROHIBITIONS

No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a tape recording of the closed meeting is being made. *Gov't Code 551.145*

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public. *Gov't Code 551.146*

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov't Code 551.144(a)*

AFFIRMATIVE DEFENSE

It is an affirmative defense to prosecution under Subsection 551.144(a) that the Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney. *Gov't Code 551.144(c)*

UNITED STATES CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. When the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

TEXAS CONSTITUTION

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

PUBLIC COMMENT

As long as the requirements of the Open Meetings Act are satisfied and the right of citizens to apply to the Board for redress of their grievances is not abridged, the Board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. The Board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973)*

Note: For other provisions regarding grievance procedures, see the following codes:

Open Meetings Act — BE

Complaints against peace officers — CKE

Employee complaints/grievances — DGBA

Instructional materials — EFA

Student and parent complaints — FNG

Public complaints — GF

RESPONSE TO COMPLAINTS

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and

must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)*

BOARD MEETINGS:
PUBLIC PARTICIPATION

BED
(LOCAL)

LIMIT ON PARTICIPATION

Audience participation at a Board meeting is limited to the public comment portion of the meeting designated for that purpose. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

PUBLIC COMMENT

At regular meetings the Board shall allot 30 minutes to hear persons who desire to make comments to the Board. Persons who wish to participate in this portion of the meeting shall sign up with the presiding officer or designee before the meeting begins and shall indicate the topic about which they wish to speak.

No presentation shall exceed five minutes. Delegations of more than five persons shall appoint one person to present their views before the Board.

BOARD'S RESPONSE

Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.

COMPLAINTS AND CONCERNS

The presiding officer or designee shall determine whether a person addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the person shall be referred to the appropriate policy (see list below) to seek resolution:

Employee complaints: DGBA

Student or parent complaints: FNG

Public complaints: GF

DISRUPTION

The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any person continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the person removed from the meeting.

SUPERINTENDENT: QUALIFICATIONS AND DUTIES

BJA (LEGAL)

QUALIFICATIONS

The qualifications for Superintendent must permit a candidate for certification to substitute management training or experience for educational experience. *Education Code 21.046*

DUTIES

The Superintendent shall be the educational leader and chief executive officer of the District. *Education Code 11.201(a)*

The duties of the Superintendent include:

1. Assuming administrative responsibility and leadership for the planning, operation, supervision, and evaluation of the education programs, services, and facilities of the District and for the annual performance appraisal of the District's staff.

2. Assuming administrative authority and responsibility for the assignment and evaluation of all personnel of the District other than the Superintendent.

3. Making recommendations regarding the selection of personnel, as provided by Education Code 11.163. [See DC and DBE]

4. Initiating the termination or suspension of an employee or the nonrenewal of an employee's term contract. [See DF series]

5. Managing the day-to-day operations of the District as its administrative manager.

6. Preparing and submitting to the Board a proposed budget.

7. Preparing recommendations for policies to be adopted by the Board and overseeing the implementation of adopted policies.

8. Developing or causing to be developed appropriate administrative regulations to implement policies established by the Board.

9. Providing leadership for the attainment of student performance in the District based on the state's academic excellence indicators and other indicators as may be adopted by the State Board of Education or the Board.

10. Organizing the District's central administration.

11. Performing any other duties assigned by action of the Board.

Education Code 11.201(d)

12. Regularly consulting the District-level committee in the planning, operation, supervision, and evaluation of the District educational program. *Education Code 11.252(f)*

13. Reporting the District's maximum attendance to the Commissioner no later than April 25 of each year, for the purpose of textbook requisitions. *Education Code 31.103(a), (b)*

14. Upon receipt of notice from a law enforcement agency, notifying all instructional and support personnel who have responsibility for supervising a student who has been arrested or taken into custody; notifying all instructional and support personnel who have regular contact with a student who has been convicted of, or adjudicated for, a felony offense or other specified offense. *Code of Criminal Procedure 15.27(a), (h)* [See GRA]

15. Upon receipt of notice from a law enforcement authority regarding a registered sex offender [see GRA], releasing all information contained in the notice to appropriate school personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.03(e), 62.04(f)*

SUSPENSION WITHOUT PAY

The Board may, for good cause as determined by the Board, suspend the Superintendent without pay pending discharge or in lieu of termination. The suspension may not extend beyond the end of the school year. *Education Code 21.211(b)*

BACK PAY

If no discharge occurs subsequent to a suspension without pay, the Superintendent is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

GROUNDS FOR DISMISSAL

The Superintendent may be dismissed for good cause before the completion of the term fixed in the contract. *Education Code 21.212(d)*

An attempt by the Superintendent to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension without pay. *Education Code 26.008(b)* [See FNG]

NOTICE

Before dismissal for good cause, the Superintendent shall be given reasonable notice in writing of the charges against him or her and an explanation of the District's evidence, set out in sufficient detail to fairly enable the Superintendent to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487 (1985)*

HEARING

If the Superintendent desires a hearing before an independent hearing examiner, the Superintendent shall file a written request with the Commissioner not later than the 15th day after receiving the written notice of the Board's action. The Superintendent shall provide a copy of the request to the District. *Education Code 21.253* [See DFD]

SEVERANCE

The Board shall report the terms of any severance payment made to a Superintendent to the Commissioner of Education. The Commissioner shall reduce the District's Foundation School Program funds by any amount that the severance payment exceeds one year's salary and benefits under the Superintendent's terminated contract.

"Severance payment" means any amount paid by the Board to or in behalf of a Superintendent on early termination of the Superintendent's contract that exceeds the amount earned by the Superintendent under the contract as of the date of termination, including any amount that exceeds the amount of earned standard salary and benefits, that is paid as a condition of early termination of the contract.

EXCEPTION	Severance agreements entered into prior to September 1, 2001, are governed by the law in effect at the time the agreement was made and Commissioner's rules. *Stats. 2001, 77th Leg. Sess., Ch. 955; Education Code 11.201(c); 19 TAC 105.1022(b)(3)(a)*
SUSPENSION WITH PAY	The Superintendent may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles, 482 F.2d 1069 (1973)*

REASONS

The Board's decision not to renew the Superintendent's contract shall not be based on the Superintendent's exercise of rights guaranteed by the Constitution, or based unlawfully on race, color, religion, sex, national origin, disability, or age. Reasons for the nonrenewal of the Superintendent's contract shall be:

1. Deficiencies pointed out in evaluations, supplemental memoranda, or other communications.

2. Failure to fulfill duties or responsibilities.

3. Incompetency or inefficiency in the performance of duties.

4. Insubordination or failure to comply with Board directives.

5. Failure to comply with Board policies or administrative regulations.

6. Failure of the District to make measurable progress towards the goals stated in the District improvement plan. [See BQ]

7. Conducting personal business during school hours when it results in neglect of duties.

8. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on school property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.

9. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.

10. Conviction of a felony or of any crime involving moral turpitude; conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony; or deferred adjudication for a felony or any crime involving moral turpitude. [See DH]

11. Failure to report to the Board any arrest, conviction, or deferred adjudication for any felony or any crime involving moral turpitude as required by policy. [See DH]

12. Failure to meet the District's standards of professional conduct.

13. Failure to comply with reasonable District professional requirements regarding advanced coursework or professional improvement and growth.

14. Disability, not otherwise protected by law, that prevents the Superintendent from performing the essential functions of the job.

15. Any activity, school-connected or otherwise, that, because of publicity given it or knowledge of it among students, faculty, or community, impairs or diminishes the Superintendent's effectiveness in the District.

16. Any breach by the Superintendent of an employment contract or any reason specified in the Superintendent's employment contract.

17. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, staff, or the Board.

18. Assault on a person on school property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.

19. Use of profanity, in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.

20. Falsification of records or other documents related to the District's activities.

21. Falsification or omission of required information on an employment application.

22. Misrepresentation of facts to the Board or other District officials in the conduct of District business.

23. Failure to fulfill requirements for Superintendent certification.

24. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit or a Special Assignment Permit.

25. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.

26. Any reasons constituting good cause for terminating the contract during its term.

NOTICE

If the Board determines that the Superintendent's contract should be considered for nonrenewal, the Board shall deliver to the Superintendent by hand or certified mail, return receipt requested, written notice of the proposed nonrenewal. This notice shall contain the

hearing procedures and shall be delivered not later than the 30th day before the last day of the contract term.

HEARING

If the Superintendent desires a hearing after receiving notice of the proposed nonrenewal, the Superintendent shall notify the Board not later than the 15th day after receiving the notice. When the Board receives a timely request for a hearing on proposed nonrenewal, the hearing shall be held not later than the 15th day after receipt of the request, unless the parties mutually agree to a delay. The Superintendent shall be given notice of the hearing date as soon as it is set.

The hearing shall be conducted in closed meeting unless the Superintendent requests that it be open, with only the members of the Board, the Superintendent, their chosen representatives, and such witnesses as may be called in attendance. Witnesses may be excluded from the hearing until it is their turn to present evidence. The Superintendent and the Board may each be represented by a person designated in writing to act for them. Notice, at least five days in advance of the hearing, shall be given by each party intending to be represented, including the name of the representative. Failure to give such notice may result in postponement of the hearing.

HEARING PROCEDURE

The conduct of the hearing shall be under the Board President's control and in general shall follow the steps listed below:

1. After consultation with the parties, the Board President shall impose reasonable time limits for presentation of evidence and closing arguments.
2. The hearing shall begin with the Board's presentation, supported by such proof as it desires to offer.
3. The Superintendent may cross-examine any witnesses for the Board.
4. The Superintendent may then present such testimonial or documentary proofs, as desired, to offer in rebuttal or in general support of the contention that the contract be renewed.
5. The Board may cross-examine any witnesses for the Superintendent and offer rebuttal to the testimony of the Superintendent's witnesses.
6. Closing arguments may be made by each party.

A record of the hearing shall be made so that a certified transcript can be prepared, if required.

BOARD DECISION

The Board may consider only such evidence as is presented at the hearing. After all the evidence has been presented, if the Board

determines that the reasons given in support of the recommendation to not renew the Superintendent's contract are lawful, supported by the evidence, and not arbitrary or capricious, it shall so notify the Superintendent by a written notice not later than the 15th day after the date on which the hearing is concluded. This notice shall also include the Board's decision on renewal, which decision shall be final.

SUPERINTENDENT: BJCG
RETIREMENT OR RESIGNATION (LEGAL)

The Superintendent may relinquish the position and leave the employment of the District at the end of a school year without penalty by filing a written resignation with the Board. The resignation must be addressed to the Board and filed not later than the 45th day before the first day of instruction of the following school year.

The Superintendent may resign, with the consent of the Board, at any other time mutually agreeable.

Education Code 21.212(e)

PAYROLL PROCEDURES: SALARY DEDUCTIONS AND REDUCTIONS

CFEA (LEGAL)

The District shall make the following periodic deductions from its employees' salaries or wages or shall reduce its employees' salaries or wages in accordance with state law or salary reduction agreements executed between the District and its employees:

INCOME TAX

1. The amount of income tax required to be withheld by federal law. *26 U.S.C. 3401–3402*

MEDICARE TAX

2. The amount of Medicare tax required by law (only those employees hired after March 31, 1986). *26 U.S.C. 3121(u)*

TEACHER RETIREMENT SYSTEM

3. The required contribution to the Teacher Retirement System of Texas in accordance with applicable law and rules. *Gov't Code Title 8; 34 TAC 25*

RETIRED SCHOOL EMPLOYEES GROUP INSURANCE FUND

4. The required contribution to the retired school employees group insurance fund in accordance with applicable law and rules. *Insurance Code 1575*

CHILD SUPPORT PAYMENTS

5. The amount specified in an order or writ of withholding issued under Family Code Chapter 158 for child support payments. The amount withheld shall be remitted to the person or office named in the order on each regular due date or pay date. *Family Code 158*

   The District may deduct an administrative fee of not more than $10 from the employee's disposable earnings in addition to the amount withheld as child support. *Family Code 158.204*

SPOUSAL MAINTENANCE

6. The amount specified in an order or writ of withholding issued under Family Code Chapter 8 for spousal maintenance. The amount withheld shall be remitted to the person or office named in the order or writ on each regular pay date. *Family Code 8*

   The District may deduct an administrative fee of not more than $5 from the employee's disposable earnings in addition to the amount withheld as spousal maintenance. *Family Code 8.204*

PROFESSIONAL DUES

7. The amount designated by an employee for payment of professional organization membership fees or dues. The employee shall file a written request identifying the organization, specifying the number of pay periods per year the deduction shall be made, and informing the District, either personally or by directing the organization to do so, of the total amount of dues or fees for each year. Deductions shall be made in equal amounts per pay period for the number of pay periods specified by the employee until the employee requests in writing that the deductions be discontinued.

The District may charge an administrative fee for making the deduction, which shall not exceed the actual administrative cost or the lowest fee the District charges for similar salary deductions, whichever is less.

Education Code 22.001

SOCIAL SECURITY

8. The amount of social security tax required by federal law (only designated employees). *26 U.S.C. 3101–3102, 3121(b)(7); 26 CFR 31.3121(b)(7)–2*

FEDERAL EDUCATION LOANS

9. The amount directed in a withholding order issued by the Texas Guaranteed Student Loan Corporation or any other guaranty agency for federal education loans to recover delinquent federal education loan payments. The amount withheld shall be paid to the Texas Guaranteed Student Loan Corporation or the guaranty agency or its agent issuing the order. *20 U.S.C. 1095(a)(6)*

PREPAID HIGHER EDUCATION TUITION PROGRAM

10. Amounts designated by employees to prepay the tuition and required fees for a beneficiary to attend an institution of higher education (the Texas Tomorrow Constitutional Trust Fund). *Education Code 54.626*

HIGHER EDUCATION SAVINGS PLAN

11. Amounts designated by employees as contributions to a higher education savings trust account established under the higher education savings plan. *Education Code 54.708*

ASSIGNMENTS

12. The amount authorized by any employee who has made a valid assignment, transfer, or pledge of his or her salary or wages as security for indebtedness. *Education Code 22.002; Atty. Gen. Op. 0–3474 (1941)*

INSURANCE

13. Contributions for participation in approved insurance programs. *Insurance Code 1579.253; Education Code 22.005* [See CRD]

DEFERRED COMPENSATION

14. Amounts designated by employees for participation in approved deferred compensation or annuity programs. *Art. 6228a–5, V.A.T.S.; Gov't Code 609* [See CRG]

OTHER CAFETERIA PLAN OPTIONS

15. Amounts designated by employees for participation in any other cafeteria plan options authorized under Section 125 of the Internal Revenue Code. *26 U.S.C. 125*

ADMINISTRATIVE FEE

If the District is required by state or federal law to deduct from the current wages of an employee an amount garnished under a withholding order, the District may deduct monthly an administrative fee from the employee's disposable earnings in addition to the amount required to be withheld under the withholding order.

The administrative fee may not exceed the lesser of:

1. The actual administrative cost incurred by the District in complying with the withholding order; or

2. $10.

Civil Practice and Remedies Code 63.006

PURCHASING AND ACQUISITION: CHF
PAYMENT PROCEDURES (LEGAL)

PAYMENT DUE

A payment owed by the District based on a contract executed on or after September 1, 1987, is overdue on the 31st day after the date on which the District received the goods under the contract or the date on which the performance of services under the contract was completed, or the date on which the District received the invoice for the goods or services, whichever is later. However, if the Board meets only once a month, the payment is not overdue until the 45th day after the date of receipt of goods, performance of services, or receipt of invoice, whichever is later. The renewal, amendment, or extension of a contract executed on or before September 1, 1993, is considered to be the execution of a new contract. *Gov't Code 2251.021*

INTEREST

A payment begins to accrue interest on the date the payment becomes overdue. Interest accrues on an overdue payment at the rate of one percent per month. Interest stops accruing on the date the District or vendor mails or electronically transmits the payment. The unpaid balance of a partial payment made within the prescribed period accrues interest, unless the balance is in dispute. *Gov't Code 2251.025, 2251.029*

The District shall compute and pay interest at the time the payment is made on the principal. Interest payments shall accompany payment of the net amount due for the goods or service. The District may not require a vendor to petition, invoice, bill, or wait additional days to receive the interest due. The District may not require a vendor or subcontractor to agree to waive the vendor's or subcontractor's right to interest as a condition of the contract. *Gov't Code 2251.027*

EARLY PAYMENT DISCOUNT

The District shall attempt to take advantage of an offer for an early payment discount, but may not take an early payment discount unless it makes a full payment within the discount period. If the District takes an early payment discount later, the unpaid balance accrues interest beginning on the date the discount offer expires. *Gov't Code 2251.030*

EXCEPTIONS

These provisions do not apply to payments made by the District or a vendor if:

1. There is a bona fide dispute between the District and a vendor, contractor, subcontractor, or supplier concerning the goods delivered or the service performed that causes the payment to be late;

2. There is a bona fide dispute between a vendor and a subcontractor or between a subcontractor and its supplier about the goods delivered or the services performed that causes the payment to be late;

3. The terms of a federal contract, grant, regulation, or statute prevent the District from making a timely payment with federal funds; or

4. The invoice is not mailed to the person to whom it is addressed in strict accordance with any instructions on the purchase order relating to the payment.

Gov't Code 2251.002

ALTERNATE VENDOR REMEDY FOR NONPAYMENT OF CONTRACT

A vendor may suspend performance required under a contract with the District if the District does not pay the vendor an undisputed amount within the time limits provided above and the vendor gives the District written notice informing the District that payment has not been received and stating the intent of the vendor to suspend performance for nonpayment.

The vendor may not suspend performance before the tenth day after the date the vendor gives this notice.

A vendor who suspends performance is not required to supply further labor, services, or materials until the vendor is paid the amount provided for under Government Code Section 2251, plus costs for demobilization and remobilization. The vendor is also not responsible for damages resulting from suspending work if the governmental entity with which the vendor has the contract has not notified the vendor in writing before performance is suspended that payment has been made or that a bona fide dispute for payment exists.

A notification under Government Code 2251.051(c)(2) that a bona fide dispute for payment exists must include a list of the specific reasons for nonpayment. If a reason specified is that labor, services, or materials provided by the vendor or the vendor's subcontractor are not provided in compliance with the contract, the vendor is entitled to a reasonable opportunity to cure the noncompliance of the listed items; or offer a reasonable amount to compensate for listed items for which noncompliance cannot be promptly cured.

Gov't Code Sec. 2251.051

DISPUTED PAYMENT

The District shall notify a vendor of an error in an invoice submitted for payment by the vendor not later than the 21st day after the date the District receives the invoice. If a dispute is resolved in favor of the vendor, the vendor shall receive interest on the unpaid balance beginning on the date that the payment for the invoice is overdue. If a dispute is resolved in favor of the District, the vendor shall submit a corrected invoice that shall be paid within 30 days of receipt. The unpaid balance accrues interest if it is not paid by the appropriate date. *Gov't Code 2251.042*

TEXTBOOKS

All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. *Education Code 31.102(a)* [See EFAA for provisions addressing Textbook Selection and Adoption]

DELEGATION OF POWER

The Board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. *Education Code 31.104(a)*

REQUISITIONS, USE, AND DISTRIBUTION

Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for the school to the Superintendent. Not later than April 25, the Superintendent shall report the District's maximum attendance to the Commissioner of Education. Requisitions for textbooks for the following school year shall be based on the maximum attendance reports, plus an additional ten percent, except as otherwise provided, and shall be made no later than June 1 of each year. The District may requisition textbooks for grades above the grade level in which a student is enrolled, except that the total quantity requisitioned may not exceed the above limit. *Education Code 31.103; 19 TAC 66.104(l)* [See BJA]

Once requisitioned and delivered, the District shall continue to use those instructional materials during the contract period or periods of the materials. The District may not return copies of one title to secure copies of another title in the same subject. *19 TAC 66.104(j)*

The Board, as legal custodian of the textbooks used in the District, shall distribute books to students as it may deem most effective and economical. *Education Code 31.102(c)*

ORDER QUANTITIES

When placing orders for instructional materials, the District shall report enrollments as follows:

1. Annual orders for instructional materials: enrollments shall be reported based on the maximum number of students enrolled in the District during the previous school year and/or registered to attend the District during the next school year; and
2. Supplemental orders for instructional materials: enrollments shall be reported based on the actual number of students enrolled in the District when the order is submitted.

19 TAC 66.107(d)

SHORTAGE

If the District does not have a sufficient number of copies of a textbook for use during the following school year, and a sufficient number of additional copies will not be available from the depository or the publisher within the time specified at TIME FOR DELIVERY, the District is entitled to:

1. Be reimbursed from the state textbook fund, at a rate and in the manner provided by State Board rule, for the purchase of a sufficient number of used adopted textbooks; or

2. Return currently used textbooks to the Commissioner in exchange for sufficient copies, if available, of other textbooks to be used during the following school year.

Education Code 31.1031

TIME FOR DELIVERY

At the time an order for textbooks is acknowledged, a publisher or manufacturer shall provide to the District an accurate shipping date for textbooks that are back-ordered, and shall guarantee delivery of textbooks at least ten business days before the opening day of the school year for which the textbooks are ordered if they are ordered by a date specified in the sales contract. *Education Code 31.151(a)(7)–(8)*

CHARGES FOR FAILURE TO RETURN SURPLUS

If the District orders instructional material in excess of its eligibility by reporting enrollments exceeding those described above, the District enters into a contract with the state to purchase the instructional materials supplied that exceed the District's eligibility for the subject area/grade level. The District may cancel the contract to purchase the excess instructional materials by immediately returning them to the State Textbook Depository or, with prior approval, to the publisher's approved depository. If the District retains excess instructional materials for more than six months after the beginning of the school year, the District shall reimburse the state at full price for the materials. *19 TAC 66.107(f)*

SPECIAL EDUCATION

Adopted instructional materials shall be supplied to a student in special education classes as appropriate to the level of the student's ability and without regard to the grade for which the instructional material is adopted or the grade in which the student is enrolled. *19 TAC 66.104(m)*

BOOK OWNERSHIP AND COVERS

All textbooks shall state that the book is the property of or is licensed to the state. Books, other than electronic textbooks, must be covered by the student under the direction of the teacher. Books must be returned to the teacher at the end of the school year or when the student withdraws from school. *Education Code 31.104(c)*

RESPONSIBILITY FOR BOOKS

Each student or his or her parent or guardian shall be responsible for all books not returned by the student, and any student failing to return all books shall forfeit the right to free textbooks until the books previously issued but not returned are paid for by the student, parent, or guardian.

Under circumstances determined by the Board, the District may waive or reduce the payment required if the student is from a low-income family. The District shall allow students to use textbooks at school during each school day.

If a book is not returned and payment is not made, the District may withhold the student's records, but shall not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. However, in accordance with policies FL and GBA, students have a right to copies of any and all District records that pertain to them.

Education Code 31.104(d); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2)

[See also EF]

SALE OF BOOKS

The Board may sell books, other than electronic textbooks, to students or other schools at the state contract price. All money accruing from sales of textbooks shall be forwarded to the Commissioner of Education as directed, and deposited in the state textbook fund. *Education Code 31.105*

ANNUAL INVENTORY

The 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. Reimbursement and/or replacement shall be made for all instructional materials determined to be lost. *19 TAC 66.107(a)*

The Board may not require an employee of the District to pay for a textbook or instructional technology that is stolen, misplaced, or not returned by a student. *Education Code 31.104(e)*

LOCAL HANDLING EXPENSES

School districts shall not be reimbursed from state funds for expenses incurred in local handling of textbooks. *19 TAC 66.104(o)*

[See BBFA and DBD]

OUT–OF–ADOPTION TEXTBOOKS

The District may retain out-of-adoption instructional materials.

The District shall make out-of-adoption instructional materials (other than electronic instructional materials) available to libraries maintained by city and county jails, institutions within the Department of Corrections, and other state agency institutions. District officials may donate out-of-adoption instructional materials (other than electronic instructional materials) to students, adult education programs, and nonprofit organizations. Individuals and organizations making such requests shall be responsible for transporting the materials.

After all efforts to donate out-of-adoption instructional materials (other than electronic instructional materials) to organizations listed above have been exhausted, the District may donate those materials for recycling locally. Recycling means removing the bindings and shredding the textbooks for the purpose of producing new products from the processed materials.

Under no circumstances shall the District sell out-of-adoption instructional materials.

19 TAC 66.131

AUTHORIZATION TO PURCHASE OR LEASE VEHICLES

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

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

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

PAYMENT

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

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

SAFETY STANDARDS

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

MAINTENANCE

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

CONTRACTS FOR USE, ACQUISITION, OR LEASE OF SCHOOL BUS

The Board may contract with any person for use, acquisition, lease, or lease with option or options to purchase school buses, if the Board determines such a contract to be economically advantageous to the District. Such a contract may have any lawful term of not less than two or more than ten years. Competitive bidding requirements apply to each contract for the purchase or lease of a school bus, including a lease with an option to purchase, when the contract is valued at $20,000 or more. A school bus that is leased or leased with an option to purchase must meet or exceed safety standards set out in Education Code 34.002. *Education Code 34.009, 44.031(l)* [See CH]

REGISTRATION

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

IDENTIFICATION

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

SALE OF BUSES

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

SCHOOL BUS ADVERTISING

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

ADVERTISING RULES

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

'ADVERTISEMENT'

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

MATERIAL AND LOCATION

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

NOTICES

ANNUAL NOTICE

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

NOTICE OF ACCIDENTS

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

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

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

37 TAC 14.67(c)

DELIVERY OF NOTICE

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

NONSCHOOL USE

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

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

U.S. DEPARTMENT OF AGRICULTURE RULES	Foods determined to be of minimal nutritional value, as defined by the U.S. Department of Agriculture, shall not be sold in the food service areas during meal periods. *7 CFR 210.11, 220.12*
TEXAS DEPARTMENT OF AGRICULTURE POLICY	Effective August 1, 2004, all districts participating in the federal Child Nutrition Programs must comply with the nutrition policies outlined by the Texas Department of Agriculture. *Texas Department of Agriculture, Texas Public School Nutrition Policy (http://www.agr.state.tx.us); 7 CFR 210*

USE OF DISTRICT MAIL SYSTEM

Unless it has been opened to the public, by policy or practice, a school mail system is not a public forum. The District may create a limited public forum in its campus mailboxes. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n, 460 U.S. 37, 103 S. Ct. 948 (1983)* [See also GKD]

INTERCAMPUS MAIL DELIVERY

The District is prohibited by the Private Express Statutes from carrying unstamped letters over postal routes unless:

1. The letters relate to the current business of the District to an extent sufficient to satisfy the "letters of the carrier" exception; or

2. The carriage of the letters is without any compensation, direct or indirect, to the District so as to satisfy the "private hands" exception.

Regents of the Univ. of Cal. System v. Public Employee Relations Board, 485 U.S. 589, 108 S. Ct. 1404 (1988); 39 U.S.C. 601–606; 18 U.S.C. 1693–1699

POLITICAL ADVERTISING

No officer or employee of the District may knowingly use or authorize the use of an internal mail system for the distribution of political advertising unless the political advertising is delivered by the United States Postal Service. *Election Code 255.0031*

"Political advertising" means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

1. In return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or

2. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

Election Code 251.001(16)

GROUP HEALTH BENEFITS

The District shall participate in the uniform group coverage program established under Insurance Code 3.50–7, as provided by Section 5 of that article. The cost of the coverage shall be paid by the state, the District, and the employees as provided by Insurance Code 3.50–7. *Education Code 22.004(a), (c)*

Districts that do not participate in the uniform group coverage program shall make available to their employees group health coverage that meets the substantive coverage requirements of Insurance Code 3.51–6 and any other law applicable to group health insurance policies issued in Texas and that is comparable to the basic health coverage provided under Insurance Code Chapter 1551. The cost of the coverage shall be shared by the employees and the District using the contributions by the state described by Insurance Code 3.50–7, Section 9, or by Insurance Code 3.50–8. *Education Code 22.004(b), (c)*

Note: Insurance Codes 3.50–7, 8 have been replaced by Insurance Code Chapter 1579.

SELF–FUNDED HEALTH CARE PLAN

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

OPTIONAL COVERAGES

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

UNIFORM GROUP COVERAGE PROGRAM

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

EMPLOYEE ELIGIBILITY

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

1. Specifically waives coverage;

2. Selects a higher tier coverage plan; or

3. Is expelled from the program.

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

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

Insurance Code 1579, Subch. E

STATE CONTRIBUTION

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

DISTRICT CONTRIBUTION

'MAINTENANCE OF EFFORT'

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

'MINIMUM EFFORT'

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

EXCESS FUNDS

If the amount the District is required to use to provide health coverage to maintain its 2000–01 contributions exceeds the amount necessary for the District to spend $1,800 per participating employee, the District may use the excess only to provide employee compensation at a rate greater than the rate of compensation that the District paid an employee in the 2000–01 school year, benefits, or both.

Insurance Code 1581, Subch. B

EMPLOYEE CONTRIBUTION

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

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

Insurance Code 1579.253

STATE CONTRIBUTION TO HRA ACCOUNT

The state shall annually contribute the amount specified in the General Appropriations Act to a health reimbursement arrangement account established for each employee for the payment of qualified health care expenses. The comptroller shall establish separate accounts for each participating employee or transfer funds to trust accounts in the custody of the comptroller established for the benefit of employees.

The statutory provision allowing employees to choose to receive the TRS benefit as supplemental compensation is repealed.

ELIGIBILITY

An employee is not eligible to receive the state contribution until the 90th day after the date the employee is employed.

Insurance Code 1580.051

PROFESSIONAL STAFF

A member of the professional staff of the District, as defined by TRS rule, is not eligible to receive the state contribution.

An individual is a member of the professional staff if:

1. Fifty or more percent of the individual's time is reported under any combination of the following role identifications in the Public Education Information Management System (PEIMS), or under any subsequently created role identifications that describe roles that are substantially similar to the ones identified below:

   a. Central office administrators:

(1) Assistant or associate superintendent (004);

(2) Instructional officer (central office, 012);

(3) Superintendent, CAO, CEO, or president (027);

(4) Teacher supervisor (central office, 028);

(5) Vocational education coordinator (central office, 032);

(6) Athletic director (central office, 040);

(7) Business manager (043);

(8) Tax assessor or collector (044);

(9) Director—personnel/human resources (045);

(10) Registrar (central office, 055); or

b. Campus administrators:

(1) Assistant principal (003);

(2) Instructional officer (not central office, 012);

(3) Principal (020);

(4) Teacher supervisor (not central office, 028);

(5) Vocational education coordinator (not central office, 032);

(6) Athletic director (not central office, 040);

(7) Registrar (not central office, 055); or

2. Regardless of how the individual's time is reported in PEIMS, 50 or more percent of the individual's time is in a role that is substantially similar to a role described above, as determined by the reporting entity or combination of entities.

Conference Comm. Rep. HB 1, 78th Leg., Reg. Sess., at 39 (Tex. 2003); Insurance Code 3.50–8A, 1580; 34 TAC 41.42

EMPLOYEE ELECTION

CAFETERIA PLAN

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

1. A health care reimbursement account;

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

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

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

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

NO CAFETERIA PLAN

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

Insurance Code 1580 Subch. B, C

COMPARABILITY COMPLIANCE REPORT

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

1. Appropriate documentation of:

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

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

2. The schedule of benefits.

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

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

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

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

CONTINUATION DURING MILITARY LEAVE

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

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

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

38 U.S.C. 4317

CONTINUATION DURING FMLA LEAVE

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

CONTINUATION COVERAGE UNDER COBRA

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

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

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

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

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

42 U.S.C. 300bb–1, 300bb–2, 300bb–3

PREMIUM

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

NOTICE

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

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

42 U.S.C. 300bb–6

TERMINATION OF COVERAGE

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

1. The required period of coverage expires.

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

3. Coverage ceases for failure to pay the premium.

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

5. The qualified beneficiary becomes entitled to Medicare benefits.

6. The remarriage of a person who is a qualified beneficiary because of being the spouse of a covered employee.

42 U.S.C. 300bb–2(2)

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

HEALTH INSURANCE PORTABILITY

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

1. The exclusion relates to a condition (whether physical or mental), regardless of the cause of the condition, for which medical advice, diagnosis, care, or treatment was recommended or received within the six-month period ending on the enrollment date;

2. The exclusion extends for a period of not more than 12 months (or 18 months in the case of a late enrollee) after the enrollment date; and

3. The period of any such preexisting condition exclusion is reduced by the aggregate of the periods of creditable coverage (if any) applicable to the participant or beneficiary as of the enrollment date.

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

CERTIFICATION

A group health plan shall provide certification:

1. At the time an individual ceases to be covered under the plan or otherwise becomes covered under a COBRA continuation provision. This certification may be provided, to the extent practicable, at a time consistent with notices required under any applicable COBRA continuation provision;

2. In the case of an individual covered under COBRA, at the time the individual's COBRA coverage ceases; and

3. On the request on behalf of an individual made not later than 24 months after the date of cessation of coverage.

The certification is a written certification of:

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

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

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

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

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

ELECTION TO BE EXCLUDED

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

1. Limitations on preexisting condition exclusion periods;
2. Special enrollment periods for individuals;
3. Prohibitions against discriminating against individual participants and beneficiaries based on health status;
4. Standards relating to benefits for mothers and newborns;
5. Parity in the application of certain limits to mental health benefits.

FORM AND MANNER OF ELECTION

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

TIMING OF ELECTION

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

An election may be extended through subsequent elections.

CONTENTS OF NOTICE

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

42 U.S.C. 300gg–21; 45 CFR 146.180

SMALL EMPLOYER MARKET ELECTION

The District may elect to participate in the small employer market without regard to the number of eligible employees in the District.

If the District makes this election, it will be treated as a small employer for the purposes of Article 1501 of the Texas Insurance Code. A district that is participating in the uniform group coverage program under Insurance Code 3.50–7 may not participate in the small employer market for health insurance coverage and may not renew a health insurance contract obtained in accordance with Article 1501 after the date on which the program of coverages provided under Insurance Code 3.50–7 is implemented. This provision does not affect a contract for the provision of optional coverages. *Insurance Code 1501.009*

PRIVACY OF HEALTH INFORMATION

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

'COVERED ENTITY' DEFINED

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

1. A health plan;

2. A health-care clearinghouse; or

3. A health-care provider who transmits any health information in electronic form in connection with a transaction covered by the Privacy Rule.

45 CFR 160.103

'PROTECTED HEALTH INFORMATION' DEFINED

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

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended, 20 U.S.C. 1232g.

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

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

45 CFR 160.102, 164.501 [See FL]

SPONSORS OF GROUP HEALTH PLANS

Before a group health plan may disclose protected health information to a district that is a plan sponsor, the group health plan must ensure that the plan documents restrict uses and disclosures of

such information by the District consistent with the requirements of the Privacy Rule. *45 CFR 160.504(f)*

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

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

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

45 CFR 164.504(f)

'PLAN SPONSOR' DEFINED

The term "plan sponsor" includes employers who establish or maintain employee benefit plans, alone or jointly with one or more employers. *45 CFR 164.501; 29 U.S.C. 1002(16)(B)*

SELF–FUNDED PLANS

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

The District shall comply with the provisions of the Texas Unemployment Compensation Act. *Labor Code 201.026*

HOLIDAYS AND VACATIONS

Employees shall be ineligible to receive benefits if:

1. They perform instructional, research, or principal administrative services and have a contract or reasonable assurance of performing such services for any educational institution during the next academic year or term.

2. They perform other services for the District and have reasonable assurance of performing such services during the next academic year or term.

3. They perform services described above immediately before a vacation period or holiday recess and have reasonable assurance of performing such services during the period following such vacation or holiday recess.

Labor Code 207.041

OPTIONS

The District shall contribute to the Unemployment Compensation Fund by choosing one of the following options:

1. Paying a state unemployment compensation tax administered by the Texas Workforce Commission. *Labor Code 204.101*

2. Reimbursing the state fund for the amount of any benefits paid to ex-employees of the District. *Labor Code 205.001*

3. Entering a joint group account with other reimbursing political subdivisions to share the cost of benefits that are attributable to service in the employ of the group account members. *Labor Code 205.021*

INSURANCE AND ANNUITIES MANAGEMENT:
UNEMPLOYMENT INSURANCE

CRF
(LOCAL)

REASONABLE ASSURANCE

The District shall issue letters of reasonable assurance, as appropriate, to employees in positions requiring less than 12 months of service whose services are anticipated to be needed at the beginning of the following school year.

SELECTING CONTRACTOR THROUGH COMPETITIVE BIDDING

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, the District may use competitive bidding to select a contractor to perform construction, rehabilitation, alteration, or repair services for a facility. *Education Code 44.040(a)*

The competitive bidding process is governed by the process outlined below. The District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; and
4. MAKING EVALUATIONS PUBLIC after the contract is awarded.

Education Code 44.040(a)

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

OPENING BIDS

Bids shall be opened only by the Board at a public meeting or by an officer or employee of the District at or in an office of the District. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. *Local Gov't Code 271.026; Education Code 44.040(b)*

The Board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a); Education Code 44.040(b)*

SAFETY RECORD

In determining who is a responsible bidder, the Board may take into account the safety record of the bidder; of the firm, corporation, partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that the Board has:

1. Adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. Given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. Ascertained that such determination is not arbitrary and capricious.

Local Gov't Code 271.0275; Education Code 44.040(b)

ENGINEER OR ARCHITECT RESPONSIBILITY

The District shall select or designate an engineer or architect to prepare construction documents for the project. The selected or designated engineer or architect has full responsibility for complying with Chapter 1001 and Chapter 1051 of the Occupations Code, as applicable. *Education Code 44.040(c)*

AWARD OF CONTRACT

The District shall award a competitively bid contract at the bid amount to the bidder offering the best value to the District according to selection criteria that were established by the District. The selection criteria may include factors listed in Education Code 44.031(b). *Education Code 44.040(d)* [See CH]

CONFLICT OF LAWS

To the extent of any conflict, Education Code Chapter 44, Subchapter B prevails over Local Government Code Chapter 271, Subchapter B. Except as provided in this policy, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under Education Code Chapter 44. *Local Gov't Code 271.023; Education Code 44.040(b)*

FACILITIES CONSTRUCTION:
CONSTRUCTION MANAGER–AT–RISK

CVE
(LEGAL)

DEFINITION

A construction manager-at-risk is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for construction, rehabilitation, alteration, or repair of a facility at a contracted price as a general contractor and provides consultation to the District regarding construction during and after the design of the facility.

The District may use the construction manager-at-risk method for the construction, rehabilitation, alteration, or repair of a facility. In using this method, the District must comply with applicable legal requirements in this policy as well as other applicable legal requirements [see CV(LEGAL)], which include the following steps:

1. SELECTING A CONTRACTING METHOD;
2. Giving PUBLIC NOTICE of the project;
3. Publishing CONTRACT SELECTION CRITERIA; and
4. MAKING EVALUATIONS PUBLIC after the contract is awarded.

Note: Terms in all capital letters, above, point to margin notes in the referenced policy.

In entering into a contract for the services of a construction manager-at-risk, the District shall follow the procedures prescribed below:

ARCHITECT / ENGINEER

1. The District shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with Occupations Code Title 6, Chapters 1001 or 1051, as applicable. If the engineer or architect is not a full-time employee of the District, the District shall select the engineer or architect on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004. [See CV]

   The District's engineer, architect, or construction manager-agent for a project may not serve, alone or in combination with another, as the construction manager-at-risk unless the engineer or architect is hired to serve as the construction manager-at-risk under a separate or concurrent procurement conducted in accordance with Education Code Chapter 44, Subchapter B, which does not prohibit the engineer or architect from providing customary construction phase services

under the engineer's or architect's original professional service agreement in accordance with applicable licensing laws.

INSPECTION, TESTING, VERIFICATION SERVICES

2. The District shall provide for, independently of the construction manager-at-risk, the inspection services, the testing of construction materials engineering, and the verification testing services necessary for acceptance of the facility by the District. The District shall select those services for which it contracts in accordance with Government Code 2254.004. [See CV]

3. The District shall select the construction manager-at-risk in either a one-step or two-step process.

   a. The District shall prepare a request for proposals in the case of a one-step process, or a request for qualifications in the case of a two-step process. The request shall include general information on the project site, project scope, schedule, selection criteria, estimated budget, and the time and place for receipt of proposals or qualifications, as applicable; a statement as to whether the selection process is a one-step or two-step process; and other information that may assist the District in its selection of a construction manager-at-risk.

   b. The District shall state the selection criteria in the request for proposals or qualifications, as applicable. The selection criteria may include the offeror's experience, past performance, safety record, proposed personnel and methodology, and other appropriate factors that demonstrate the capability of the construction manager-at-risk.

   c. If a one-step process is used, the District may request, as part of the offeror's proposal, proposed fees and prices for fulfilling the general conditions. If a two-step process is used, the District may not request fees or prices in step one. In step two, the District may request that five or fewer offerors, selected solely on the basis of qualifications, provide additional information, including the construction manager-at-risk's proposed fee and its price for fulfilling the general conditions.

OPENING AND EVALUATING PROPOSALS

4. At each step, the District shall receive, publicly open, and read aloud the names of the offerors. At the appropriate step, the District shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. Within 45 days after the date of opening the proposals, the District shall

evaluate and rank each proposal submitted in relation to the criteria set forth in the request for proposals.

SELECTION

5. The District shall select the offeror that submits the proposal that offers the best value for the District based on the published selection criteria and on its ranking evaluation. The District shall first attempt to negotiate a contract with the selected offeror. If the District is unable to negotiate a satisfactory contract with the selected offeror, the District shall, formally and in writing, end negotiations with that offeror and proceed to negotiate with the next offeror in the order of the selection ranking until a contract is reached or negotiations with all ranked offerors end.

TRADE CONTRACTORS / SUBCONTRACTORS

6. A construction manager-at-risk shall publicly advertise, in accordance with Education Code Section 44.031(g) [see CV], and receive bids or proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in the general conditions. A construction manager-at-risk may seek to perform portions of the work itself if:

   a. The construction manager-at-risk submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors; and

   b. If the District determines that the construction manager-at-risk's bid or proposal provides the best value for the District.

TRADE CONTRACTOR OR SUBCONTRACTOR BIDS OR PROPOSALS

7. The construction manager-at-risk and the District or its representative shall review all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the construction manager-at-risk, engineer, architect, or District. All bids or proposals shall be made public after the award of the contract or within seven days after the date of final selection of bids or proposals, whichever is later.

8. If the construction manager-at-risk reviews, evaluates, and recommends to the District a bid or proposal from a trade contractor or subcontractor, but the District requires another bid or proposal to be accepted, the District shall compensate the construction manager-at-risk by a change in price, time, or guaranteed maximum cost for any additional cost and risk that the construction manager-at-risk may incur because of the District's requirement that another bid or proposal be accepted.

9. If a selected trade contractor or subcontractor defaults in the performance of its work or fails to execute a subcontract after being selected in accordance with this section, the construction manager-at-risk may, without advertising, fulfill the contract requirements or select a replacement trade contractor or subcontractor to fulfill the contract requirements.

PAYMENT AND PERFORMANCE BOND AMOUNTS

10. If a fixed contract amount or guaranteed maximum price has not been determined at the time the contract is awarded, the penal sums of the performance and payment bonds delivered to the District must each be in an amount equal to the project budget, as specified in the request for qualifications. The construction manager shall deliver the bonds not later than the tenth day after the date the construction manager executes the contract, unless the construction manager furnishes a bid bond or other financial security acceptable to the District to ensure that the construction manager will furnish the required performance and payment bonds when a guaranteed maximum price is established. [See CV for more information on payment and performance bonds.]

Education Code 44.038

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS: NEPOTISM

DBE (LEGAL)

DEFINITION

In this policy, the term "appoint" includes appointing, confirming the appointment of, and voting to appoint or confirm the appointment of a person.

NEPOTISM PROHIBITED

Except as provided by this policy, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

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

2. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

Gov't Code 573.002, 573.041; Atty. Gen. Op. JC–0184 (2000)

INDEPENDENT CONTRACTOR

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

SUPERINTENDENT

To the extent the Board has delegated final hiring authority to the Superintendent to select personnel, the Superintendent is a "public official" for purposes of the nepotism laws. *Atty. Gen. Op. GA–123 (2003)* [See BBFA]

The method of computing degrees of relationship is the civil law method. *Gov't Code 573.021; Atty. Gen. Op. DM–76 (1992)*

COMPENSATION OF PROHIBITED EMPLOYEE

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible person if the official knows the person is ineligible. *Gov't Code 573.083*

CONSANGUINITY

The nepotism provisions apply to relationships within the third degree by consanguinity (related by blood). Two persons are related to each other by consanguinity if one is a descendant of the other or if they share a common ancestor. An adopted child is considered to be a child of the adoptive parents. *Gov't Code 573.002, 573.022*

The degree of relationship by consanguinity between a person and his or her descendant is determined by the number of generations that separate them. An individual's relatives within the third degree by consanguinity are the individual's:

1. Parent or child (first degree);

2. Brother, sister, grandparent, or grandchild (second degree); and

3. Great-grandparent, great-grandchild, aunt or uncle (who is a sibling of a parent of the person), nephew or niece (who is a child of a brother or sister of the person) (third degree).

Gov't Code 573.023 [See DBE(EXHIBIT)]

HALF–BLOOD RELATIVES

There is no distinction under the nepotism statute between half-blood and full-blood relations. Thus, half-blood relationships fall within the same degree as those of the full blood. *Atty. Gen. Op. LO-90–30 (1990)*

AFFINITY

The nepotism provisions apply to relationships within the second degree by affinity (related by marriage). Two persons are related to each other by affinity if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of the marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives. This provision applies to a Board member only until the youngest child of the marriage reaches the age of 21 years.

Gov't Code 573.002, 573.024

A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of relationship by affinity is the same as the degree of the underlying relationship by consanguinity. For example, if two persons are related to each other in the second degree by consanguinity, the spouse of one of the persons is related to the other person in the second degree by affinity. *Gov't Code 573.025*

A person's relatives within the second degree by affinity are:

1. Anyone related by consanguinity to the person's spouse within the first or second degree; or

2. The spouse of anyone related to the person by consanguinity within the first or second degree.

Gov't Code 573.024(b)

EFFECT OF TRUSTEE RESIGNATION

All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a Trustee's resignation is filled by a successor, the Trustee continues to serve and have the duties and powers of office, and a relative within a prohibited degree of relationship is barred from employment. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM–636 (1987), DM–2 (1991)*

EXCEPTIONS

The nepotism prohibitions do not apply to the appointment of a person to a position if the person is employed in the position immediately before the election or appointment of the public official to whom the person is related in a prohibited degree and that prior employment is continuous for at least:

CONTINUOUS EMPLOYMENT ('GRANDFATHER CLAUSE')

1. Thirty days, if the public official is appointed; or
2. Six months, if the public official is elected.

Gov't Code 573.062(a)

RETIREES

A teacher who has retired from a full-time, certified teacher position has broken his or her employment with the District and does not qualify for the continuous-employment exception to the nepotism laws. *Atty. Gen. Op. JC–0442 (2001)*

For purposes of calculating the appropriate date for the applicability of the continuous-employment exception, a superintendent with final authority to select personnel is an appointed public official. *Atty. Gen. Op. GA–0177 (2004)*

ABSTENTION

If an employee continues in a position under this exception, the public official to whom the employee is related in a prohibited degree may not participate in any deliberation or voting on the appointment, reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee, if the action applies only to the employee and is not taken regarding a bona fide class or category of employees. *Gov't Code 573.062(b)*

A "change in status" includes a reassignment within an organization, whether or not a change in salary level accompanies the reassignment. *Atty. Gen. Op. JC–0193 (2000)*

For an action to be "taken with respect to a bona fide category of employees," the officeholder's action must be based on objective criteria, which do not allow for the preference or discretion of the officeholder. *Atty. Gen. Op. DM–46 (1991)*

SUBSTITUTE TEACHER

The nepotism prohibitions do not apply to appointment or employment of a substitute teacher. *Gov't Code 573.061*

BUS DRIVER

The nepotism prohibitions do not apply to an appointment or employment of a bus driver. *Gov't Code 573.061(4)*

TRADING

A public official may not appoint a person to a position in which the person's services are under the public official's direction or control and that is to be compensated directly or indirectly from public funds or fees of office if:

1. The person is related to another public official within the prohibited degree; and

2. The appointment would be carried out in whole or in partial consideration for the other public official's appointing a person who is related to the first public official within a prohibited degree.

Gov't Code 573.044

FEDERAL FUNDS

The rules against nepotism apply to employees paid with public funds, regardless of the source of those funds. Thus, the rules apply in the case of a teacher paid with funds from a federal grant. *Atty. Gen. L.A. No. 80 (1974)*

PENALTIES

An individual who violates the nepotism prohibitions shall be removed from his or her position. *Gov't Code 573.081, 573.082.*

An individual who violates Government Code 573.041 (Prohibition on Public Officials), 573.062(b) (see CONTINUOUS EMPLOYMENT and ABSTENTION, above), or 573.083 (see COMPENSATION OF PROHIBITED EMPLOYEE) commits an offense involving official misconduct. *Gov't Code 573.084*

EMPLOYMENT POLICY

The Board shall adopt a policy providing for the employment and duties of District personnel. The policy shall provide that:

1. The Superintendent has sole authority to make recommendations to the Board regarding the selection of all personnel, except that the Board may delegate final authority for those decisions to the Superintendent; and

2. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202. [See DP]

The 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 11.163(a), (c)

ACTION ON RECOMMENDATION

The Board may accept or reject the Superintendent's recommendation regarding the selection of District personnel. If the Board rejects the Superintendent's recommendation, the Superintendent shall make alternative recommendations until the Board accepts a recommendation. *Education Code 11.163(b)*

NEPOTISM

A superintendent to whom the Board has delegated final hiring authority to select personnel is a "public official" with appointment authority for purposes of the nepotism laws. *Atty. Gen. Op. GA-123 (2003)* [See DBE]

FORMER TRUSTEE EMPLOYMENT

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

EMPLOYMENT OF RETIREES

For purposes of hiring retirees, the Board shall determine by rule whether there are acute shortage areas in the District based on TEA's acute shortage area guidelines. The guidelines must include:

ACUTE SHORTAGE AREAS

1. A list of acute shortage areas;

2. Suggested criteria for identifying local acute shortage areas; and

3. A requirement that a certified applicant for a position as a classroom teacher who is not a retiree be given preference in hiring.

Gov't Code 824.602(m)

NOTICE TO TRS

The District shall furnish TRS a monthly certified statement of all employment of all TRS service or disability retirees. The certified

statement must include information regarding 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. The statement shall contain information necessary for the executive director of TRS to classify employment under Government Code 824.602. *34 TAC 31.2*

VERIFICATION OF EMPLOYMENT ELIGIBILITY

The 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 the 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.

   The 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 the 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 CFR 274a.2(b)(1)(ii), (iii), (vii), (viii)

SOCIAL SECURITY NUMBERS

It shall be unlawful for the District to deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her Social Security number.

EXCEPTIONS

The above provision does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the Social Security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. Any disclosure to the 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 the District's jurisdiction.

STATEMENT OF USES

A district that requests disclosure of a Social Security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

5 U.S.C. 552(a); Pub. L. 94–455, Stat. 1520 (1976)

CONTRACT POLICY

The District shall employ each classroom teacher, principal, librarian, nurse, or counselor under a probationary contract, a continuing contract, or a term contract. [See DCA, DCB, and DCC] The District is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. [See DCD and DCE]

"Classroom teacher" means an educator who is employed by the 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.

The 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, *5.001(2)*

DAYS OF SERVICE

A contract between the 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.

EXCEPTION

The Commissioner may reduce the number of days of service, but such a reduction by the Commissioner does not reduce an educator's salary.

Education Code 21.401

EDUCATIONAL AIDES

The Board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.214(f); 19 TAC Chapter 21*

CRIMINAL HISTORY RECORD

The District may obtain from any law enforcement or criminal justice agency all criminal history information that relates to:

1. A person the District intends to employ in any capacity;

2. A person who has indicated, in writing, an intention to serve as a volunteer with the District; or

3. A volunteer or employee of the District.

   Criminal history record information regarding a person who is a volunteer or employee of the District may be obtained no more than twice each year.

Education Code 22.083(a), (c); Gov't Code 411.097(b)

CONFIDENTIALITY OF CRIMINAL HISTORY

Criminal history record information obtained by the District may not be released or disclosed to any person, other than the individual who is the subject of the information, TEA, or SBEC (State Board for Educator Certification). *Gov't Code 411.097(d)* [See CNA]

SBEC NOTIFICATION

The Superintendent shall promptly notify SBEC in writing by filing a report with the executive director of SBEC within seven calendar days of the date the Superintendent obtains or has knowledge of information indicating that an applicant for or holder of a certificate issued under Chapter 21, Subchapter B, of the Education Code has a reported criminal history. *Education Code 22.083(d); 19 TAC 249.14(d)(1)* [See also DF]

CONTRACTED TRANSPORTATION SERVICES

If the District contracts with a person for transportation services, the District shall obtain criminal history record information as authorized by Education Code 22.084. [See CNA]

DISCHARGE OF CONVICTED EMPLOYEES

The 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 Section 207.044 (unemployment compensation). *Education Code 22.085*

NEW HIRE REPORTING

The 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 the District's name, address, and employer identification number.

The 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.

The 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 the District hires the employee; or

2. In the case of the 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.

42 U.S.C. 653a(b), (c); Family Code 234.101–234.104; 1 TAC 55, subchapter I

EMPLOYMENT PRACTICES: AT–WILL EMPLOYMENT

DCD (LEGAL)

The employment-at-will doctrine is the law of Texas, under which an employer has no duty to an employee regarding continuation of employment. *Jones v. Legal Copy, Inc., 846 S.W. 2d [Tex. App.—Houston (1st Dist.) 1993]*

The employment-at-will doctrine places no duties on an employer regarding an employee's continued employment and thus bars contract and tort claims based on the decision to discharge an employee. *Sabine Pilot Serv., Inc. v. Hauck, 687 S.W. 2d 733 (Tex. 1985)*

In Texas, at-will employment is presumed unless shown otherwise. *Gonzales v. Galveston Ind. Sch. Dist., 865 F.Supp. 1241 (S.D. Tex. 1994)*

Employment for an indefinite term may be terminated at-will and without cause, except as otherwise provided by law. *Garcia v. Reeves County, Texas, 32 F. 3d 200 (5th Cir. 1994); Irby v. Sullivan, 737 F.2d 1418 (5th Cir. 1984); Winters v. Houston Chronicle Pub. Co., 795 S.W. 2d 723 (Tex. 1990)*

EXCEPTION

An at-will employee cannot be discharged if the sole reason for the discharge was that the employee refused to perform an illegal act. *Sabine Pilot Serv., Inc. v. Hauck, 687 S.W. 2d 733 (Tex. 1985)* [See DG, DGA, DGB for other exceptions]

NEPOTISM

A superintendent to whom the Board has delegated final hiring authority to select personnel is a "public official" with appointment authority for purposes of the nepotism laws. *Atty. Gen. Op. GA-123 (2003)* [See DBE]

DISMISSAL PROCEDURE

An at-will employment relationship, standing alone without benefit of recognized exception, triggers no due process requirement nor right. *Mott v. Montgomery County, Tex., 882 S.W. 2d 635, 638 (Tex. App.—Beaumont, 1994)*

Termination of employment is a condition of work that is a proper subject for the grievance process. *Fibreboard Paper Products Corp. v. National Labor Relations Board, 85 S.Ct. 398, 402 (1984); Sayre v. Mullins, 681 S.W.2d 25 (Tex. 1984)* [See DGBA]

NOTICE TO THE COMMISSIONER

See policy DF regarding circumstances under which a certified paraprofessional employee's dismissal will be reported to the Commissioner.

COMPENSATION AND BENEFITS: SALARIES, WAGES, AND STIPENDS

DEA (LEGAL)

MINIMUM SALARY

The District shall pay each classroom teacher, full-time librarian, full-time counselor certified under Education Code Chapter 21, Subchapter B, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, as specified in Education Code 21.402 and 19 TAC 153.1021.

A classroom teacher, full-time librarian, full-time counselor certified under Education Code Chapter 21, Subchapter B, or full-time nurse employed by the District in the 2000–01 school year is, for as long as the employee is employed by the District, entitled to a salary that is at least equal to the salary the employee received for the 2000–01 school year.

Education Code 21.402(d); 19 TAC 153.1021, 153.1022

PLACEMENT ON SALARY SCHEDULE

The Commissioner's rules determine the experience for which a teacher, librarian, counselor, or nurse is to be given credit in placing the teacher, librarian, counselor, or nurse on the minimum salary schedule. The District shall credit the teacher, librarian, counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.403(c), 19 TAC 153.1022*

EMPLOYEES FORMERLY ON CAREER LADDER

As long as a teacher or librarian is employed by the same school district, the teacher or librarian is entitled to:

1. Placement on the minimum salary schedule at the step above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level two of the career ladder on August 31, 1993; or

2. Placement on the minimum salary schedule at the step two steps above the step on which the teacher would otherwise be placed, if the teacher or librarian received a career ladder supplement for level three of the career ladder on August 31, 1993.

Education Code 21.403(d)

VALID CERTIFICATE

An educator, as defined in Education Code 5.001(5), who does not hold a valid certificate may not be paid for teaching or work done before the effective date of issuance of a valid certificate. *Education Code 21.053(b)*

MINIMUM WAGE

Employees not exempt under the Fair Labor Standards Act shall be paid minimum wage and receive compensation for overtime under the conditions specified in the act. *29 U.S.C. 206, 207*

WAGE AND HOUR RECORDS

The District shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the Fair Labor Standards Act. *29 CFR 516.2*

HRA ACCOUNT

The state shall annually contribute the amount specified in the General Appropriations Act to a health reimbursement arrangement account established for each employee for the payment of qualified health-care expenses. The comptroller shall establish separate accounts for each participating employee or transfer funds to trust accounts in the custody of the comptroller established for the benefit of employees.

Effective September 1, 2004, the statutory provision allowing employees to choose to receive the TRS benefit as supplemental compensation is repealed.

ELIGIBILITY

A member of the professional staff of the District, as defined by TRS rule, is not eligible to receive the state supplement.

An employee is not eligible to receive the state contribution until the 90th day after the date the employee is employed.

Conference Comm. Rep. HB 1, 78th Leg., Reg. Sess., at 39 (Tex. 2003); Insurance Code 1580.051; 34 TAC 41.42(d)

ATTENDANCE SUPPLEMENT

The District shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

PRINCIPAL PERFORMANCE INCENTIVES

A performance incentive awarded to a principal under Education Code 21.357 shall be distributed to the principal's school. The campus level committee shall determine the manner in which the performance incentive shall be used. *Education Code 21.357(c)*

The Superintendent shall recommend to the Board for approval pay structures and compensation plans for all District employees. Pay structures shall be designed and administered for the purpose of attracting and retaining qualified employees to achieve District goals. The Superintendent shall administer and maintain pay systems in accordance with administrative procedures for the District compensation plan.

PAY SYSTEMS DESCRIPTION

The Superintendent shall assign positions to pay ranges that define the minimum and maximum base pay for the positions.

All employees shall be paid within the assigned pay ranges unless exceptions are granted by the Board.

PAY INCREASE BUDGET

The Superintendent shall recommend to the Board an amount for employee pay increases as part of the annual budget. Pay increases beyond the budgeted amount for individuals or positions shall be subject to Board approval.

CLASSIFICATION OF POSITIONS

The Superintendent or designee shall determine the classification of positions or employees as "exempt" or "nonexempt" for purposes of payment of overtime in compliance with the Fair Labor Standards Act.

EXEMPT

The District shall pay employees who are exempt from the overtime pay requirements of the Fair Labor Standards Act (FLSA) on a salary basis. The salaries of these employees are intended to cover all hours worked, and the District shall not make deductions that are prohibited under the FLSA.

An employee who believes deductions have been made from his or her salary in violation of this policy should bring the matter to the District's attention, through the District's complaint policy [see DGBA]. If improper deductions are confirmed, the District will reimburse the employee and take steps to ensure future compliance with the FLSA.

NONEXEMPT

Nonexempt employees may be compensated on an hourly basis or on a salary basis. Employees who are paid on an hourly basis shall be compensated for all hours worked. Employees who are paid on a salary basis are paid for a 40-hour workweek and do not earn additional pay unless the employee works more than 40 hours.

A nonexempt employee shall have the approval of his or her supervisor before working overtime. An employee who works overtime without prior approval is subject to discipline but shall be compensated in accordance with the Fair Labor Standards Act.

COMPENSATORY TIME

Compensation for overtime hours shall be awarded at one and a half times the employee's regular rate of pay or by time and a half

earned in compensatory time. The employee shall be informed in advance if overtime hours will accrue compensatory time rather than pay. Compensatory time earned by nonexempt employees may not accumulate beyond a maximum of 60 hours. If an employee has a balance of more than 60 hours of overtime, the employee will be required to take compensatory time or, at the District's option, will receive overtime pay.

Compensatory time shall be used within the duty year in which it is earned. The District shall pay an employee overtime for all unused compensatory time remaining at the end of the fiscal year. Use of compensatory time may be at the employee's request or as determined by the employee's supervisor to protect the District's schedules and activities.

WORKWEEK DEFINED

For purposes of FLSA compliance, the workweek for District employees shall be 12:00 a.m. Saturday until 11:59 p.m. Friday.

SUPPLEMENTAL DUTIES

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the Fair Labor Standards Act, as needed. The employee shall be compensated for these assignments according to the supplemental duty pay schedule established by the Board. These assignments may be discontinued at any time for any reason or no reason, by either party. The assignment of these duties shall not create any expectation of continued assignment to that same duty or any other duty.

CLASSROOM SUPPLY REIMBURSEMENT

Beginning not later than the 2005–06 school year, and only if funds are specifically appropriated or TEA identifies available funds, TEA shall establish a reimbursement program under which TEA provides funds to districts for the purpose of reimbursing classroom teachers who expend personal funds on classroom supplies.

LOCAL FUNDS

The District must match any funds provided to the District under the reimbursement program with local funds to be used for the same purpose. The District may not use funds received under the reimbursement program to replace local funds used by the District for the same purpose.

USE OF FUNDS

The District shall allow each classroom teacher in the District who is reimbursed under the reimbursement program to use the funds at the teacher's discretion, except that the funds must be used for the benefit of the District's students.

The District may allow, but not require, teachers to pool their respective supply monies for the purchase of an item, as long as the item meets the student benefit criteria established by the District.

Education Code 21.413; 19 TAC 61.1081(d)(3)

MAXIMUM REIMBURSEMENT

Total reimbursement to an individual teacher in a single year from the Teacher Supply Reimbursement Grant may not exceed $200. Reimbursements from local funds may exceed the matching requirement.

UNEXPENDED FUNDS

Funds for each school year must be expended by July 31 of that school year.

ELIGIBILITY REQUIREMENTS

To be eligible to participate in the classroom supply reimbursement program, the District shall be required to:

1. Reapply to participate each year;

2. Create a Teacher Supply Reimbursement Grant account separate from other accounts to which the grant shall be deposited and account for funds in accordance with applicable state and federal requirements;

3. Deposit in the designated account an amount of local funds at least equal to the greater of the amount of the grant or the previous year's expenditure on teacher supply reimbursements;

    a. "Local funds" are all funds over which the District exercises control or approval authority used to reimburse teachers for tangible items of direct benefit to students.

b. Individual reimbursements from the Teacher Supply Reimbursement Grant must be matched with an equal amount of local funds.

4. Ensure that items purchased with funds in the designated account are tangible items, of direct benefit to students. In order to participate in the classroom supply reimbursement program, the District's application must include a District policy that would ensure each teacher meets the requirement that an expenditure will benefit students;

5. Retain ownership of all durable goods purchased under this program. The District may develop a policy allowing each teacher to retain ownership of goods of nominal value purchased with grant money;

6. Retain receipts obtained from teachers for reimbursement and make these records available for audit purposes; and

7. Return unexpended Teacher Supply Reimbursement Grant balances at the end of the state fiscal year for which they were awarded.

PENALTIES

A district found in noncompliance with TEA's rules regarding the Teacher Supply Reimbursement Grant program must reimburse the state for funds unaccounted for or used for purposes not meeting with the requirements of the statute.

A district found to have reduced its local expenditures may be required to refund the entire grant to the state.

DISPUTE RESOLUTION AND APPEALS

A determination by Board of any dispute involving teacher reimbursement is final and may not be appealed to TEA, except as provided in Education Code 7.057. Nothing in this provision precludes TEA from recovering funds from the District pursuant to an audit.

A determination by TEA in the administration of this program is final and may not be appealed.

Note: TEA regulations under Education Code 21.413 expire September 1, 2007.

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19 TAC 61.1081

TRAVEL SERVICES

An employee of the District who is engaged in official business may participate in the Texas Building and Procurement Commission's contract for travel services. *Gov't Code 2171.055(f)*

REASONS

The recommendation to the Board and its decision not to renew a contract under this policy shall not be based on an employee's exercise of Constitutional rights or based unlawfully on an employee's race, color, religion, sex, national origin, disability, or age. Reasons for proposed nonrenewal of an employee's term contract shall be:

1. Deficiencies pointed out in observation reports, appraisals or evaluations, supplemental memoranda, or other communications.
2. Failure to fulfill duties or responsibilities.
3. Incompetency or inefficiency in the performance of duties.
4. Inability to maintain discipline in any situation in which the employee is responsible for the oversight and supervision of students.
5. Insubordination or failure to comply with official directives.
6. Failure to comply with Board policies or administrative regulations.
7. Excessive absences.
8. Conducting personal business during school hours when it results in neglect of duties.
9. Reduction in force because of financial exigency or program change. [See DFF]
10. Drunkenness or excessive use of alcoholic beverages; or possession, use, or being under the influence of alcohol or alcoholic beverages while on school property, while working in the scope of the employee's duties, or while attending any school- or District-sponsored activity.
11. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
12. Conviction of a felony or of any crime involving moral turpitude; conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony; or deferred adjudication for a felony or any crime involving moral turpitude. [See DH]
13. Failure to report any arrest, conviction, or deferred adjudication for any felony or any crime involving moral turpitude as required by policy. [See DH]

14. Failure to meet the District's standards of professional conduct.

15. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.

16. Disability, not otherwise protected by law, that prevents the employee from performing the essential functions of the job.

17. Any activity, school-connected or otherwise, that, because of publicity given it, or knowledge of it among students, faculty, and community, impairs or diminishes the employee's effectiveness in the District.

18. Any breach by the employee of an employment contract or any reason specified in the employee's employment contract.

19. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.

20. A significant lack of student progress attributable to the educator.

21. Behavior that presents a danger of physical harm to a student or to other individuals.

22. Assault on a person on school property or at a school-related function, or on an employee, student, or student's parent regardless of time or place.

23. Use of profanity in the course of performing any duties of employment, whether on or off school premises, in the presence of students, staff, or members of the public, if reasonably characterized as unprofessional.

24. Falsification of records or other documents related to the District's activities.

25. Falsification or omission of required information on an employment application.

26. Misrepresentation of facts to a supervisor or other District official in the conduct of District business.

27. Failure to fulfill requirements for certification, including passing certification examinations required by state law for the employee's assignment.

28. Failure to achieve or maintain "highly qualified" status as required for the employee's assignment.

29. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit, a Special Assignment Permit, or a Temporary Classroom Assignment Permit.

30. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.

31. Any reason that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.

32. Any reason constituting good cause for terminating the contract during its term.

RECOMMENDATIONS FROM ADMINISTRATION

Administrative recommendations for renewal or proposed nonrenewal of professional employee contracts shall be submitted to the Superintendent. The Superintendent shall require that each administrator's recommendation for nonrenewal be accompanied by copies of all pertinent information necessary to a decision to recommend proposed nonrenewal. The final decision on the administrative recommendation to the Board on each employee's contract rests with the Superintendent.

SUPERINTENDENT'S RECOMMENDATION

The Superintendent shall prepare lists of employees whose contracts are recommended for renewal or proposed nonrenewal by the Board. Copies of written evaluations, other supporting documentation, if any, and reasons for the recommendation shall be submitted for each employee recommended for proposed nonrenewal. The Board shall consider such information, as appropriate, in support of recommendations for proposed nonrenewal and shall then act on all recommendations.

NOTICE OF PROPOSED RENEWAL OR NONRENEWAL

The Superintendent shall deliver to the employee by hand or certified mail, return receipt requested, written notice of proposed renewal or nonrenewal not later than the 45th day before the last day of instruction required in the contract. If the notice of proposed nonrenewal does not contain a statement of the reason or all of the reasons for the proposed action, and the employee requests a hearing, the District shall give the employee notice of all reasons for the proposed nonrenewal a reasonable time before the hearing. The initial notice or any subsequent notice shall contain the hearing procedures.

REQUEST FOR HEARING

If the employee desires a hearing after receiving the notice of proposed nonrenewal, the employee shall notify the Board in writing not later than the 15th day after the date the employee received the notice of proposed nonrenewal. When a timely request for a hearing on a proposed nonrenewal is received by the Board President, the hearing shall be held not later than the 15th day after re-

ceipt of the request, unless the parties mutually agree to a delay. The employee shall be given notice of the hearing date as soon as it is set.

HEARING PROCEDURE

The hearing shall be conducted in closed meeting unless the employee requests that it be open, with only the members of the Board, the employee, the Superintendent, their representatives, and such witnesses as may be called in attendance. Witnesses may be excluded from the hearing until it is their turn to present evidence. The employee and the administration may each be represented by a representative of each party's choice. Notice, at least five days in advance of the hearing, shall be given by each party intending to be represented, including the name of the representative. Failure to give such notice may result in postponement of the hearing.

The conduct of the hearing shall be under the Board President's control and in general shall follow the steps listed below:

1. After consultation with the parties, the Board President shall impose reasonable time limits for presentation of evidence and closing arguments.
2. The hearing shall begin with the administration's presentation, supported by such proof as it desires to offer.
3. The employee may cross-examine any witnesses for the administration.
4. The employee may then present such testimonial or documentary proof, as desired, to offer in rebuttal or general support of the contention that the contract be renewed.
5. The administration may cross-examine any witnesses for the employee and offer rebuttal to the testimony of the employee's witnesses.
6. Closing arguments may be made by each party.

A record of the hearing shall be made so that a certified transcript can be prepared, if required.

BOARD DECISION

The Board may consider only such evidence as is presented at the hearing. After all the evidence has been presented, if the Board determines that the reasons given in support of the recommendation to not renew the employee's contract are lawful, supported by the evidence, and not arbitrary or capricious, it shall so notify the employee by a written notice not later than the 15th day after the date on which the hearing is concluded. This notice shall also include the Board's decision on renewal, which decision shall be final.

EMPLOYEE RIGHTS AND PRIVILEGES: FREEDOM OF ASSOCIATION

DGA (LOCAL)

An employee's participation in community, political, or employee organization activities shall be entirely voluntary and shall not:

1. Interfere with the employee's performance of assigned duties and responsibilities.

2. Result in any political or social pressure being placed on students, parents, or staff.

3. Involve trading on the employee's position or title with the District.

USE OF DISTRICT FACILITIES

Organizations representing professional, paraprofessional, or support employees may use District facilities with prior approval of the appropriate administrator. Other groups composed of District employees may use District facilities in accordance with policy GKD.

UNITED STATES CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)* [See DG]

TEXAS CONSTITUTION

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

FEDERAL LAWS

SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 CFR 104.7(b), 104.11*

AMERICANS WITH DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)*

GRIEVANCES CONCERNING WAGES, HOURS, CONDITIONS OF WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM–177 (1984); Corpus Christi Fed. of Teachers v. Corpus Christi ISD, 572 S.W.2d 663 (Tex. 1978)*

GROUP GRIEVANCES

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987)*

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987); Sayre v. Mullins, 681 S.W.2d 25 (Tex. 1984)*

RESPONSE TO GRIEVANCE

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974); Corpus Christi ISD v. Padilla, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)*

GRIEVANCES CONCERNING FINALITY OF GRADES

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board.

The Board's determination is not subject to appeal.

Education Code 28.0212

OPEN MEETINGS ACT

The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. *Gov't Code 551.074*
[See BEC]

CLOSED MEETING	The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. [See BEC]
DISRUPTION	It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)*
RECORD OF PRESENTATION	An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*
WHISTLEBLOWER COMPLAINTS	Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.005* [See DG]

PERSONNEL–MANAGEMENT RELATIONS: EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA (LOCAL)

GUIDING PRINCIPLES

INFORMAL PROCESS

The Board encourages employees to discuss their concerns and complaints through informal conferences with their supervisor, principal, or other appropriate administrator.

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

FORMAL PROCESS

If an informal conference regarding a complaint fails to reach the outcome requested by the employee, he or she may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee 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 an employee for bringing a concern or complaint. [See DG]

NOTICE TO EMPLOYEES

The principal of each campus and other supervisory personnel shall inform employees of this policy.

SPECIFIC COMPLAINTS

For more information on how to proceed with complaints regarding:

1. Alleged discrimination, including violations of Title IX or Section 504, see DAA.
2. Instructional materials, see EFA.
3. A commissioned peace officer who is an employee of the District, see CKE.

OTHER REVIEW PROCESSES

Complaints alleging certain forms of harassment shall be processed in accordance with DHC.

Complaints arising from any of the following must be addressed through the local and statutory processes indicated below:

1. The proposed nonrenewal of a term contract issued under Chapter 21 of the Texas Education Code, in accordance with DFBB.
2. The proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract

issued under Chapter 21 of the Texas Education Code during the contract term, in accordance with DFAA, DFBA, or DFCA, respectively.

This policy shall apply to all other employee complaints.

DEFINITIONS

For purposes of this policy, terms are defined as follows:

COMPLAINT / GRIEVANCE

The terms "complaint" and "grievance" shall have the same meaning. A complaint under this policy may include:

1. Grievances concerning an employee's wages, hours, or conditions of work;
2. Specific allegations of unlawful discrimination in employment based on the employee's sex, race, religion, national origin, age, or disability;
3. Specific allegations of unlawful discrimination or retaliation based on the employee's exercise of legally protected rights; or
4. Specific allegations of adverse personnel action based on the employee's good faith report to an appropriate law enforcement authority of a violation of a law by the District or a District employee, i.e., "whistleblower complaints." [See DG]
5. Complaints arising from the dismissal or termination of an at-will employee. [See DCD]
6. Complaints arising from the termination at end of year of the probationary contract of a professional employee. [See DFAA]

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

RESPONSE

At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered or sent by U.S. Mail to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on the deadline and received by the employee or designated representative no more than three days after the response deadline.

DAYS

"Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."

REPRESENTATIVE

"Representative" means any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.

The employee may designate a representative through written notice to the District at any level of this process. If the employee 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.

WHISTLEBLOWER COMPLAINTS

Whistleblower complaints shall be filed within the time specified by law. Such complaints shall first be filed in accordance with LEVEL TWO, below. Time lines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]

GENERAL PROVISIONS

Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not bring separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.

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 employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days, 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 FORM

Complaints 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 employee 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 unless the employee did not know the documents existed before the Level One conference.

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

LEVEL ONE

Complaint forms must be filed:

1. Within 15 days of the date the employee 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, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.

   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 hold a conference with the employee within ten days after receipt of the written complaint.

The administrator shall have ten days following the conference to provide the employee a written response.

LEVEL TWO

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee 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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level One.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. At the conference, the Super-

intendent or designee shall consider only the issues and documents presented at Level One and identified in the Level Two appeal notice. The Superintendent or designee shall have ten days following the conference to provide the employee a written response.

LEVEL THREE

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee 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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

The Superintendent or designee shall inform the employee 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 with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the employee or the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

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. 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 employee or the employee'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 for any reason the Board fails to reach 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.

All District employees shall perform their duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]

It is the goal of the District to create a culture, visually and verbally, where positive character traits shall be expected and affirmed. Positive and respective relationships among students and staff shall be emphasized.

Recognizing that a positive, pleasant atmosphere is essential both to a good learning environment for our students and a good work environment for our employees, it is the policy of the District that all staff and/or representatives shall treat students, parents, community members and their peers with mutual respect, dignity, fairness, and common courtesy. In short, all staff and/or representatives of the District shall treat others as they would want to be treated. Specifically as follows:

1. Comments of a negative, degrading, disparaging, hurtful, or destructive nature shall not be tolerated, particularly toward students.
2. Cursing and obscene or abusive language shall not be tolerated under any circumstances.
3. All District administrators shall use and model positive leadership styles with teachers, staff, parents, students, and community members that will foster a positive, nurturing, and caring learning environment and workplace.

All District personnel shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

SAFETY REQUIREMENTS

All employees shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

TOBACCO USE

Employees shall not use tobacco products on District premises, in District vehicles, nor at school or school-related activities. [See also GKA]

ALCOHOL AND DRUGS

A copy of this policy, the purpose of which is to eliminate drug abuse from the workplace, shall be provided each employee at the beginning of each year or upon employment.

Employees shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances

during working hours while at school or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant, or mood-changing, mind-altering, or behavior-altering drugs.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

EXCEPTIONS

An employee who manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities, or who uses a drug authorized by a licensed physician prescribed for the employee's personal use shall not be considered to have violated this policy.

NOTICE

Each employee shall be given a copy of the District's notice regarding drug-free schools. [See DI(EXHIBIT)]

ARRESTS AND CONVICTIONS

An employee who is arrested for any felony or any offense involving moral turpitude must report the arrest to the principal or immediate supervisor within three calendar days of the arrest. An employee who is convicted of or receives deferred adjudication for such an offense must also report that event to the principal or immediate supervisor within three calendar days of the event.

MORAL TURPITUDE

Moral turpitude includes but is not limited to:

1. Dishonesty; fraud; deceit; theft; misrepresentation;
2. Deliberate violence;
3. Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
4. Felony possession, transfer, sale, distribution, or conspiracy to possess, transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
5. Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct if two or more acts are committed within any 12-month period; or
6. Acts constituting abuse under the Texas Family Code.

DRESS AND GROOMING

The dress and grooming of District employees shall be clean, neat, in a manner appropriate for their assignments, and in accordance with any additional standards established by their supervisors and approved by the Superintendent.

VIOLATIONS

Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as District employees. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DCD and DF series]

ASSIGNMENT AND SCHEDULES

DK
(LOCAL)

SUPERINTENDENT'S AUTHORITY

All personnel are employed subject to assignment and reassignment by the Superintendent or designee when the Superintendent determines that the assignment or reassignment is in the best interest of the District. Reassignment shall be defined as a transfer to another position, department, or facility that does not necessitate a change in the employment contract of a contract employee. Any change in an employee's contract shall be in accordance with policy DC.

Any employee may request reassignment within the District to another position for which he or she is qualified.

CAMPUS ASSIGNMENTS

The principal's criteria for approval of campus assignments and reassignments shall be consistent with District policy regarding equal opportunity employment, and with staffing patterns approved in the District and campus plans. [See BQ series] In exercising their authority to approve assignments and reassignments, principals shall work cooperatively with the central office staff to ensure the efficient operation of the District as a whole.

SUPPLEMENTAL DUTIES

Noncontractual supplemental duties for which supplemental pay is received may be discontinued by either party at any time. An employee who wishes to relinquish a paid supplemental duty may do so by notifying the Superintendent or designee in writing. Paid supplemental duties are not part of the District's contractual obligation to the employee, and an employee shall hold no expectation of continuing assignment to any paid supplemental duty.

WORK CALENDARS AND SCHEDULES

Subject to the Board-adopted budget and compensation plan and in harmony with employment contracts, the Superintendent shall determine required work calendars for all employees. [See DC, EB]

Daily time schedules for all employees shall be determined by the Superintendent or designee and principals.

EXCLUSIVE RIGHTS

Employees of the District shall comply with the provisions of the United States Copyright Law. Subject to certain specific exceptions, some of which are stated below, the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
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. 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, 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 fair use:

1. The purpose and character of the use, including whether the use is of a commercial nature or for nonprofit educational purposes.
2. The nature of the copyrighted work.
3. The amount and importance 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 performances and displays include 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 this title, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110*

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:

1. Copying for the purpose of performance, except as permitted under the "Guidelines for Educational Use of Music."
2. Copying for the purpose of substituting for the purchase of music, except as permitted under the "Guidelines for Educational Use of Music."

3. 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:

1. A broadcast program may be recorded off-air simultaneously with broadcast transmission (including simultaneous cable retransmission) and retained by the 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.

2. 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.

3. 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.

4. 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.

5. 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 the District for student exhibition or any other nonevaluative purpose without authorization.

6. 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

ONLINE COPYRIGHT INFRINGEMENT

LIMITATION OF LIABILITY

To the extent that the District is a "service provider" (regarding online services) under 17 U.S.C. 512(k) and meets other conditions in 17 U.S.C. 512, the District shall not be liable for monetary relief or certain injunctive or other equitable relief, except as allowed under 17 U.S.C. 512(j), for copyright infringement in certain online services (transitory communications, system caching, storage of information on systems or networks at the instruction of users, and information location tools) provided by the District.
17 U.S.C. 512

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:

   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 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. *17 U.S.C. 512(g)*

INSTRUCTIONAL RESOURCES:
COPYRIGHTED MATERIAL

EFE
(LOCAL)

COPYRIGHT INFRINGEMENT

All persons are prohibited from using District technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with District technology. No person shall use the District's technology to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the Superintendent or designee to employ all reasonable measures to prevent the use of District technology in violation of the law. All persons using District technology in violation of law shall lose user privileges in addition to other sanctions.

The District shall notify the U.S. Copyright Office of the designated agent's identity. The District's Web site shall include information on how to contact the District's designated agent and a copy of the District's copyright policy. Upon notification, the District's designated agent shall take all actions necessary to remedy any violation. The District shall provide the designated agent appropriate training and resources necessary to protect the District.

If a content owner reasonably believes that the District's technology has been used to infringe upon a copyright, the owner may notify the designated agent.

ELECTRONIC MEDIA

To comply with copyright law, electronic media used in the classroom shall be for educational purposes only.

COMPUTER SOFTWARE

Unless otherwise provided in the purchase agreement, a purchased computer program shall not be used to make copies. A computer program may be legally copied only if:

1. Making a copy is an essential step in using the program (such as automatic copying into memory when a program is loaded); or

2. The new copy is a backup; backups cannot be used simultaneously with the original and must be erased if the original is resold.

District employees shall not use the same program on more than one computer at a time unless the purchase agreement or written permission from the vendor allows the District to network the program or allows other specified multiple use of the single copy.

CHARACTER EDUCATION

The District may provide a character education program, which must:

1. Stress positive character traits, such as:
    a. Courage;
    b. Trustworthiness, including honesty, reliability, punctuality, and loyalty;
    c. Integrity;
    d. Respect and courtesy;
    e. Responsibility, including accountability, diligence, perseverance, and self-control;
    f. Fairness, including justice and freedom from prejudice;
    g. Caring, including kindness, empathy, compassion, consideration, patience, generosity, and charity;
    h. Good citizenship, including patriotism, concern for the common good and the community, and respect for authority and the law; and
    i. School pride;
2. Use integrated teaching strategies; and
3. Be age appropriate.

In developing or selecting a character education program under this section, the 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

TEXAS FIRST RESPONDERS DAY

Districts shall regularly observe Texas First Responders Day, September 11, by appropriate ceremonies. Each district may determine the appropriate ceremonies for observation of Texas First Responders Day. *Gov't Code 662.050*

CELEBRATE FREEDOM WEEK

To educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded, the week in which November 11 falls is designated as Celebrate Freedom Week in public schools. For purposes of this

section, Sunday is considered the first day of the week. *Education Code 29.907*

APPROPRIATE INSTRUCTION

Each social studies class shall include, during Celebrate Freedom Week or during another full school week as determined by the Board, appropriate instruction concerning the intent, meaning, and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights, in their historical context.

The study of the Declaration of Independence must include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of its ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution, and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement.

19 TAC 74.33(a)

RECITATION

Each district shall require that, during Celebrate Freedom Week or other prescribed week of instruction, students in grades 3–12 study and recite the following text: "We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness — That to secure these Rights, Governments are instituted among Men, deriving their Powers from the Consent of the Governed."

EXCEPTION

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the District a written request that the student be excused;
2. Who, as determined by the District, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

19 TAC 74.33(b)

HATE CRIMES LAW PROGRAM

The attorney general, in cooperation with TEA, shall develop a program that provides instruction about state hate crimes laws to students at appropriate grade levels. TEA shall make the program available on request of the Board or District. *Education Code 29.905*

CPR INSTRUCTION

To the extent that resources are available, through TEA or otherwise, the District shall provide cardiopulmonary resuscitation (CPR) instruction to students.

A district that provides instruction to students in the principles and techniques of CPR may accept from TEA donations the agency receives under Education Code 7.026. The District must use those donations in providing instruction to students in the principles and techniques of CPR. The District may accept other donations, including donations of equipment, for use in providing CPR instruction.

Education Code 29.903

Each district is strongly encouraged to aggressively pursue donations of time, equipment, and other resources necessary to implement these provisions. The CPR instruction should conform to nationally recognized guidelines. *Acts 2001, 77th Leg., R.S., Ch. 814, Sec. 3*

AUTOMATIC ADMISSION TO INSTITUTION OF HIGHER EDUCATION

Each general academic teaching institution [see Education Code 61.003(3)] shall admit an applicant for admission to the institution as an undergraduate student if the applicant:

1. Graduated with a grade point average in the top ten percent of the student's high school graduating class in one of the two school years preceding the academic year for which the applicant is applying for admission [see CLASS RANK, below];

2. Graduated from a public high school in Texas accredited by a generally recognized accrediting organization; and

3. Submits an application before any application filing deadline established by the institution.

Education Code 51.803(a); 19 TAC 5.5(b)

SIGNS TO BE POSTED

The Board shall require each high school in the District to post appropriate signs in each counselor's office, in each principal's office, and in each administrative building indicating the substance of the automatic admission provisions above. *Education Code 29.026*

DISSEMINATION

To assist in dissemination of information regarding the automatic admissions program, the District shall:

1. Require that each high school counselor and class advisor be provided a detailed explanation of the substance of the program;

2. Require that each high school counselor and senior class advisor explain to eligible students the substance of the program; and

3. Provide each eligible senior student, at the commencement of a class's senior year, with a written notification of the student's eligibility with a detailed explanation of the substance of the program.

Education Code 28.026

CLASS RANK

High school rank for students seeking automatic admission to a general teaching institution on the basis of their class rank is determined and reported as follows:

1. Class rank shall be based on the end of the eleventh grade, middle of the twelfth grade, or at high school graduation, whichever is most recent at the application deadline.

2. The top ten percent of a high school class shall not contain more than ten percent of the total class size.

3. The student's rank shall be reported by the applicant's high school or school district as a specific number out of a specific number total class size.

4. Class rank shall be determined by the Texas school or school district from which the student graduated or is expected to graduate.

19 TAC 5.5(d)

A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education and has performed satisfactorily on the exit-level assessment instruments identified in Education Code 39.025; or
2. An individualized education program developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

DIPLOMA / TRANSCRIPT / CERTIFICATE OF COURSEWORK COMPLETION

Graduates of each high school are awarded the same type of diploma. The academic achievement record (transcript), rather than the diploma, records individual accomplishments, achievements, and courses completed and displays appropriate graduation seals. *19 TAC 74.11(a), 74.41(a), 74.51(a)* [See EI for provisions regarding certificate of coursework completion]

EXIT–LEVEL ASSESSMENT

A student may not receive a high school diploma until the student has performed satisfactorily on the secondary exit-level assessment instruments for English language arts and mathematics, or on:

1. End-of-course assessment instruments in Algebra I and English II; and
2. End-of-course assessment instruments in either Biology I or United States History.

Education Code 39.023 and 39.025, as they existed prior to Tex. S.B. 103, 76th Leg., R.S. (1999), are continued in effect until the State Board of Education introduces the assessment instruments required by Education Code 39.023(c) as amended by Tex. S.B. 103, Section 9, 76th Leg., R.S. (1999)

2003–04 AND THEREAFTER

Beginning with the 2003–04 school year, students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the grade 11 exit-level tests, as specified in Education Code 39.023(c). *19 TAC 101.7*

A student may not receive a high school diploma until the student has performed satisfactorily on the secondary exit-level instruments for English language arts, mathematics, social studies, and science. A student is not required to demonstrate readiness to enroll in an institution of higher education. *Education Code 39.023(c), 39.025(a); 19 TAC 101.7(a)*

A student shall not be required to demonstrate performance at a standard higher than the one in effect when the student was first eligible to take the test.

To fulfill the testing requirements for graduation, a student must be tested by either a Texas school district, Texas education service center, open-enrollment charter school, the Texas Education Agency (TEA), or other individual or organization designated by the Commissioner of Education.

According to procedures specified in the applicable test administration materials, an eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner.

19 TAC 101.7

SPECIAL EDUCATION STUDENTS

A student receiving special education services who successfully completes the requirements of his or her IEP shall receive a high school diploma. *19 TAC 101.7(c)*

LEP STUDENTS

Limited English proficiency (LEP) students are not eligible for an exemption from the exit-level assessment of academic skills or the end-of-course tests on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone only one time the initial administration of the exit-level test and end-of-course test. The term “recent immigrant” is defined as an immigrant who first enrolls in U.S. schools no more than 12 months before the administration of the test from which the postponement is sought. *19 TAC 101.1005* [See EKB]

NOTICE OF GRADUATION REQUIREMENTS

In order to provide timely and full notification of graduation requirements, the Superintendent shall be responsible for:

1. Notifying each student and the student’s parent or guardian in writing no later than the beginning of the student’s seventh-grade year of the testing requirements for graduation;
2. Notifying each student in grades 7–12 new to the District and the student’s parent or guardian in writing of the testing requirements for graduation; and
3. Notifying each student who shall take the tests required for graduation and the student’s parent or guardian, as well as out-of-school individuals, of the dates, times, and locations of testing.

19 TAC 101.13

PERSONAL GRADUATION PLAN (PGP)

A principal shall designate a guidance counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in a junior high, middle, or high 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 nine, as determined by the District.

A PGP must:

1. Identify educational goals for the student;

2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;

3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];

4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and

5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

A student's individualized education program developed under Education Code 29.005 [see EHBAB] may be used as the student's PGP.

Education Code 28.0212

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 the Board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b)* [See FMH, FNG]

STATE GRADUATION REQUIREMENTS

All credit for graduation must be earned no later than grade 12. *19 TAC 74.11(b); 74.41(b), 74.51(b)*

NINTH GRADERS IN 1998–99 THROUGH 2000–01

To receive a high school diploma, a student entering grade 9 in the 1998–99, 1999–2000, or 2000–01 school years must pass the exit-level test and complete the requirements of the Minimum High School Program, the Recommended High School Program, or the Distinguished Achievement Program. *19 TAC 74.11(c), (d), 74.12–.13*

NINTH GRADERS IN 2001–02 THROUGH 2003–04

To receive a high school diploma, a student entering grade 9 in the 2001–02, 2002–03, or 2003–04 school year must pass the exit-level test and complete the requirements of the Minimum High School Program, the Recommended High School Program, or the Distinguished Achievement Program. *19 TAC 74.41(c), 74.42–.44*

NINTH GRADERS IN 2004–05 AND THEREAFTER

The District shall ensure that each student entering the ninth grade in the 2004–05 school year and thereafter enrolls in the courses necessary to complete the curriculum requirements identified by the State Board for the Recommended or Advanced 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 that the student should be permitted to take courses under the Minimum High School Program. *Education Code 28.025(b); 74 TAC 74.51(d), 74.52.–.54*

MINIMUM HIGH SCHOOL PROGRAM

A student entering grade 9 in the 1998–99, 1999–2000, or 2000–01 school years must earn at least 22 credits to complete the Minimum High School Program and demonstrate proficiency in the program requirements listed at 19 TAC 74.11(c), (d).

A student entering grade 9 in the 2001–02 school year or thereafter must earn at least 22 credits to complete the Minimum High School Program. A student must demonstrate proficiency in the program requirements listed at EIF(EXHIBIT A). *19 TAC 74.42, 74.52*

RECOMMENDED HIGH SCHOOL PROGRAM

A student entering grade 9 in the 1998–99, 1999–2000, or 2000–01 school years who wishes to complete the Recommended High School Program and have the accomplishment recognized on the academic achievement record must complete the requirements listed at 19 TAC 74.12.

A student entering grade 9 in the 2001–02 school year or thereafter must earn at least 24 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at EIF(EXHIBIT B). *19 TAC 74.43, 74.53*

DISTINGUISHED ACHIEVEMENT PROGRAM

A student entering grade 9 in the 1998–99, 1999–2000, or 2000–01 school years who wishes to complete an advanced high school program, called the Distinguished Achievement Program, and to have that accomplishment recognized and distinguished on the academic achievement record (transcript) shall complete the requirements listed at 19 TAC 74.13(a).

A student entering grade 9 in the 2001–02 school year or thereafter must earn at least 24 credits to complete the Distinguished Achievement Program. A student must demonstrate proficiency in

the program requirements listed at EIF(EXHIBIT C). *19 TAC 74.44, 74.54*

SUBSTITUTIONS

No substitutions are allowed for high school graduation requirements in the Recommended and Distinguished Achievement Programs, except as provided by State Board rule. *19 TAC 74.12(d), 74.13(a)(4), 74.43(d), 74.44(e), 74.53(d), 74.54(e)*

CREDIT BY EXAMINATION

Credit may be awarded with or without prior instruction if the student has earned credit by examination [see EEJA, EEJB]. *19 TAC 74.11(d), 74.24(c)*

AP OR IB COURSES

College Board Advanced Placement and International Baccalaureate courses may be substituted for required courses in appropriate areas. Students entering grade 9 in the 2001–02 school year may use these courses as electives in all three high school graduation programs. *19 TAC 74.11(d), 74.41(g), 74.51(h)*

READING

The 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 74.11(e), 74.41(d), 74.51(e)

PRIVATE OR COMMERCIALLY SPONSORED PHYSICAL ACTIVITY PROGRAMS

For students who entered grade 9 in the 1997–98 through 2000–01 school years, see 19 TAC 74.11(d)(7)(C), 74.12(b)(9)(B), and 74.13(a)(1)(I)(ii).

For students entering grade 9 in the 2001–02 school year or thereafter, the Board may award up to 2 credits for physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus. The District must apply to the Commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. *19 TAC 74.11(d)(7)(C), 74.43(b)(7)(C), 74.52(b)(7)(C), 74.53(b)(7)(C), 74.54(b)(7)(C)*

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 a Texas diploma but shall complete all high school graduation requirements under 19 TAC 74.11, 74.41, or 74.51, as applicable, to satisfy state graduation requirements. Any course credits required for graduation that are not completed before enrollment in the District may be satisfied by credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 TAC 74.26. *19 TAC 74.11(f), 74.41(e), 74.51(f)* [See EEJA, EEJB, EEJC, EHDE, and EI]

CLASSIFICATION FOR PHYSICAL EDUCATION

The 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

GRADUATION OF SPECIAL EDUCATION STUDENTS

A student receiving special education services may graduate and be awarded a high school diploma if:

COMPLETION OF GENERAL EDUCATION REQUIREMENTS

1. The student has satisfactorily completed the state's or District's (whichever is greater) minimum curriculum and credit requirements for graduation applicable to students in general education, including satisfactory performance on the exit-level assessment instrument; or
2. The student has satisfactorily completed the state's or District's (whichever is greater) minimum curriculum and credit

requirements for graduation applicable to students in general education and has been exempted from the exit-level assessment instrument under Education Code 39.027(a)(2)(B).

COMPLETION OF IEP

A student receiving special education services may also graduate and receive a regular high school diploma when the student's ARD committee has determined that the student has successfully completed:

1. The student's IEP and met one of the following conditions:

   a. Full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the District;

   b. Demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the District; 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; or

   c. Access to services which 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;

2. The state's or District's (whichever is greater) minimum credit requirements for students without disabilities; and

3. The state's or District's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the student to receive an appropriate education.

When considering a student's graduation under this provision, the student shall be evaluated before graduation as required by 34 CFR 300.534(c), and the ARD committee shall consider the evaluation, the views of the parent and/or student as appropriate, and, when appropriate, seek in writing and consider written recommendations from adult service agencies.

Students who participate in graduation ceremonies but who are not graduating and who will remain in school to complete their education do not have to be evaluated.

In addition, the ARD committee shall determine needed educational services upon the request of the student or parent to resume

services, as long as the student meets the age eligibility requirements.

AGING OUT

A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

19 TAC 89.1070

ACADEMIC ACHIEVEMENT: EIF
GRADUATION (EXHIBIT)

Students entering grade 9 in school year 2001–02 and thereafter must complete one of the following programs for graduation:

Exhibit A: Minimum High School Program — 2 pages

Exhibit B: Recommended High School Program — 3 pages

Exhibit C: Distinguished Achievement Program — 4 pages
(Advanced High School Program)

EXHIBIT A

MINIMUM HIGH SCHOOL PROGRAM
(For students who enter the ninth grade in 2001–02 and thereafter)

Core Courses:

Students must demonstrate proficiency in the following:

	Credit Equivalent
English Language Arts	4
Must consist of English I, II, and III. (English I for Speakers of Other Languages and English II for Speakers of Other Languages may be substituted for English I and II only for immigrant students with limited English proficiency.) The fourth credit may be English IV, Research/Technical Writing, Creative/Imaginative Writing, Practical Writing Skills, Literary Genres, Business Communication, Journalism, or concurrent enrollment in a college English course.	
Mathematics	3
Must include Algebra I and Geometry.	
Science	2
Must consist of biology and Integrated Physics and Chemistry (IPC). A student may substitute chemistry or physics for IPC and then must use the second of these two courses as the academic elective credit identified below.	
Social Studies	2.5
Must consist of World History Studies or World Geography Studies (1 credit), United States History Studies Since Reconstruction (1 credit), and United States Government (0.5 credit).	
Economics with Emphasis on the Free Enterprise System and its Benefits	0.5
Academic Elective	1
Must be selected from World History Studies, World Geography Studies, or any science course approved by the State Board of Education for science credit under 19 TAC 112 (relating to essential knowledge and skills for science). If a student elects to replace IPC with either chemistry or physics as described in Science above, the academic elective must be the other of these two science courses.	
Physical Education*	1.5
Must include Foundations of Personal Fitness (0.5 credit). Students may earn no more than 2 credits toward state graduation requirements in physical education.	
Health Education	0.5
0.5 credit, which may be satisfied by Health 1 or Advanced Health or Health Science Technology; and 1 credit, which may be satisfied by Introduction to Health Science Technology, Health Science Technology I, or Health Science Technology II.	

Speech	0.5
Must consist of Communication Applications.	
Technology Applications	1
May be satisfied by:	
The following courses in 19 TAC 126 (relating to essential knowledge and skills for Technology Applications): Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications;	
The following courses in 19 TAC 120 (relating to essential knowledge and skills for Business Education): Business Computer Information Systems I or II, Business Computer Programming, Telecommunications and Networking, or Business Image Management and Multimedia; or	
The following courses in 19 TAC 123 (relating to essential knowledge and skills for Technology Education/Industrial Technology Education): Computer Applications, Technology Systems (modular computer laboratory-based), Communication Graphics (modular computer laboratory-based), or Computer Multimedia and Animation Technology.	
Electives: (Total)	5.5
Must be selected from the list of courses approved by the SBOE for grades 9–12 as specified in 19 TAC 74.1 or 19 TAC 74.51(g), as applicable (relating to essential knowledge and skills for the Foundation and Enrichment Curriculum), state-approved innovative courses as specified in 19 TAC 74.27 (relating to Innovative Courses and Programs), Junior Reserve Officer Training Corps (JROTC) (1 to 4 credits), or Driver Education (0.5 credit).	
A maximum of 3 credits of Reading I, II, or III for elective credit may be offered by local policy to identified students.	
Total Credits for Minimum High School Program	22

19 TAC 74.42, 74.52

Substitutions/Alternatives

College Board Advanced Placement and International Baccalaureate courses may be substituted for courses required in appropriate areas. Credit may also be awarded without prior instruction through credit by examination. *19 TAC 74.41(g), 74.24, 74.51(h)*

*****The Board may allow a student to substitute certain physical activities for the required credits of physical education, including the 0.5 credit for Foundations of Personal Fitness. Substitutions must be based on physical activity involved in drill team, marching band, and cheerleading during the fall semester; Junior Reserve Officer Training Corps (JROTC); athletics; Dance I–IV; 2- or 3-credit career and technology work-based training courses; and off-campus physical education. The District may award up to 2 credits for physical education for appropriate private or commercially sponsored physical activity programs conducted on or off campus, with approval by the Commissioner.

19 TAC 74.42, 74.52(b)(7)

EXHIBIT B

RECOMMENDED HIGH SCHOOL PROGRAM
(For students who enter the ninth grade in 2001–02 and thereafter)

Core Courses:

Students must demonstrate proficiency in the following:

	Credit Equivalent
English	4
Must consist of English I, English II, English III, and English IV. (English I for Speakers of Other Languages and English II for Speakers of Other Languages may be substituted for English I and II only for immigrant students with limited English proficiency.)	
Mathematics	3
Must consist of Algebra I, Algebra II, and Geometry.	
Science	3
1 credit must be a biology credit (Biology, Advanced Placement (AP) Biology, or International Baccalaureate (IB) Biology). Students must choose the remaining 2 credits from the following three areas. Not more than 1 credit may be chosen from each of the areas to satisfy this requirement. Students on the Recommended High School Program are encouraged to take courses in biology, chemistry, and physics to complete the science requirements. The three areas are:	
• Integrated Physics and Chemistry (IPC)	
• Chemistry, AP Chemistry, or IB Chemistry	
• Physics, Principles of Technology I, AP Physics, or IB Physics	
Social Studies	3.5
Must consist of World History Studies (1 credit), World Geography Studies (1 credit), United States History Studies Since Reconstruction (1 credit), and United States Government (0.5 credit).	
Economics with Emphasis on the Free Enterprise System and its Benefits	0.5
Languages other than English	2
Must consist of Level I and Level II of the same language.	
Physical Education*	1.5
Must include Foundations of Personal Fitness (0.5 credit). Students may earn no more than 2 credits toward state graduation requirements in physical education.	

Health Education 0.5

0.5 credit, which may be satisfied by Health 1 or Advanced Health or Health Science Technology; and 1 credit, which may be satisfied by Introduction to Health Science Technology, Health Science Technology I, or Health Science Technology II.

Speech 0.5

Must consist of Communication Applications.

Technology Applications 1

May be satisfied by:

(1) The following courses in 19 TAC 126 (relating to essential knowledge and skills for Technology Applications): Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, Independent Study in Technology Applications, and, for students entering ninth grade in the 2004–05 school year or thereafter, state-approved technology applications innovative courses;

(2) The following courses in 19 TAC 120 (relating to essential knowledge and skills for Business Education): Business Computer Information Systems I or II, Business Computer Programming, Telecommunications and Networking, or Business Image Management and Multimedia; or

(3) The following courses in 19 TAC 123 (relating to essential knowledge and skills for Technology Education/Industrial Technology Education): Computer Applications, Technology Systems (modular computer laboratory-based), Communication Graphics (modular computer laboratory-based), or Computer Multimedia and Animation Technology.

Students entering ninth grade in the 2004–05 school year or thereafter may satisfy the Technology Applications requirement through the completion of three credits (for students participating in a coherent sequence of career and technology courses or who are enrolled in a Tech Prep high school plan of study) consisting of two or more state-approved career and technology courses in 19 TAC 119–125 and 127. Districts shall ensure that career and technology courses, including innovative courses, in a coherent sequence used to meet the technology applications credit are appropriate to collectively teach the knowledge skills found in any of the approved courses listed in items (1)–(3), above. Students pursuing the technology applications option described in this paragraph must demonstrate proficiency in technology applications before beginning grade 11 through credit by examination as described in 19 TAC 74.14 (relating to Credit by Examination).

Fine Arts 1

May be satisfied by any course in 19 TAC 117, Subchapter C (relating to essential knowledge and skills for Fine Arts).

Electives: (Total) 3.5

May be selected from the list of courses approved by the SBOE for grades 9–12 as specified in 19 TAC 74.1 or 19 TAC 74.51(g), as applicable (relating to essential knowledge and skills for the Foundation and Enrichment Curriculum), state-approved innovative courses as specified in 19 TAC 74.27 (relating to Innovative Courses and Programs), Junior Reserve Officer Training Corps (JROTC) (1 to 4 credits), or Driver Education (0.5 credit). All students who wish to complete the Recommended High School Program are encouraged to study each of the four foundation curriculum areas (English language arts, mathematics, science, and social studies) every year in high school.

A maximum of 3 credits of Reading I, II, or III for elective credit may be offered by local policy to identified students.

Total Credits for Recommended High School Program	24

19 TAC 74.43, 74.53

Substitutions/Alternatives

No substitutions are allowed in the Recommended High School Program, except as allowed by State Board rule and local policy. College Board Advanced Placement and International Baccalaureate courses may be substituted for courses required in appropriate areas. Credit may be awarded for core courses without prior instruction through credit by examination. *19 TAC 74.43(d), 74.41(g), 74.24(c), 74.53(d), 74.51(h)*

* The Board may allow a student to substitute certain physical activities for the required credits in physical education, including the 0.5 credit for Foundations of Personal Fitness. Substitutions must be based on physical activity involved in drill team, marching band, and cheerleading during the fall semester; Junior Reserve Officer Training Corps (JROTC); athletics; Dance I–IV; and 2- or 3-credit career and technology work-based training courses. The District may award up to 2 credits for physical education for appropriate private or commercially sponsored physical activity programs conducted on or off campus, with approval by the Commissioner. *19 TAC 74.43, 74.53(b)(7)*

EXHIBIT C

DISTINGUISHED ACHIEVEMENT PROGRAM
(ADVANCED HIGH SCHOOL PROGRAM)
[For students who enter the ninth grade in 2001–02 and thereafter]

Core Courses:

Students must demonstrate proficiency in the following:

	Credit Equivalent
English Language Arts	4
Must consist of English I, English II, English III, and English IV. (English I for Speakers of Other Languages and English II for Speakers of Other Languages may be substituted for English I and II only for immigrant students with limited English proficiency.)	
Mathematics	3
Must consist of Algebra I, Algebra II, and Geometry.	
Science	3
1 credit must be a biology credit (Biology, Advanced Placement (AP) Biology, or International Baccalaureate (IB) Biology).	
Students must choose the remaining 2 credits from the following areas. Not more than 1 credit may be chosen from each of the areas to satisfy this requirement. Students on the Distinguished Achievement High School Program are encouraged to take courses in biology, chemistry, and physics to complete the science requirements.	
• Integrated Physics and Chemistry (IPC)	
• Chemistry, AP Chemistry, or IB Chemistry	
• Physics, Principles of Technology I, AP Physics, or IB Physics	
Social studies	3.5
Must consist of World History Studies (1 credit), World Geography Studies (1 credit), United States History Studies Since Reconstruction (1 credit), and United States Government (0.5 credit).	
Economics with Emphasis on the Free Enterprise System and its Benefits	0.5
Languages other than English	3
Must consist of Level I, Level II, and Level III of the same language.	
Physical Education*	1.5
Must include Foundations of Personal Fitness (0.5 credit). Students may earn no more than 2 credits toward state graduation requirements in physical education.	

Health Education 0.5

0.5 credit, which may be satisfied by Health 1 or Advanced Health or Health Science Technology; and 1 credit, which may be satisfied by Introduction to Health Science Technology, Health Science Technology I, or Health Science Technology II.

Speech 0.5

Must consist of Communication Applications.

Technology Applications 1

May be satisfied by:

(1) The following courses in 19 TAC 126 (relating to essential knowledge and skills for Technology Applications): Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications and, for students entering ninth grade in the 2004–05 school year or thereafter, state-approved technology applications innovative courses;

(2) The following courses in 19 TAC 120 (relating to essential knowledge and skills for Business Education): Business Computer Information Systems I or II, Business Computer Programming, Telecommunications and Networking, or Business Image Management and Multimedia; or

(3) The following courses in 19 TAC 123 (relating to essential knowledge and skills for Technology Education/Industrial Technology Education): Computer Applications, Technology Systems (modular computer laboratory-based), Communication Graphics (modular computer laboratory-based), or Computer Multimedia and Animation Technology.

Students entering ninth grade in the 2004–05 school year or thereafter may satisfy the Technology Applications requirement through the completion of three credits (for students participating in a coherent sequence of career and technology courses or who are enrolled in a Tech Prep high school plan of study) consisting of two or more state-approved career and technology courses in 19 TAC 119–125 and 127. Districts shall ensure that career and technology courses, including innovative courses, in a coherent sequence used to meet the technology applications credit are appropriate to collectively teach the knowledge skills founds in any of the approved courses listed in items (1)–(3), above. Students pursuing the technology applications option described in this paragraph must demonstrate proficiency in technology applications before beginning grade 11 through credit by examination as described in 19 TAC 74.14 (relating to Credit by Examination).

Fine Arts 1

May be satisfied by any course listed in 19 TAC 117, Subchapter C (essential knowledge and skills for Fine Arts).

Electives (Total) 2.5

May be selected from the list of courses approved by the SBOE for grades 9–12 as specified in 19 TAC 74.1 or 19 TAC 74.51(g), as applicable (relating to essential knowledge and skills for the Foundation and Enrichment Curriculum), state-approved innovative courses as specified in 19 TAC 74.27 (relating to Innovative Courses and Programs), Junior Reserve Officer Training Corps (JROTC) (1 to 4 credits), or Driver Education (0.5 credit).

A maximum of 3 credits of Reading I, II, or III for elective credit may be offered by local policy to identified students.

Total Credits for Distinguished Achievement Program (Advanced High School Program) 24

Advanced Measures

A student also must achieve any combination of four of the following advanced measures. Original research/projects may not be used for more than two of the four advanced measures. The measures must focus on demonstrated student performance at the college or professional level. Student performance on advanced measures must be assessed through an external review process. The advanced measures are as follows:

1. An original research/project that is:
    a. Judged by a panel of professionals in the field that is the focus of the project; or
    b. Conducted under the direction of mentor(s) and reported to an appropriate audience; and
    c. Related to the required curriculum set forth in 19 TAC 74.1 (relating to essential knowledge and skills).
2. Test data in which a student receives:
    a. A score of three or above on the College Board Advanced Placement examination;
    b. A score of four or above on an International Baccalaureate examination; or
    c. A score on the PSAT that qualifies a student for recognition as a Commended Scholar or higher by the National Merit Scholarship Corporation; as part of the National Hispanic Scholar Program of the College Board; or as part of the National Achievement Scholarship Program for Outstanding Negro Students of the National Merit Scholarship Corporation. The PSAT score may count as only one advanced measure regardless of the number of honors received by the student.
3. A grade of 3.0 or higher in courses that count for college academic credit and in tech-prep articulated college courses.

19 TAC 74.44, 74.54

Substitutions/Alternatives

College Board Advanced Placement and International Baccalaureate courses may be substituted for requirements in appropriate academic areas. Credit may also be awarded without prior instruction through credit by examination. No other substitutions shall be allowed, except as allowed by State Board rule and local policy. *19 TAC 74.41(g), 74.24, 74.44(e), 74.54(e)*

* The Board may allow a student to substitute certain physical activities for the required credits in physical education, including the 0.5 credit for Foundations of Personal Fitness. Substitutions must be based on physical activity involved in drill team, marching band, and cheerleading during the fall semester; Junior Reserve Officer Training Corps (JROTC); athletics; Dance I–IV; and 2- or 3-credit career and technology work-based training courses. The District may award up to 2 credits for physical education for appropriate private or commercially sponsored physical activity programs conducted on or off campus, with approval by the Commissioner. *19 TAC 74.44, 74.54(b)(7)*

LOCAL ACHIEVEMENT TESTING

In addition to the state-administered assessment instruments, the District may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level, but shall not use the same form of an assessment instrument for more than three years. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved. *Education Code 39.026, 39.032; 19 TAC 101.101*

To maintain security and confidential integrity of group-administered achievement tests, the District shall follow the procedures for test security and confidentiality set forth in 19 TAC Chapter 101, Subchapter C. [See EKB]

HIGH SCHOOL EQUIVALENCY PROGRAM

The District may apply for authorization to operate a High School Equivalency Program (HSEP). *Education Code 29.087(b); 19 TAC 89.1405(a)*

A cooperative of districts may apply for permission to operate a cooperative HSEP if it operates pursuant to a written agreement. The fiscal agent of a cooperative HSEP is responsible for complying with the requirements of 19 TAC Chapter 89, Subchapter DD. *19 TAC 89.1405(b)*

A district authorized by the Commissioner on or before August 31, 2003, to operate an HSEP may continue to operate the program. Beginning with the 2003–04 school year, a student enrolled in such an HSEP cannot take any portion of the GED test after September 1, 2003, without meeting the assessment requirements specified below. *Education Code 29.087(b–1); 19 TAC 89.1417(b), (e)*

OPERATION OF PROGRAM

A district that operates an HSEP must comply with all assurances in the program application. Approved HSEPs shall be required to submit annually one progress report on a form to be provided by the General Educational Development Testing Service (GEDTS) to the TEA. The data in the progress reports must be disaggregated by ethnicity, age, gender, and socioeconomic status. *19 TAC 89.1417(a)*

Enrollment in an HSEP may not exceed by more than five percent the total number of students enrolled in a similar program operated by the District during the 2000–01 school year. *19 TAC 89.1417(c)*

A student enrolled in an HSEP must be offered a seven-hour school day and a 180-day instructional year calendar. *19 TAC 89.1417(d)*

STUDENT ELIGIBILITY

A student is eligible to participate in the HSEP if:

COURT–ORDERED

1. The student has been ordered by a court under Code of Criminal Procedure 45.054, or by the Texas Youth Commission, to:

a. Participate in a preparatory class for the high school equivalency examination; or

b. Take the high school equivalency examination administered under Education Code 7.111; or

STUDENT AT RISK

2. The following conditions are satisfied:

a. The student is at least 16 years of age at the beginning of the school year or semester;

b. The student is a student at risk of dropping out of school [see EHBC];

c. The student and the student's parent or guardian agree in writing to the student's participation;

d. At least two school years have elapsed since the student first enrolled in ninth grade and the student has accumulated less than one third of the credits required to graduate under the minimum graduation requirements of the District. For students who left school before grade 9, at least three years have elapsed since the student last enrolled in grade 9, or four years since the student last enrolled in grade 7, or five years since the student last enrolled in grade 6; and

e. Any other conditions specified by the Commissioner.

Education Code 29.087(d); 19 TAC 89.1403

ASSESSMENT

A student participating in an HSEP must:

1. Take the assessment instruments specified by Education Code 39.023(a) for grade 9 before entering the program. If the student took a higher grade level assessment before enrollment, the student has met this requirement.

2. Take each grade level assessment instrument administered during the period in which the student is enrolled in the HSEP.

3. Take the assessments listed above before taking the high school equivalency examination.

A student entering an HSEP by order of the court or the Texas Youth Commission is exempt from these assessment requirements.

Education Code 29.087(f); 19 TAC 89.1409(a), (b), (e)

GED TEST

The District must inform each student who has completed the program of the time and place at which the student may take the high

school equivalency examination. The District must present to the General Education Development (GED) testing center, on a form provided by the TEA, proof that a student has been administered the assessment instruments. *19 TAC 89.1409(c), (d)*

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

WITHDRAWAL FOR NONATTENDANCE

The District may initiate withdrawal of a student under the age of 18 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and

2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

For withdrawal of students 18 or older, see FEA(LEGAL).

STUDENTS IN HOMESCHOOLS

When the District becomes aware that a student is being or will be homeschooled, the Superintendent or designee may request in writing a letter of notification from the parents of their intention to homeschool using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

If the parents refuse to submit a letter of notification or if the District has evidence that the school-age child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

VISION AND HEARING SCREENING

As soon as possible after admission and within a period set by rule, a student required to be screened shall undergo approved screening for vision and hearing disorders and any other special senses and communication disorders specified by the Texas Department of Health (TDH). *Health and Safety Code 36.005(a)*

DISTRICT RESPONSIBILITY

The Superintendent shall ensure that each student admitted to the District complies with the screening requirements set by TDH or submits an affidavit of exemption (see below). *Health and Safety Code 36.005(c)*

SCREENING SCHEDULE

All students enrolled in the District shall be screened for vision and hearing problems in prekindergarten; kindergarten; and first, third, fifth, and seventh grades before May 31 of each year. Upon written request approved by TDH, the screening of vision and hearing may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. *25 TAC 37.23(d), (f)*

SCREENING ON ENROLLMENT

Students four years of age and older, who are enrolled in the District for the first time, must be screened for possible vision and hearing problems within 120 calendar days of enrollment. If the student is enrolled within 60 days of the date school closes for the summer, the student must be tested by December 31 of that year. *25 TAC 37.23(e)(1)*

OUTSIDE SCREENING

Except for students enrolled in kindergarten or first grade, the District shall exempt a student from screening if the student's parent or legal guardian submits proof that the student's vision and/or hearing has been screened within the prior reporting year. Proof of vision and hearing screening upon initial enrollment must be submitted to the District by the dates for screening upon enrollment. Proof for all other students must be submitted by May 31. *25 TAC 37.23(e)(3), 37.26(a), (b)*

PROVISIONAL ADMISSION

The parent, guardian, managing conservator, or person having legal responsibility for the student's support may execute an affidavit stating that a person other than the screener used by the District shall conduct the screening as soon as is feasible. The student may be admitted on a provisional basis, or the student may be denied admission, until the screening results are provided to the District. *25 TAC 37.23(g)*

EXEMPTION—RELIGIOUS BELIEFS

The District shall not require a student to be screened if the parent, guardian, managing conservator, or person having legal responsibility for the student's support submits to the District, on or before the date vision or hearing screening is scheduled, an affidavit in lieu of the record of screening stating that the vision or hearing screening conflicts with the tenets or practices of a church or religious denomination of which the affiant is an adherent or member. *Health and Safety Code 36.005(b); 25 TAC 37.23(h)*

RECORDS

The District shall maintain the screening records required by statute and regulation. *Health and Safety Code 36.006; 25 TAC 37.24*

TRANSFER OF RECORDS

A student's screening records may be transferred among districts without the consent of the student or minor student's parent, managing conservator, or guardian. The District shall honor an original or true copy of the proofs of screening upon the transfer of a student from another Texas district. When the District's official record for a student contains entries of vision or hearing examinations or screening test results, the original or true and correct copy of the record may be transferred between districts. *Health and Safety Code 36.006(c); 25 TAC 37.28*

REPORTS

On or before June 30 of each year, the District shall submit to TDH a report on the screening status of its aggregate population screened during the reporting year. The results of required professional examinations or screening tests shall be reported as specified on forms approved by TDH. *Health and Safety Code 36.006; 25 TAC 37.26(c)(1)*

ACANTHOSIS NIGRICANS SCREENING

As soon as possible after admission and as required by rule, each student required to be screened shall undergo approved screening for acanthosis nigricans. Acanthosis nigricans screening shall be performed at the same time hearing and vision screening or spinal screening is performed. *Health and Safety Code 95.002(d), 95.003(a)*

"Acanthosis nigricans" means a light brown or black velvety, rough, or thickened area on the surface of the skin that may signal high insulin levels indicative of insulin resistance. *Health and Safety Code 95.001(1)*

DISTRICT RESPONSIBILITY

The Superintendent shall ensure that each student admitted to the District complies with the screening requirements or submits an affidavit of exemption. *Health and Safety Code 95.003(c)*

APPLICABILITY

Students who attend public schools located in TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to screening. *Health and Safety Code 95.002(b)*

OUTSIDE SCREENING

The student or minor student's parent, managing conservator, or guardian may elect to substitute a professional examination for the screening. *Health and Safety Code 95.003(a)*

EXEMPTION—RELIGIOUS BELIEFS

A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit, on or before the day of the screening procedure, an affidavit stating the objections to the screening. *Health and Safety Code 95.003(b)*

RECORDS — The Superintendent shall maintain the screening records required by the statute and regulations. *Health and Safety Code 95.004(a)*

TRANSFER OF RECORDS — A student's screening records may be transferred among schools without the consent of the individual, or, if the student is a minor, the student's parent, managing conservator, or guardian. *Health and Safety Code 95.004(c)*

ANNUAL REPORT — Each district shall submit an annual report on the screening status of the students in attendance during the reporting year and shall include in the report any other required information. *Health and Safety Code 95.004(e)*

SPINAL SCREENING — Each student required by rule of the Texas Department of Health (TDH) to be screened shall undergo approved screening for abnormal spinal curvature. *Health and Safety Code 37.002(a)*

DISTRICT RESPONSIBILITY — The Superintendent shall ensure that each student admitted to the District complies with the screening requirements or submits an affidavit of exemption (see below). *Health and Safety Code 37.002(c), 25 TAC 37.148(m)*

SCREENING SCHEDULE

ROUTINE SCREENING — Students in grades six and nine shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades six or nine may be met if the student has been screened for spinal deformities during the previous year. Districts may implement a program that includes screening in grades five and eight in lieu of grades six and nine. *25 TAC 37.148(a), (b)*

SCREENING ON ENROLLMENT — New students enrolling in grades scheduled for screening (i.e., grades six and nine or five and eight), who have no record of having received their scheduled screening(s) shall be screened the year they enroll. Districts shall consider offering a student enrolling in grades ten, eleven, or twelve the opportunity for spinal screening if the student has no record of having been screened previously. *25 TAC 37.148(c)*

EXEMPTION—RELIGIOUS BELIEFS — A student is exempt from screening if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. The minor student's parent, managing conservator, or guardian must submit an affidavit stating the objections to screening. This affidavit shall be submitted on or before the day of the screening procedure each year the screening is performed. *Health and Safety Code 37.002(b); 25 TAC 37.148(d)*

ANNUAL REPORT — Each district shall submit to TDH an annual report of spinal screening performed during the school year no later than June 30 of the reporting year. The report shall be submitted as specified on a form issued by TDH. *25 TAC 37.148(n)*

TRANSFER OF RECORDS

A student's health record shall be acceptable as proof of screening if such record contains entries of screening results. In such case, the original or a true and correct copy of that record may be transferred between schools and shall be honored upon transfer of a student from another district in Texas or within the United States. *25 TAC 37.148(o)*

IMMUNIZATION REQUIREMENT

Each student shall be fully immunized against diptheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis. The Texas Board of Health may modify or delete any of these immunizations or may require immunizations against additional diseases as a requirement for admission to any elementary or secondary school. *Education Code 38.001(a), (b)*

The Texas Department of Health (TDH) requires students in kindergarten through twelfth grade to have the following additional vaccines, according to the immunization schedules set forth in department regulations: pertussis, hepatitis B, hepatitis A (for students attending schools in high incidence geographic areas as designated by the department), and varicella (chickenpox). *25 TAC 97.63(2)(B)* [See FFAB(EXHIBIT) or the TDH Web site at http://www.tdh.state.tx.us/immunize/docs/school/require_k–12.pdf]

In the event of an outbreak of vaccine-preventable disease, the local health authority may require or recommend additional doses or boosters to provide further protection. *25 TAC 97.72*

APPLICABILITY

The vaccine requirements apply to all students entering, attending, enrolling in, and/or transferring to the District. *25 TAC 97.61(a)*

EXCEPTIONS

Immunization is not required for admission to the District:

1. If the student submits to the admitting official:

MEDICAL REASONS

a. An affidavit or a certificate signed by the student's physician (M.D. or D.O.) who is duly registered and licensed to practice medicine in the United States and who has examined the student.

The affidavit or certificate must state that, in the physician's opinion, the immunization required is medically contraindicated or poses a significant risk to the health and well-being of the student or any member of the student's household. Unless it is written in the statement that a lifelong condition exists, the exemption statement is valid for only one year from the date signed by the physician.

or

REASONS OF CONSCIENCE

b. An affidavit signed by the student or, if a minor, the student's parent or guardian stating that the student declines immunization for reasons of conscience, including a religious belief. The affidavit will be valid for a two-year period.

The affidavit must be on a form obtained from the Department of Health and must be submitted to the

admitting official not later than the 90th day after the date the affidavit is notarized.

A student who has not received the required immunizations for reasons of conscience may be excluded from school in times of emergency or epidemic declared by the commissioner of public health.

or

MILITARY DUTY

2. If the student can prove that he or she is a member of the armed forces of the United States and is on active duty.

Education Code 38.001(c), (c–1), (f); Health and Safety Code 161.004(a), (d)(2), 161.0041; 25 TAC 97.62

PROVISIONAL ADMISSION

A student may be provisionally admitted or enrolled if the student has begun the required immunizations. The student must have an immunization record that indicates the student has received at least one dose of each age-appropriate vaccine specified in the regulations.

COMPLETION OF VACCINATIONS

To remain enrolled, the student must continue to receive the necessary immunizations as rapidly as medically feasible. The student must complete the required subsequent doses in each vaccination series on schedule and provide acceptable evidence of vaccination to the District.

REVIEW OF STATUS

A school nurse or school administrator shall review the immunization status of a provisionally enrolled student every 30 days to ensure continued compliance in completing the required doses of vaccination. If, at the end of the 30-day period, a student has not received a subsequent dose of vaccine, the student is not in compliance and the District will exclude the student from school attendance until the required dose is administered.

HOMELESS STUDENT

A student who is homeless, as defined in the McKinney-Vento Homeless Education Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to appropriate public health programs to obtain the required vaccinations. [See FD and FDC]

TRANSFER STUDENTS

A student can be enrolled provisionally for no more than 30 days if he or she transfers from one Texas school to another, and is awaiting the transfer of the immunization record.

Education Code 38.001(e); 25 TAC 97.66, 97.69; Atty. Gen. Op. GA–178 (2004)

EVIDENCE OF IMMUNIZATION

A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to the District. *25 TAC 97.63(2)*

Vaccines administered after September 1, 1991, shall include the month, day, and year each vaccine was administered. The following documentation is acceptable:

1. Documentation of vaccines administered that includes the signature or stamp of the physician or his or her designee, or public health personnel;

2. An official immunization record generated from a state or local health authority, such as a registry; or

3. A record received from school officials including a record from another state.

25 TAC 97.68

Serologic confirmations of immunity to measles, rubella, mumps, hepatitis A, hepatitis B, or varicella are acceptable. Evidence of measles, rubella, mumps, hepatitis A, or hepatitis B, or varicella illnesses must consist of a laboratory report that indicates either confirmation of immunity or infection.

A parent- or physician-validated history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of vaccine. A written statement from a physician, or the student's parent or guardian, or school nurse, must support histories of varicella disease.

25 TAC 97.65

IMMUNIZATION RECORDS

Not later than the 30th day after a parent or other person with legal control of a student under a court order enrolls the student in the District, the parent or other person, or the district in which the student most recently attended school, shall furnish to the District a record showing that the student has the required immunizations. *Education Code 25.002(a)(3)*

Each district shall keep an individual immunization record during the period of attendance for each student admitted. The records shall be sufficient for a valid audit to be completed. The records shall be open for inspection at all reasonable times by TEA, local health departments, or the Department of Health. *Education Code 38.002(a); 25 TAC 97.67*

TRANSFER OF RECORDS

Each district shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents, or guardians is not required before transferring those records. *Education Code 38.002(b)*

ANNUAL REPORT

Districts shall submit annual reports of the immunization status of students, in a format prescribed by the Department of Health, to

monitor compliance with immunization requirements. All districts shall submit the report at the time and in the manner indicated in the instructions printed on the form. *Education Code 38.002(c); 25 TAC 97.71*

CONSENT TO IMMUNIZATION

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

Family Code 32.101(a)

The district in which the child is enrolled may give consent to the immunization if:

1. The persons listed above are not available; and
2. The District has written authorization to consent from a person listed above.

Family Code 32.101(b)(5)

The District may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for the District to consent.

Family Code 32.101(c)

DUTY TO PROVIDE INFORMATION

A district that consents to immunization of a child shall provide the health-care provider with sufficient and accurate health history and other information as set forth in Family Code 32.101(e).

FORM OF CONSENT

Consent to immunization must meet the requirements of Family Code 32.002(a). [See FFAC] The District has the responsibility to ensure that the consent, if given, is an informed consent. The District is not required to be present when the immunization is requested if a consent form has been given to the health-care provider. *Family Code 32.101(f), 32.102*

LIABILITY

A district consenting to immunization of a child is not liable for damages arising from an immunization administered to a child authorized under Family Code Subchapter B except for injuries resulting from the District's own acts of negligence. *Family Code 32.103*

This chart summarizes the vaccine requirements incorporated in Title 25, Health Services, Section 97.61–97.72 of the Texas Administrative Code. This chart is not intended as a substitute for consulting the Texas Administrative Code, which has other provisions and details.

Kindergarten through Grade 12 (K–12)

Vaccine	Required Doses[1]
Diphtheria, Tetanus Toxoid, and Pertussis Vaccine (DTP), DTaP, DT, Td)	Five doses of any combination DTaP/DTP unless fourth dose was given on or after fourth birthday. Students 7 years or older: Three doses of any combination DTP/DTaP/DT/Td vaccine (Pertussis vaccine is not required.) One dose of Td required ten years after last dose of DTP/DTaP/DT
Polio (IPV)	Four doses unless the third dose was on or after fourth birthday.
Measles, Mumps, Rubella (MMR)[2]	Two doses of a measles-containing vaccine with the first dose on or after the first birthday; second dose by age 5 or entry into kindergarten.
Hepatitis B[2, 3]	Three doses are required for the following grades in the following school years: 2004–05 K–5 and 7–10 2005–06 K–11 2006–07 K–12
Varicella[2, 4]	One dose on or after first birthday for the following grades: 2004–05 K–5 and 7–10 2005–06 K–5 and 7–11 2006–07 K–12 (Two doses if vaccine given at 13 years of age or older.)
Hepatitis A[2, 5]	Two doses on or after second birthday[5] for kindergarten–grade 3 only.

NOTE:

[1] Receipt of the dose up to (and including) 4 days before the birthday will satisfy the school entry immunization requirement.

[2] Serologic confirmation of immunity to measles, mumps, rubella, hepatitis B, hepatitis A, or varicella or serologic evidence of infection is acceptable in lieu of vaccine.

[3] Two doses of adult hepatitis B vaccine (Recombivax®) are acceptable. Dosage and type of vaccine must be clearly documented. (Two 10 mcg/1.0 ml of Recombivax®)

[4] Serologic proof of immunity or documentation of previous illness may substitute for vaccination. Previous illness may be documented with a written statement from a physician,

school nurse, or the child's parent or guardian containing wording such as: "This is to verify that (name of student) had varicella disease (chickenpox) on or about (date) and does not need varicella vaccine."

(5) Hepatitis A vaccine is required for students attending a school located in a high incidence geographic area designated by the Texas Department of Health. Thirty-nine counties affected by the hepatitis A requirement are: Bexar, Brewster, Brooks, Cameron, Crockett, Culberson, Dimmitt, Duval, Edwards, El Paso, Frio, Grayson, Hidalgo, Hudspeth, Jeff Davis, Jim Hogg, Kenedy, Kinney, La Salle, Maverick, McMullen, Moore, Nueces, Pecos, Potter, Presidio, Randall, Read, Reeves, Starr, Sutton, Terrell, Terry, Uvalde, Val Verde, Webb, Willacy, Zapata, and Zavala.

Exemptions: The law allows (A) physicians to write a statement stating that the vaccine(s) required would be medically harmful or injurious to the health and well-being of the child, and (B) parents or guardians to choose an exemption from immunization requirements for reasons of conscience, including a religious belief. The law does not allow parents or guardians to elect an exemption simply because of inconvenience.

For children needing medical exemptions, a written statement by the physician should be submitted to the school.

Instructions for the affidavit to be signed by parents or guardians choosing the exemption for reasons of conscience, including a religious belief, can be found at www.ImmunizeTexas.com.

Schools should maintain an up-to-date list of students with exemptions, so they can be excluded from attending school if an outbreak occurs.

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

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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), 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 _____ *(name of District official)* at _____*(telephone number)*.

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.

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 local or state law enforcement agency: _____ *(include telephone numbers as appropriate)*;
- The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (1–800–252–5400) or on the Web at https://reportabuse.ws/; or
- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

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 reports or assists in the investigation of a report of child abuse or neglect in good faith 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 of Educator Certification may be suspended, revoked, or cancelled.

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.

STUDENT ACTIVITIES

EXTRACURRICULAR ACTIVITIES ABSENCES

The District shall permit students to be absent for competitions and performances by UIL and other organizations approved by the Board for a maximum of fifteen absences in a school year for regular or district competition or activities. Five additional days shall be allowed for students for competition for which the student qualifies beyond the district level, and two additional days for competition at the state championship level of competition.

USE OF DISTRICT FACILITIES

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

STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT CONDUCT

FNC (LOCAL)

STUDENT HANDBOOK — STUDENT CODE OF CONDUCT

The District's rules of conduct and discipline, maintained in the student handbook and/or the Board-adopted Student Code of Conduct, are established to achieve and maintain order in the schools, and to teach respect toward others and responsible behavior. [See FO series]

EXTRACURRICULAR ACTIVITIES: STANDARDS OF BEHAVIOR

With the approval of the principal and Superintendent, sponsors and coaches of extracurricular activities may develop and enforce standards of behavior that are higher than the District-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. [See FO]

BEHAVIORAL STANDARDS

The following specific policies address student conduct in the areas of:

1. Attendance — FEC
2. School-sponsored publications — FMA
3. Appropriate attire and grooming — FNCA
4. Damage to school property — FNCB
5. Prohibited organizations and hazing — FNCC
6. Tobacco use — FNCD
7. Telecommunications devices — FNCE
8. Drug and alcohol use — FNCF
9. Weapons — FNCG
10. Assault — FNCH
11. Disruptions — FNCI, GKA
12. Harassment – FNCJ, FNCL

STUDENT CONDUCT: WEAPONS

FNCG (LEGAL)

POSSESSION OF WEAPONS

EXPULSION OFFENSE

A student shall not possess, use, or exhibit any firearm, illegal knife, club, or prohibited weapon at school or any school-related activity. [See also FOD] *Education Code 37.007(a)(1)*

CRIMINAL OFFENSE

A student shall not intentionally, knowingly, or recklessly possess or go with a firearm, illegal knife, club, or prohibited weapon on the physical premises of a school, any grounds or building on which an activity sponsored by a school is being conducted, or a passenger transportation vehicle of a school, unless pursuant to written regulations or written authorization of the District.

An offense under this provision is a third degree felony. It is not a defense to prosecution that the actor possessed a handgun and was licensed to carry a concealed handgun under Government Code Chapter 411, Subchapter H.

Penal Code 46.03(a)(1), (f), (g)

FIREARMS

INTERFERENCE WITH ACTIVITIES

A student commits a third degree felony if the student, by exhibiting, using, or threatening to exhibit or use a firearm, interferes with the normal use of a building or portion of a campus or of a school bus being used to transport children to or from school-sponsored activities. *Education Code 37.125*

In accordance with the Gun-Free Schools Act, the District shall expel from the student's regular program, for a period of one year, any student who is determined to have brought a firearm, as defined by federal law, to any District school. *20 U.S.C. 8921; Education Code 37.007(e)* [See FOD]

DEFINITIONS

FIREARM

For purposes of state law, "firearm" shall mean any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use). *Penal Code 46.01(3)*

ILLEGAL KNIFE

"Illegal knife" is, as defined by law, a knife with a blade over 5-1/2 inches; hand instrument designed to cut or stab another by being thrown; dagger, including a dirk, stiletto, and poniard; bowie knife; sword; or spear, or is as defined by local policy. *Penal Code 46.01(6); Education Code 37.007(a)(1)(B)*

CLUB

A club is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

OTHER PROHIBITED WEAPONS

A prohibited weapon is:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for

the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*

3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*

4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm). *Penal Code 46.01(4)*

5. A switchblade knife (any knife with a blade that folds, closes, or retracts into the handle or sheath and that opens automatically by pressing a button or other device on the handle, or opens or releases from the handle or shaft by the force of gravity or centrifugal force). *Penal Code 46.01(11)*

6. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*

7. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*

8. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*

9. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*

Penal Code 46.05(a)

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

UNITED STATES CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

TEXAS CONSTITUTION

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

FEDERAL LAWS

SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 CFR 104.7(b)*

AMERICANS WITH DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b)* [See FB]

EDUCATION CODE CHAPTER 26

Parents are partners with educators, administrators, and the Board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

Unless otherwise provided by law, the Board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

'PARENT' DEFINED

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.003(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

COMPLAINT PROCEDURES

The Board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

The Board shall adopt a grievance procedure under which the Board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights). *Education Code 26.011*

PARENTAL RIGHTS

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials. *Education Code 26.006* [See EF and EKB]
5. Access to Board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See BJCE, DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA]

9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]

10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]

11. Exemption from instruction. *Education Code 26.010* [See EMB]

OBJECTION TO SCHOOL ASSIGNMENT

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, the Board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), 25.034* [See FDB]

CHALLENGE TO EDUCATION RECORDS

The District shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 CFR 99.21* [See FL]

DENIAL OF CLASS CREDIT

If a student is denied credit for a class by an attendance committee, the student may appeal the decision to the Board. *Education Code 25.092(d)* [See FEC]

COMPLAINTS AGAINST PROFESSIONAL EMPLOYEES

A person may not file suit against a professional employee of the District unless the person has exhausted the District's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of the District" includes:

1. The Superintendent, a principal, teacher, including a substitute teacher, supervisor, social worker, counselor, nurse, and teacher's aide employed by the District;

2. A teacher employed by a company that contracts with the District to provide the teacher's services to the District;

3. A student in an education preparation program participating in a field experience or internship;

4. A DPS-certified school bus driver;

5. A member of the Board; and

6. Any other person whose employment by the District requires certification and the exercise of discretion.

Education Code 22.051(a)

FINALITY OF GRADES

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board.

The Board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0212

REQUESTS FOR PUBLIC INFORMATION

A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). The District shall also comply with the deadlines and provisions set forth at Education Code 26.0085. [See GBA]

CLOSED MEETING

The Board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. [See BEC]

RECORD OF PRESENTATION

An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)*

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline.

STUDENT RIGHTS AND RESPONSIBILITIES: STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG (LOCAL)

GUIDING PRINCIPLES

The Board encourages students and parents to discuss their concerns and complaints through informal conferences with the appropriate teacher, principal, or other campus administrator.

INFORMAL PROCESS

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

FORMAL PROCESS

If an informal conference regarding a complaint fails to reach the outcome requested by the student or parent, the 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.

NOTICE TO STUDENTS AND PARENTS

The principal of each campus shall inform students and parents of this policy.

APPLICATION

Except as addressed by SPECIFIC COMPLAINTS, below, this policy applies to all complaints or grievances from students or parents.

SPECIFIC COMPLAINTS

Complaints alleging certain forms of harassment shall be processed in accordance with FNCJ.

For more information on how to proceed with complaints regarding:

1. Alleged discrimination, see FB.
2. Loss of credit on the basis of attendance, see FEC.
3. Removal to a disciplinary alternative education program, see FOC.
4. Expulsion, see FOD and the Student Code of Conduct.
5. Identification, evaluation, or educational placement of a student with a disability within the scope of Section 504, see FB.
6. Identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals

with Disabilities Education Act, see EHBA, FOF, and the parents' rights handbook provided to parents of all students referred to special education.

7. Instructional materials, see EFA.

8. On-campus distribution of nonschool materials, see FNAA.

9. A commissioned peace officer who is an employee of the District, see CKE.

DEFINITIONS

For purposes of this policy, terms are defined as follows:

COMPLAINT / GRIEVANCE

The terms "complaint" and "grievance" shall have the same meaning.

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

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 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 the deadline and received by the student or parent or designated representative no more than three days after the response deadline.

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.

DAYS

"Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."

GENERAL PROVISIONS

Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent shall not bring 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, 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 FORM

Complaints 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 unless the student or parent did not know the documents existed before the Level One conference.

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

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 hold a conference with the student or parent within ten days after receipt of the written complaint.

The administrator shall have ten days following the conference to provide the student or parent a written response.

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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level One.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. At the conference, the Superintendent or designee shall consider only the issues and documents presented at Level One and identified in the Level Two appeal notice. The Superintendent or designee shall have ten days following the conference to provide the student or parent a written response.

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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

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 with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the student or parent or the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

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. 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 for any reason the Board fails to reach 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.

STUDENT CODE OF CONDUCT

The Board shall adopt a Student Code of Conduct for the District, with the advice of its District-level committee. The Student Code of Conduct must contain all of the following:

1. Specify the circumstances, consistent with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, or disciplinary alternative education program (DAEP).

2. Specify the conditions that authorize or require a principal or other appropriate administrator to transfer a student to DAEP.

3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].

4. Specify whether consideration is given to self-defense as a factor in suspension, removal to a DAEP, or expulsion.

5. Provide guidelines for setting the length of removal to a DAEP or of expulsion.

6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.

CHANGES IN SCOC

Once the Student Code of Conduct is promulgated, any change or amendment shall be approved by the Board.

POSTING

The Student Code of Conduct shall be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.

Education Code 37.001

NOTICE TO PARENTS

Each school year, the District shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*

NONCUSTODIAL PARENT

A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, the District provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. The District may not unreasonably deny the request. Notwithstanding this requirement, the District shall comply with any applicable court order of which the District has knowledge. *Education Code 37.0091(a)*

NO UNSUPERVISED SETTING

Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for

which a student may be placed in a DAEP. *Education Code 37.008(h)*

CONTINUATION OF DISCIPLINARY ACTION

If the District takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

"Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.

"District or school" includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

Education Code 37.021

OPPORTUNITY TO COMPLETE COURSES

If a student is placed in in-school suspension or other alternative setting other than a DAEP, the District shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. The District may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. *Education Code 37.021*

CORPORAL PUNISHMENT

Reasonable corporal punishment is not prohibited in order to preserve an effective educational environment, free from disruption.

REASONABLE AND MODERATE

Corporal punishment shall be reasonable and moderate and may not be administered maliciously or for the purpose of revenge. Such factors as the size, age, and condition of the student, the type of instrument to be used, the amount of force to be used, and the part of the body to be struck shall be considered before administering any corporal punishment.

Baker v. Owen, 395 F.Supp. 294 (M.D.N.C. 1975), aff'd, 96 S.Ct. 210 (1975); Ingraham v. Wright, 97 S.Ct. 1401 (1977)

MAINTAIN DISCIPLINE

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

VIDEOTAPES AND RECORDINGS

A District employee may, without consent of a child's parent, make a videotape or recording of the child if the videotape or recording is

to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)* [See FNG]

REPORTS

The District shall annually report to the Commissioner:

DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS

1. For each placement in DAEP:

   a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

   b. Information indicating whether the placement was based on:

      (1) Conduct violating the Student Code of Conduct;

      (2) Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];

      (3) Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or

      (4) Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);

   c. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

   d. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

EXPULSIONS

2. For each expulsion:

   a. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;

   b. Information indicating whether the expulsion was based on:

      (1) Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or

(2) Conduct for which expulsion is permitted;

c. The number of full or partial days the student was expelled; and

d. Information indicating whether:

(1) The student was placed in a juvenile justice alternative education program;

(2) The student was placed in a DAEP; or

(3) The student was not placed in a juvenile justice or other DAEP; and

e. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Education Code 37.020

The following are felony offenses listed in Title 5 of the Penal Code, Offenses Against the Person.

Section 19.02: Murder

Section 19.03: Capital Murder

Section 19.04 Manslaughter

Section 19.05: Criminally Negligent Homicide

Section 20.02: Unlawful Restraint (if the person restrained was younger than 17 years of age, if the actor recklessly exposes the victim to a substantial risk of serious bodily injury, if the actor restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty, or the actor while in custody restrains any other person)

Section 20.03: Kidnapping

Section 20.04: Aggravated Kidnapping

Section 20.05: Unlawful Transport

Section 20A.02: Trafficking of Persons

Section 21.11: Indecency with a Child

Section 21.12: Improper Relationship between Educator and Student

Section 21.15: Improper Photography or Visual Recording

Section 22.01: Assault (if against [1] a person the actor knows is a public servant while the public servant is lawfully discharging an official duty, or in retaliation or on account of an exercise of official power or performance of an official duty as a public servant; [2] a person the actor knows is a security officer [see Occupations Code 1702.002, 1702.221] while the person is performing a duty as a security officer; [3] a person who contracts with the government to perform a service at a correctional facility [see Penal Code 1.07(a)(14)] or a secure correctional or detention facility for juveniles [see Family Code 51.102(13), (14)]; and [4] under certain circumstances, if against a family member)

Section 22.011: Sexual Assault

Section 22.015: Coercing, Soliciting, or Inducing Gang Membership

Section 22.02: Aggravated Assault

Section 22.021: Aggravated Sexual Assault

Section 22.04: Injury to a Child, Elderly Individual, or Disabled Individual

Section 22.041: Abandoning or Endangering a Child

Section 22.05: Deadly Conduct (if the person knowingly discharges a firearm at or in the direction of one or more individuals or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied)

Section 22.07: Terroristic Threat (if the actor threatens to commit any offense involving violence to any person or property with intent to: [1] prevent or interrupt the occupation or use of a building, room, place, or conveyance if the prevention or interruption causes pecuniary loss to the owner of $1,500 or more [see Acts 2003, 78th Leg., Ch. 446, Sec. 1; compare Acts 2003, 78th Leg., Ch. 388, Sec. 2]; [2] cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service; [3] place the public or a substantial group of the public in fear of serious bodily injury; or [4] influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision)

Section 22.08: Aiding Suicide (if the conduct causes suicide or attempted suicide that results in serious bodily injury)

Section 22.09: Tampering with Consumer Product

Section 22.11: Harassment by Persons in Certain Correctional Facilities (including a secure correctional or detention facility, as defined in Family Code 51.02, operated by or under contract with a juvenile board or the Texas Youth Commission, and any other facility operated by or under contract with the TYC)

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 TAC 111.64.

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-size 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, which includes fringe benefits. 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]

2. The charge for labor costs incurred in processing a request for public information is $15.00 an hour, which includes fringe benefits. The labor charge includes the actual time to locate, compile, 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 should 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 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.

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 must 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:

Type of System	Rate
Mainframe	$10.00 per CPU minute
Midsize	$ 1.50 per CPU minute
Client/Server	$ 2.20 per clock hour
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 printout 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 TAC, Part 1, Chapter 3, Subchapter O, Sections 3.341 and 3.342).

1 TAC 111.63; 111.70

District-affiliated school-support or booster organizations shall organize and function in a way that is consistent with the District's philosophy and objectives, within adopted Board policies, in accordance with applicable UIL guidelines and financial and audit regulations. [See also CFD]

USE OF DISTRICT FACILITIES

District-affiliated school-support or booster organizations may use District facilities with prior approval of the appropriate administrator. Other parent groups may use District facilities in accordance with policy GKD.

PURCHASES FOR THE SCHOOL

Before parent groups or other groups working with the school purchase equipment for the schools, including computer hardware and software, they shall notify the principal of their plans. In consultation with the Superintendent or designee, the principal shall determine the type or brand of equipment to buy to ensure compatibility with current District equipment.

PUBLIC COMPLAINTS

GF
(LEGAL)

UNITED STATES CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 174 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)*

TEXAS CONSTITUTION

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

RESPONSE TO COMPLAINTS

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)*

FEDERAL LAWS

SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *29 U.S.C. 794; 34 CFR 104.7(b)*

AMERICANS WITH DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107*

CLOSED MEETING

The Board may conduct a closed meeting on a public complaint to the extent required or provided by law. [See BEC]

RECORD OF PRESENTATION

An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordi-

nary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)*

Note: Public complaints regarding instructional and library materials are addressed at EFA and complaints against peace officers employed by the District are addressed at CKE.

PUBLIC COMPLAINTS

GUIDING PRINCIPLES

INFORMAL PROCESS

The Board encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator.

Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

FORMAL PROCESS

If an informal conference regarding a complaint fails to reach the outcome requested by an individual, he or she 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.

APPLICATION

Except as addressed by SPECIFIC COMPLAINTS, below, this policy applies to all complaints or grievances from the public.

SPECIFIC COMPLAINTS

For more information on how to proceed with complaints regarding:

1. Alleged discrimination, see GA.
2. Instructional materials, see EFA.
3. On-campus distribution of nonschool materials, see GKDA.
4. A commissioned peace officer who is an employee of the District, see CKE.

DEFINITIONS

For purposes of this policy, terms are defined as follows:

COMPLAINT / GRIEVANCE

The terms "complaint" and "grievance" shall have the same meaning.

FILING

Complaint forms and appeal notices may be filed by hand-delivery, fax, or 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. Fax filings shall be timely filed if they are received on or before the deadline, as indicated by the date/time shown on the fax copy. Mail filings shall be timely filed if they are postmarked by U.S. Mail on the deadline and received by the

appropriate administrator or designated representative no more than three days after the deadline.

DAYS — "Days" shall mean District business days. In calculating time lines under this policy, the day a document is filed is "day zero," and all deadlines shall be determined by counting the following day as "day one."

RESPONSE — At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered 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 the deadline and received by the individual or designated representative no more than three days after the response deadline.

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.

GENERAL PROVISIONS — Complaints arising out of an event or a series of related events shall be addressed in one complaint. An individual shall not bring 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, 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 FORM — Complaints 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 cop-

ies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted unless the individual did not know the documents existed before the Level One conference.

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

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 hold a conference with the individual within ten days after receipt of the written complaint.

The administrator shall have ten days following the conference to provide the individual a written response.

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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level One.

The Superintendent or designee shall hold a conference within ten days after the appeal notice is filed. At the conference, the Superintendent or designee shall consider only the issues and documents presented at Level One and identified in the Level Two appeal notice. The Superintendent or designee shall have ten days following the conference to provide the individual a written response.

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 after receipt of a response or, if no response was received, within ten days of the response deadline at Level Two.

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 with copies of the complaint form, all responses, all appeal notices, and all written documentation previously submitted by the individual or the administration. The Board shall consider only those issues and documents presented at the preceding levels and identified in the appeal notice.

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. 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 for any reason the Board fails to reach 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.

TRESPASSING

The Board or its authorized representative may refuse to allow persons having no legitimate business to enter on property under the Board's control and may eject any undesirable person from the property on his or her refusal to leave peaceably on request. Identification may be required of any person on the property. *Education Code 37.105*

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 any school in the District.

DEFINITION

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.
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

FREE SPEECH

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

DISRUPTION OF CLASSES

A person 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.

DEFINITIONS

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 teacher and, either through acts of misconduct or use of loud or profane language, disrupting class activities.

For purposes of this provision, "school property" shall include the public school campuses or school grounds upon which any public school is located, and any grounds or buildings used by District schools for assemblies or other school-sponsored activities.

For purposes of this provision, "public property" shall include any street, highway, alley, public park, or sidewalk.

Education Code 37.124

TOBACCO

The Board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property. Students are prohibited from possessing 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*

SMOKING IN BUILDINGS

The 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 he or she is in possession of a burning tobacco product or smokes tobacco in a facility of a public school or an elevator.

DEFENSE

It is a defense to prosecution that the 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

The District shall be equipped with facilities for extinguishment of smoking materials.

Penal Code 48.01(a)–(c)

ALCOHOL

The Board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)* [See FNCF]

INTOXICANTS

The possession of any intoxicating beverage for consumption, sale, or distribution while on the grounds or in a building of any school in the District or while entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a school in the District is being held constitutes a Class C misdemeanor. *Education Code 37.122*

FIREARMS / WEAPONS

A person commits an offense if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, illegal knife, or prohibited weapon listed in Penal Code 46.05(a) onto the physical premises of a school or educational institution or any grounds or building in which an activity sponsored by a school or educational institution is being conducted, or a passenger transportation vehicle of a school or educational institution, unless pursuant to written regulations or written authorization of the District. *Penal Code 46.03* [See also FNCG]

"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)*

A person commits a third degree felony if the person, by exhibiting or using or threatening to exhibit or use a firearm, interferes with the normal use of a building or portion of a campus or of a school bus being used to transport children to and from school-sponsored activities. *Education Code 37.125*

CONCEALED HANDGUN LICENSE HOLDER

A concealed handgun license holder commits an offense if the license holder carries a handgun on the property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden or that remaining on the property with a concealed handgun was forbidden and failed to depart.

For purposes of this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

"Written communication" means:

1. A card or other document on which is written language identical to the following: "Pursuant to Section 30.06, Penal Code (trespass by holder of license to carry a concealed handgun), a person licensed under Subchapter H, Chapter 411, Govern-

ment Code (concealed handgun 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.

An offense under this section is a Class A misdemeanor.

PREMISES EXCEPTION

It is an exception to the application of this law that the property on which the license holder carries a handgun is owned or leased by the District and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Section 46.03 or 46.035.

Penal Code 30.06 [See also FNCG]

INTERSCHOLASTIC EVENTS

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, on or about the license holder's person on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place, unless 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

A license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Government Code Chapter 411, Subchapter H, regardless of whether the handgun is concealed, at any meeting of the Board, if the license holder was given effective notice under Penal Code 30.06. *Penal Code 46.035(c), (i)*

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)*

Principals and other designated employees are authorized to:

1. Refuse entry onto school grounds to persons who do not have legitimate business at the school;

2. Request any unauthorized person or any person engaging in unacceptable conduct to leave the school grounds;

3. Request assistance of law enforcement officers in cases of emergency; and

4. Seek prosecution for violations of law as permitted by statute.

OFF–CAMPUS ACTIVITIES

Employees shall be designated to ensure appropriate conduct of participants and others attending a school-related activity at non-District or out-of-District facilities. Those so designated shall coordinate their efforts with persons in charge of the facilities.

WEAPONS PROHIBITED

The District prohibits the use, possession, or display of any firearm, illegal knife, club, or prohibited weapon, as defined at FNCG, on all District property at all times.

EXCEPTION

No violation of this policy occurs when the use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities.

ACCREDITATION REQUIRED

Each district must be accredited by TEA. Accreditation shall be determined in accordance with the Education Code. *Education Code 11.001, 39.071*

ACADEMIC EXCELLENCE INDICATORS

The State Board shall adopt a set of indicators of the quality of learning on a campus. Campus and District performance on the indicators shall be compared to state-established standards and the degree of change from one school year to the next on each indicator shall also be considered. The indicators must be based on information that is disaggregated by race, ethnicity, gender, and socioeconomic status and shall include:

1. The results of certain state assessment instruments aggregated by grade level and subject area.
2. Dropout and completion rates, including dropout rates and District completion rates for grade levels 9 through 12 computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education [see CFC].
3. High school graduation rates computed in accordance with standards and definitions adopted in compliance with the federal No Child Left Behind Act of 2001.
4. Student attendance rates.
5. The percentage of graduating students who attain scores on the exit-level assessment that are equivalent to a passing score on the TASP, administered by state institutions of higher education.
6. The percentage of graduating students who meet the course requirements established by the State Board for the recommended high school program.
7. The results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Education Code 61.852, and certified workforce training programs described by Labor Code Chapter 311.
8. The percentage of students, aggregated by grade level, provided accelerated instruction under Education Code 28.0211(c), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Education Code 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the state assessment instruments.

9. For students who have failed to perform satisfactorily on a state assessment instrument, the numerical progress of those students on subsequent assessment instruments, aggregated by grade level and subject area.

10. The percentage of students exempted, by exemption category, from the assessment program.

11. The percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Education Code 39.027(a)(3) and (4).

12. The percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Education Code 39.023(b).

Education Code 39.051(a), (b)

Performance on the indicator at item 1 above shall be compared to state standards, required improvement, and comparable improvement, as established by the Commissioner. Required improvement is the progress necessary for the campus or District to meet state standards and for its students to meet exit requirements; comparable improvement is derived by measuring campuses and the District against a profile developed from a total state student performance data base that exhibits substantial equivalence to the characteristics of students served by the campus or District, including past academic performance, socioeconomic status, ethnicity, and limited English proficiency. *Education Code 39.051(c)*

Annually, the Commissioner shall define exemplary, recognized, and unacceptable performance on indicators at items 1 through 6 and shall project the standards for each level of performance for succeeding years. For the indicator at item 7 above, the Commissioner shall define exemplary, recognized, and unacceptable performance based on student performance for the period covering both the current and the preceding academic years. *Education Code 39.051(d); 19 TAC 97.1001(a), 97.1002*

The ratings standards established by the Commissioner shall be annually published in official TEA publications and shall cover the following:

1. Indicators, standards, and procedures used to determine District ratings;

2. Indicators, standards, and procedures used to determine campus ratings;

3. Indicators, standards, and procedures used to determine acknowledgement on additional indicators;

4. Procedures for submitting a rating appeal;

5. System safeguards analyses used to assess the integrity of the accountability system.

19 TAC 97.1001(a)

ACCREDITATION CRITERIA

The District's accreditation is based primarily on:

PRIMARY

1. The District's overall performance by all student populations and on the performance of each of its individual campuses, as demonstrated on the state-adopted Academic Excellence Indicator System (AEIS) and other indicators of student performance.

2. The District's current special education compliance status with TEA.

Use of the AEIS in the rating system shall include consideration of campus and District performance in relation to the state standard for each indicator, required improvement, and comparable improvement.

Consideration of the effectiveness of the District's special population and career and technology programs must be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability and include the results of assessments required under Education Code 39.023.

Education Code 39.072(b),(c); 19 TAC 97.1(b),(c), 97.3

OTHER

Other criteria for accreditation include:

1. Statutory Requirements

2. State Board of Education rules

3. Applicable court orders

4. Reporting data through PEIMS

5. High school graduation requirements

6. Effectiveness of career and technology programs

7. Effectiveness of programs for special populations

8. Extracurricular activities

9. Health and safety

10. Purchasing

11. Elementary school class size limits

12. Removal of a disruptive student from the classroom

13. At-risk programs

14. Prekindergarten programs

19 TAC 97.1(b), (c)

ACCREDITATION INVESTIGATIONS

The Commissioner of Education shall determine the frequency of on-site visits and the level of investigative review needed, according to annual comprehensive analyses of student performance and equity in relation to the academic excellence indicators. *Education Code 39.074(b)*

ACCREDITATION REPORT

The accreditation investigators shall report orally and in writing to the Board and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid, such as regional education service centers. *Education Code 39.074(f)*

SPECIAL INVESTIGATIONS

The Commissioner shall authorize special accreditation investigations to be conducted:

1. When excessive numbers of students eligible to be tested in the state assessment program are absent from testing.

2. When excessive numbers of students are exempted from required state assessments.

3. In response to complaints alleging 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 program requirements.

5. When extraordinary numbers of students are placed in alternative education programs, other than placements under Education Code 37.006 (required removal) or 37.007 (expulsion).

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 viola-

tion of a role or duty, clearly defined in the Education Code, of the Board or the administration.

7. When excessive numbers of students in special education programs under Education Code Chapter 29, Subchapter A, are assessed through assessment instruments developed or adopted under Education Code 39.023(b).

8. As the Commissioner otherwise determines necessary.

Education Code 39.075(a)

INVESTIGATION PROCEDURES

TEA shall adopt written procedures for conducting on-site investigation and shall make the procedures available to the complainant, the alleged violator, and the public. *Education Code 39.076(a)*

REVISION OF RATINGS

Ratings may be revised as a result of investigative activities by the Commissioner. *19 TAC 97.1001(b)*

ACCREDITATION RATINGS

TEA shall evaluate the District's performance and rate it for accreditation purposes as:

1. Exemplary (meets or exceeds state exemplary standards).

2. Recognized (meets or exceeds the state standards and meets required improvement).

3. Academically acceptable (exceeds academically unacceptable, but is below exemplary and recognized).

4. Academically unacceptable (fails to achieve the standard of acceptable performance).

Education Code 39.072; 19 TAC 97.1(a), 97.2

GOLD PERFORMANCE RATINGS

In addition to District and campus performance ratings, the Commissioner shall develop a gold performance rating program based on enhanced performance. Under the gold performance rating program, a district or campus rated exemplary is eligible for an exemplary gold rating, a district or campus rated recognized is eligible for a recognized gold rating, and a district or campus rated academically acceptable is eligible for an academically acceptable gold rating.

The performance standards on which a gold performance rating is based should include:

1. Student proficiency on state assessment instruments and other measures of proficiency determined by the Commissioner;

2. Student performance on one or more nationally recognized norm-referenced assessment instruments;

3. Improvement in student performance;

4. In the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and

5. In the case of high school campuses:

   a. The extent to which graduating students are academically prepared to attend institutions of higher education;

   b. The percentage of students who take advanced placement tests and student performance on those tests; and

   c. The percentage of students who take and successfully complete advanced academic courses or college-level course work offered through dual credit programs provided under agreements between high schools and institutions of higher education.

Education Code 39.0721

EXCELLENCE EXEMPTIONS

Except as provided below, a school campus or district that is rated exemplary is exempt from requirements and prohibitions imposed and rules adopted by the State Board under the Education Code.

A school campus or the District shall not be exempt from a prohibition on conduct that constitutes a criminal offense. A school campus or the District shall not be exempt from requirements imposed by federal law or rule, including requirements for special education or bilingual education programs. A school campus or the District shall not be exempt from a requirement or prohibition imposed by state law or rule relating to:

1. Curriculum essential knowledge and skills or minimum graduation requirements

2. Public school accountability

3. Extracurricular activities

4. Health and safety

5. Competitive bidding

6. Elementary school class size limits, except as provided below

7. Removal of a disruptive student from the classroom

8. At-risk program

9. Prekindergarten programs

10. Rights and benefits of school employees

11. Special education programs under Education Code Chapter 29, Subchapter A

12. Bilingual education programs under Education Code Chapter 29, Subchapter B

ELEMENTARY CLASS SIZE

The Commissioner may exempt an exemplary school campus from elementary class size limits under this section if the school campus submits to the Commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The Commissioner shall review achievement levels annually. The exemption remains in effect until the Commissioner determines that achievement levels of the campus have declined. [See BF]

Education Code 39.112

TEXAS YOUTH COMMISSION

A student confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other academic excellence indicator shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located. *Education Code 39.072(d)*

IMPROVEMENT PLAN EXEMPTION

If the District or a campus is required to develop and implement a student achievement improvement plan because it does not satisfy accreditation criteria, it may request from the Commissioner and be granted an exemption or waiver from any law or rule other than a prohibition on conduct that constitutes a criminal offense, a requirement imposed by federal law or rule, or a requirement or prohibition imposed by state law or rule relating to accountability, educator rights and benefits, or textbook selection. *Education Code 7.056(f)*

CHARACTER PLUS SCHOOL

TEA shall, based on data reported by districts, annually designate as a Character Plus School each school that provides a character education program that meets the prescribed criteria and is approved by the committee selected by the District. *Education Code 29.906(e)(2)* [See EHBK]

REPORTS TO LOCAL LAW ENFORCEMENT

The principal, or a school employee under his or her supervision who is designated by the principal, shall notify the District police department (if one exists) and the police department of the municipality in which the school is located, or, if the school is not in a municipality, the sheriff of the county in which the school is located, if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRA(EXHIBIT)]
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRA(EXHIBIT)]
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

The report shall include the name and address of each student the person believes may have participated in the activity, but is not required if the person reasonably believes that the activity does not constitute a criminal offense.

Education Code 37.015, 37.007(e)

REPORTS TO JUVENILE JUSTICE AGENCY

The Superintendent or designee may disclose information contained in a student's educational records to a juvenile justice agency if the disclosure is under an interagency agreement authorized by Family Code 58.0051.

The District is not required or authorized to release student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g). [See FL]

Education Code 37.084

STUDENTS TAKEN INTO CUSTODY

The District shall permit a student to be taken into custody:

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer if there is probable cause to believe the student has engaged in delinquent conduct or conduct in need of supervision.
4. By a probation officer if there is probable cause to believe the student has violated a condition of probation imposed by the juvenile court.
5. Pursuant to a properly issued directive to apprehend.
6. By an authorized representative of Child Protective Services (CPS), Texas Department of Protective and Regulatory Services, a law enforcement officer, or a juvenile probation officer, without a court order, under the conditions set out in Family Code 262.104 relating to the student's physical health or safety.

Family Code 52.01, 262.104

NOTICE FROM LAW ENFORCEMENT

ARREST OF STUDENT

A law enforcement agency that arrests any person or refers a child to the office or official designated by the juvenile board who the agency knows or believes is enrolled as a student in a public primary or secondary school shall orally notify the superintendent or designee in the district in which the student is enrolled or believed to be enrolled of that arrest or referral within 24 hours after the arrest or referral is made, or on the next school day. Within seven days after oral notice is given, the law enforcement agency shall mail written notice. Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable the Superintendent or designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information contained in the notice may be considered by the Superintendent or designee in making such a determination. This notice shall be made only if the student has been arrested or referred for committing an offense specified at REPORTABLE OFFENSES. *Code of Criminal Procedure 15.27(a)*

NOTICE OF DISPOSITION OF CHARGES

On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student, for an offense or for any conduct specified at REPORTABLE OFFENSES, the office of the prosecuting attorney shall orally and in writing notify the Superintendent or designee of the conviction, deferred prosecution, deferred adjudication, or adjudication. *Code of Criminal Procedure 15.27(b)*

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the district that removed a student to a disciplinary alternative education program, if:

1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or

2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

Code of Criminal Procedure 15.27(g)

SEX OFFENDER

The local law enforcement authority shall immediately provide notice to the superintendent of the district in which the person subject to registration under the Sex Offender Registration Program intends to reside, by mail to the office of the superintendent, as set out below.

LAW ENFORCEMENT NOTICE TO SUPERINTENDENT

A local law enforcement authority shall provide notice to the Superintendent only if:

1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;

2. The person subject to registration is a student enrolled in a public or private secondary school; or

3. The basis on which the person is subject to registration is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to the Superintendent if the basis for the notice is a conviction, a deferred adjudication, or an adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure Art. 62.032

NOTICE TO PERSONNEL

ARREST OF STUDENT

The Superintendent shall notify all instructional and support personnel who have responsibility for supervising a student who has been arrested or taken into custody as provided by a law enforcement agency. All personnel shall keep the information received confidential. *Code of Criminal Procedure 15.27(a)*

CONVICTION OR ADJUDICATION OF STUDENT

When the Superintendent or designee receives information from a prosecuting attorney of a student's conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct for an offense specified at REPORTABLE OFFENSES, the Superintendent or designee shall promptly notify all instructional and support personnel who have regular contact with the student. *Code of Criminal Procedure 15.27(b)*

SEX OFFENDER

On receipt of the notice from law enforcement regarding a registered sex offender, the Superintendent shall release the information contained in the notice to appropriate District personnel, including peace officers and security personnel, principals, nurses, and counselors. *Code of Criminal Procedure 62.03(e), 62.04(f)*

REPORTABLE OFFENSES

The following are reportable offenses for purposes of this policy:

1. Any felony offense; and
2. The following misdemeanors:
    a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);
    b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
    c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

JUVENILE JUSTICE INFORMATION SYSTEM

Juvenile justice agencies in a county or region of Texas may jointly create and maintain a local juvenile justice information system in accordance with Family Code Chapter 58, Subchapter D. A local juvenile justice information system shall include each public school district in the county. *Family Code 58.303, 58.305*

Districts that are served by a local juvenile justice information system shall have Level 1 Access. Level 1 Access is information that relates to a child:

1. Who:

   a. A school official has reasonable grounds to believe has committed an offense for which a report is required under Education Code 37.015; or

   b. Has been expelled, the expulsion of which is required to be reported under Family Code 52.041; and

2. Who has not been charged with a fineable only offense, a status offense, or delinquent conduct.

Family Code 58.306

Information that is part of a local juvenile justice system is not public information and may not be released, except as authorized by law. *Family Code 58.307*

CHILD PROTECTIVE SERVICES (CPS) INVESTIGATIONS AT SCHOOL

A school official may not refuse to permit a CPS investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit District personnel to be present at a student interview conducted at school. *Family Code 261.302(b), 261.303(a); Atty. Gen. Op. DM–476 (1998)*

CPS INVESTIGATIONS OF SCHOOLS

On receipt of a report of alleged or suspected child abuse or neglect in a public school, the Texas Department of Family and Protective Services (FPS) shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in FPS rule. *Family Code 261.406; 40 TAC 700.401–413*

NOTIFICATION TO PRINCIPAL

Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has first had an opportunity to interview the alleged perpetrator.

40 TAC 700.407

CONDUCTING INTERVIEWS

School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or

neglect conducted by FPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.

PARTICIPANTS

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or
2. A better interview or examination of the child would result without school personnel or volunteers being present.

Family Code 261.303; 40 TAC 700.409(a)

REPORT OF FINDINGS

After FPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the Board President, and the school principal, unless the principal is the alleged perpetrator.

CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by FPS.

40 TAC 700.411(a), (d)

NOTICE FROM RESIDENTIAL FACILITY

A residential facility, unless the facility is an open-enrollment charter school, shall notify the district in which the facility is located not later than the third day after the date a person three years of age or older is placed in a residential facility. *Education Code 5.001, 29.012(a)*

MUNICIPAL ANNEXATION

A municipality that proposes to annex an area shall provide written notice of the proposed annexation to each public school district located in the area proposed for annexation within the period prescribed for publishing the notice of the first annexation hearing. The municipality may not proceed with the annexation unless it provides the required notice. *Local Gov't Code 43.905*

SCHOOL CROSSING GUARDS

A municipality with a population greater than 850,000 may contract with one or more school districts to provide school crossing guards. Under such a contract, the District may provide school crossing guard services to areas of the municipality that are not part of the District. *Local Gov't Code 343.012*

VISITING SCHOOL RESOURCE OFFICER

"School resource officer" means a peace officer who is licensed under Occupations Code Chapter 1701 and assigned by the officer's employing political subdivision to provide:

1. A police presence at a public school;
2. Safety or drug education to students; or
3. Other similar services.

Occupations Code 1701.601, 1701.602

GRANBURY ISD
BOARD OF TRUSTEES
OFFICIAL REGULAR MEETING
MINUTES
August 9, 2004

The Board of Trustees of the Granbury Independent School District convened in an official **REGULAR** meeting on Monday, August 9, 2004 at 6:00 p.m. in the Board Room of the Administration Building, 600 West Pearl St., Granbury, Texas

Presiding Officer..... Charlie Cloud

Board Members Present

Jerry Campbell
J. Mark Graves
Brian Condit
Gene Ellis
Micky Shearon
Bowen Brawner

School Officials Present

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

Others Present

School Employees
Media
Community Members

Meeting Called to Order

President, Charlie Cloud, called the meeting to order at 6:01 p.m.

Convened in Closed Session

The Board of Trustees convened in closed session at 6:02 p.m. under the Texas Open Meetings Act, Texas Government Codes, Chapter 551.074 - personnel matters and 551.072 – purchase, exchange, lease or value of real property.

Reconvened

The board reconvened at 6:50 p.m. and recessed until 7:00 p.m.

The meeting was reconvened at 7:00 p.m.

Pastor Larry Dixon, Faith Assembly of God, led in the invocation and Charlie Cloud led in the pledge to the U.S. Flag and the Texas Flag.

Superintendent's Report

Superintendent Harris announced that VLK Architects would be available for a facility workshop on August 17 or 19, 2004. The board set the workshop for August 19, 2004 for 4:00 – 6:00 p.m.

Jeff Law, Hood County Appraiser, presented the HCAD budget to the board and answered questions from the board regarding the budget.

Executive Director of Finance, Sharay Boynton, presented the June 30, 2004 financial statements for review.

Boynton presented the June 30, 2004 investment report for the board's review.

Sharay Boynton presented the board with information regarding the projected 2004-05 budget which included several different tax rate scenarios.

Athletic trainers, Mark Gilbert and Connie Rhodes reviewed GISD procedures to be followed for all outdoor activities during the summer weather. Gilbert and Rhodes stated that all students would be allowed regularly scheduled breaks during practice, water would be readily available, modification of workouts when necessary, students would be closely monitored and reminded the importance of healthy eating and the importance of water/fluid intake daily.

Superintendent Harris recognized David Youker, GEA Channel 7, Travis Robinson, GEA Channel 7 and Shane Collins, KPIR Radio and presented each with a TASB media honor roll certificate.

Maintenance Director, Larry Gehrke, reviewed the summer maintenance projects that were completed during the summer months by the Maintenance Department.

Board Member's Special Reports

Ms. Becky Dixon, a representative from Senator Kip Averit's office presented Superintendent Harris with a Texas Senate Accommodation Certificate in honor of being named Region XI Superintendent of the Year.

Micky Shearon thanked Travis Robinson and GEA Channel 7 for the their work on preparing the United Way video.

Charlie Cloud reminded the board member of convocation to be held on Monday, August 16, 2004 at 9:00 a.m. at Granbury High School.

Consent Agenda Items

Jerry Campbell noted a correction to the July 27, 2004 and July 28, 2004 special board meeting minutes; Jerry Campbell is noted as secretary on the signature line rather than Micky Shearon. A motion was made by Jerry Campbell and seconded by Micky Shearon to approve the consent agenda items with noted corrections to the July 27, 2004 and July 28, 2004 minutes. Bowen Brawner requested that the Hood County Extension Adjunct Faculty agreement/resolution be pulled from the consent agenda for a separate vote. Jerry Campbell amended his motion to approve items A – B of the consent agenda. Micky Shearon seconded the amended motion. **MOTION CARRIED** Yes 7 – Noe 0

A motion was made by Gene Ellis and seconded by Mark Graves to approve the Hood County Extension Adjunct Faculty agreement/resolution as presented. **MOTION CARRIED** Yes 7 – Noe 0

A motion was made by Jerry Campbell and seconded by Micky Shearon to nominate Mark Graves as the TASB delegate and Gene Ellis as the alternate. **MOTION CARRIED** Yes 7 – Noe 0

A motion was made by Jerry Campbell and seconded by Micky Shearon to set the tax rate hearing for August 23, 2004 at 6:00 p.m. at 600 West Pearl St., Administration Board Room and to publish the information. **MOTION CARRIED** Yes 7 – Noe 0

A motion was made by Micky Shearon and seconded by Jerry Campbell to publish the proposed tax rate of $1.70 with $1.455 M/O and .245 debt service. **MOTION CARRIED** Yes 7 – Noe 0

A motion was made by Brian Condit and seconded by Mark Graves to approve the revised 2004-2005 salary schedule, athletic stipend schedule and extra duty pay schedule as presented. **MOTION CARRIED** Yes 7 – Noe 0

Public Comments

None

Personnel

A motion was made by Micky Shearon and seconded by Jerry Campbell to approve the appointments of Jeremy Kubiak, Physical Ed/Coach, AMS; George Pedigo, Music, Acton Elementary; Jeanne Weber, Math, GHS; Linda Stewart, English, GHS; Suzanne Culp, Math, GHS; Pamela Sawyer, Biology, GHS; Barbara Pittman, Math, GHS; Celia Anderson, Elementary Bilingual, Acton Elementary; James Taylor, Science, GHS; Jessica Miller, Music, Emma Roberson; Patricia Phillips, 4th Grade, Brawner Intermediate; Elizabeth Liles, Secondary Curriculum Coordinator; DeDe Litke, Health Occupations, GHS; and Bethany Shupe, Social Studies, GHS. **MOTION CARRIED** Yes 7 – Noe 0

Adjournment

There being no further business, the meeting was adjourned at 8:52 p.m.

Charlie Cloud, President

Micky Shearon, Secretary

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

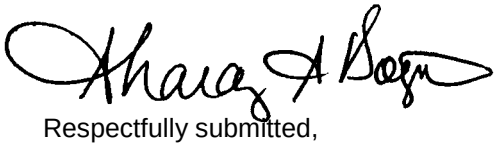
FROM: Sharay Boynton, Finance Director
DATE: August 16, 2004
RE: Budget Amendments

SUMMARY:

Attached are budget amendments that are for Board approval.

RECOMMENDATION:

I recommend the Board approve the amendments.



Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Emmett Whitefield
Date Submitted: August 16, 2004

BUDGET AMENDMENTS RECOGNIZING DONATED & MISCELLANEOUS REVENUES

Fund 181, Mr. Randy Leach, Originator
This Amendment recognizes funds in the amount of $8,000 allocated to function 61. These funds are generated within the Community Ed Department and will be used to fund Consultants for the Department.

Fund 181, Ms. Sharay Boynton, Originator
This Amendment recognizes funds in the amount of $15,601 allocated to function 61. These funds are generated within the Community Ed Department and the Drivers Ed Program and will be used for professional services.

Fund 181, Ms. Sharay Boynton, Originator
This Amendment recognizes donated funds in the amount of $997 allocated to function 36. These funds are donated to the athletic department for the purchase of a camera and to fund banquets.

Fund 199, Ms. Sharay Boynton, Originator
This Amendment recognizes funds in the amount of $8,955 allocated to function 11. These funds are generated within the GHS Campus Fund and will be used for miscellaneous operating expenses.

Fund 199, Ms. Sharay Boynton, Originator
This Amendment recognizes funds in the amount of $482,100. These funds are generated from tax collections in excess of Budgeted 98% collection rate.

Fund 199, Ms. Sharay Boynton, Originator
This Amendment recognizes funds in the amount of $5,851 allocated to function 12. These funds are generated at GMS, AMS, Acton Elementary, Emma Roberson, Baccus, OakWoods, Mambrino, and Brawner from library fines and book fairs and will be used to purchase additional library books and media.

Fund 199, Ms. Sharay Boynton, Originator
This Amendment recognizes funds in the amount of $2,401 allocated to function 11, $169 allocated to function 41, and $83 allocated to function 21. These funds are generated within the Campus Funds at STARS, BTC, GMS, AMS, Brawner, the Special Education Department and Administration, and will be used for miscellaneous operating expenses.

BUDGET AMENDMENTS RECOGNIZING FUNCTION TO FUNCTION TRANSACTION

Fund 199, Mr. Ralph Purget, Originator
This Amendment recognizes funds in the amount of $675 allocated from function 13 to function 23. These funds are being transferred to fund the purchase of student handbooks.

Fund 199, Mr. Roger Morgan, Originator
This amendment recognizes funds in the amount of $354 allocated from function 11 to function 23. These funds are being transferred to fund the purchase of student handbooks.

Fund 199, Ms. Heather Allen, Originator
This amendment recognizes funds in the amount of $165 allocated from function 11, and $454 from function 12 to function 23. These funds are being transferred to fund the purchase of student handbooks.

Fund 199, Ms. Nancy Alana, Originator
This amendment recognizes funds in the amount of $544 allocated from function 11 to function 23. These funds are being transferred to fund the purchase of student handbooks.

Fund 199, Mr. John Shreve, Originator
This amendment recognizes funds in the amount of $142 allocated from function 11 to function 23. These funds are being transferred to fund the purchase of student handbooks.

Fund 199, Ms. Sharay Boynton, Originator
This amendment recognizes funds in the amount of $4,000 allocated from function 11to function 13. These funds are being transferred to fund NJWPT stipends.

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: August 17, 2004
RE: Bus Refurbishing & Collision Repair Svcs
CSP 2003-41 - Renewal

SUMMARY:

The current bid for bus refurbishing and collision repair services will expire September 30, 2004. The bid was awarded December, 2003 with the option to renew two additional one-year terms. Mr. Slemmons was contacted regarding the renewal of these services. It was his opinion that it would be in the best interest of the District to renew. All vendors were contacted and have agreed to renew as awarded.

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

The following is Mr. Terry Slemmons, Transportation Director, recommendation.

RECOMMENDATION:

That the Board award these services to Buck's Collision Center, One Stop Bus Stop, Inc, and Southwest International Trucks, Inc. for the period of October 1, 2004 to September 30, 2005.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Terry Slemmons

Date Submitted: August 17, 2004

BID FOR BOARD APPROVAL

Board Meeting Date: December 15, 2003 **Bid Number:** CSP 2003-41

1. **Item, material or service (specific or classification):** Bus Refurbishing and Collision Repair Services

2. **Brief description:** A proposal was let asking vendors to identify a specific brand of labor guide as a benchmark to be used in cost estimating for bus refurbishing and repair.

3. **Period of time bid covers:** from written notification of award through September 30, 2004

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

   Terry Slemmons – Transportation Director

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

6. **Number of bids received from vendors:** 3

7. **Listing of recommended vendors and total prices:** The recommendation for award is to Buck's Collision Center, One Stop Bus Stop, Inc. and Southwest International Trucks, Inc.
   At the time of need, each of the awarded vendors will be contacted to provide a quotation for repair. Expenditures will be based on the amount of revenue received from the sale of used buses.

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

9. **Last bid date (bid of comparable nature within last 5 years):** 8/20/02

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

    Proposal requirements were changed so an accurate comparison cannot be made.

11. **Budget information:** This is not a budgeted item. Expense will be based on amount of revenue received from sale of buses.



Sharay S. Boynton
Executive Director of Finance

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: August 17, 2004
RE: Custodial Chemicals & Supplies
Bid No. 2004-17

SUMMARY:

A bid was let to provide custodial chemicals and supplies on an as needed basis for the 2004-2005 school year. Custodial supplies consist of paper, plastics and cleaning chemicals necessary to maintain the cleanliness of the schools. Quantities listed in the bid were based on approximate annual usage. These supplies will be purchased on an as needed basis throughout the year due to a lack of storage facilities. The responses were received on June 22, 2004. The period of award will cover from September 1, 2004 through August 31, 2005 with the option to renew two additional years.

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

The following is the recommendation of Mr. Ron Sherman, ARAMARK Custodial Manager.

RECOMMENDATION:

I recommend the Board approve the items and the related vendors as evidenced by shaded areas on the attached tabulation for the period from September 1, 2004 through August 31, 2005.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Ron Sherman

Date Submitted: August 17, 2004

BID FOR BOARD APPROVAL

Board Meeting Date: August 23, 2004 **Bid Number:** 2004-17

1. **Item, material or service (specific or classification):** Custodial Chemicals & Supplies

2. **Brief description:** Custodial supplies consist of paper, plastics and cleaning chemicals necessary to maintain the cleanliness of the schools. Quantities listed in the bid were based on approximate annual usage. These supplies will be purchased on an as needed basis throughout the year due to a lack of storage facilities. Delivery will be to each campus.

3. **Period of time bid covers:** From September 1, 2004 (or written award notification of award if after that date) through August 31, 2005 with the option of two one-year renewals.

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

   Laine Meek – Support Services Director
   Ron Sherman – Custodial Manager

5. **Number of bids sent to vendors:** 17

6. **Number of bids received from vendors:** 10 (includes 1 no bid)

7. **Listing of recommended vendors and total prices:** The recommendation for award is shaded in the column under the vendor name for a total expenditure of $93,576.97. It is also recommended that all vendors awarded line items that submitted a catalog for additional purchases also be approved for additional purchases.

8. **Explanation of other than low recommendations:** See attached spreadsheet provided by Ron Sherman, Custodial Manager, on items not recommended for award to low bidder. The bid allowed the award of the floor care line, chemical line and gym floor line to one vendor for compatibility of products and training issues. It also allowed for award by category or groups of like type items for ease in ordering.

9. **Last bid date (bid of comparable nature within last 5 years):** 8/11/03

10. **Percentage increase or decrease from last bid:** Due to the number of items on the bid, a comparison was not made.

11. **Budget information:** Expenditures for the chemicals and supplies will be taken from account code 199.51.6315.00.952.4(5).99.0.52 as items are needed. Budgeted amount for the 2004-2005 school year is $120,900.

Sharay S. Boynton
Executive Director of Finance

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: August 17, 2004
RE: Remanufactured Transmissions
Bid No. 2004-19

SUMMARY:

The current bid for remanufactured transmissions will expire on August 31, 2004. A bid was let to provide remanufactured transmissions on an as needed basis for the 2004-05 school year. The term covered by this bid will be September 1, 2004 through August 31, 2005 with the option to renew for two additional one year terms.

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

The following is the recommendation of Mr. Terry Slemmons, Transportation Director.

RECOMMENDATION:

It is recommended that the Board award the purchase of remanufactured transmissions to Armadillo Transmission for the period of September 1, 2004 to August 31, 2005.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Mr. Terry Slemmons

Date Submitted: August 17, 2004

BID FOR BOARD APPROVAL

Board Meeting Date: August 9, 2004 **Bid Number**: 2004-19

1. **Item, material or service (specific or classification):** Remanufactured Transmissions

2. **Brief description:** A bid was let to provide remanufactured transmissions on an as needed basis.

3. **Period of time bid covers:** September 1, 2004 through August 31, 2005

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

   Terry Slemmons – Transportation Director

5. **Number of bids sent to vendors:** 4

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

7. **Listing of recommended vendors and total prices:** Recommendation for award is to Armadillo Transmissions. Since these items are purchased on an as needed basis, an approximate expenditure cannot be identified at this time.

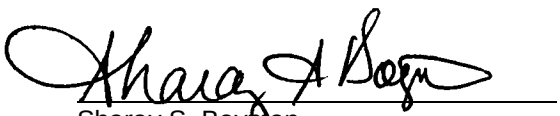
8. **Explanation of other than low recommendations:** N/A

9. **Last bid date (bid of comparable nature within last 5 years):** 6/25/01 (with 2 renewals)

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

    Item #1 No change in cost
    Item #2 Increase of 29.41%
    Item #3 Increase of 37.50%
    Item #4 No change in cost
    Item #5 Increase of 29.41%
    Item #6 Increase of 37.50%

11. **Budget information:** Expense for remanufactured transmissions will be charged to account code 199.34.6245.00.800.5.99.0.00. The budgeted amount for that code is $15,000.



Sharay S. Boynton
Executive Director of Finance

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: August 17, 2004
RE: Automotive Filters Bid No. 2004-20

SUMMARY:

The current bid for automotive filters will expire on August 31, 2004. A bid was let to provide automotive filters for the Transportation department for the 2004-2005 school year. Vendors were asked to quote a percentage discount/mark-up from the manufacturer's published blue jobber price sheet. The bid period requested was September 1, 2004 to August 31, 2005 with the option to renew for two additional years.

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

The following is the recommendation of Mr. Terry Slemmons, Transportation Director.

RECOMMENDATION:

It is recommended that the Board approve the following vendors for the purchase of automotive filters for the period of September 1, 2004 through August 31, 2005.

Stewart Stevenson
Freightliner
Auto Parts Warehouse

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Mr. Terry Slemmons

Date Submitted: August 17, 2004

BID FOR BOARD APPROVAL

Board Meeting Date: August 23, 2004 **Bid Number**: 2004-20

1. **Item, material or service (specific or classification):** Automotive Filters

2. **Brief description:** A bid was let to provide automotive filters on an as needed basis for the Transportation department. Vendors were asked to quote a percentage discount from the manufacturer's published blue jobber price list.

3. **Period of time bid covers:** September 1, 2004 through August 31, 2005

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

   Terry Slemmons – Transportation Director

5. **Number of bids sent to vendors:** 19

6. **Number of bids received from vendors:** 9 (includes 1 "no bid")

7. **Listing of recommended vendors and total prices:** Different brands of filters were quoted, so a price comparison was made on commonly used oil, air and fuel filters at GISD. Recommendation for award is to Stewart and Stevenson, ATC Freightliner and Auto Parts Warehouse. Filters will be purchased on an as needed basis. The proposed budget amount for transportation general supplies is $50,000.

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

9. **Last bid date (bid of comparable nature within last 5 years):** 8/5/03

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

Luber-Finer	-	55% same as last year
Wix	-	50% this year was 45% last year
Fram	-	There was not a bid on Fram last year

11. **Budget information:** The following budget code will be used for the purchase of these items.

    199.34.6395.00.800.4 (or 5).99.0.00 with a projected budget of $50,000

Sharay S. Boynton
Executive Director of Finance

Debbie

As you know, many of the % discounts on the filter bids were different on different brands. To make a fair comparison, I chose 6 of our most common filters used. This allowed me to get the actual price that would be charged to the district. The actual price to the district based on % discount and brand is:

Filters for a T44E	Air	Fuel	Oil
Atc Freightliner 55% Luber-Finer	$21.73	$11.56	$6.36
Auto Parts Ware. 50% Wix	$22.32	$12.63	$6.85
Stewart Stevenson 45% Fram	$21.48	$11.98	$6.49
Truck Ag and Auto 30% Fleetguard	$33.78	$17.08	$8.31
Filters for a DT466			
Atc Freightliner 55% Luber-Finer	$18.86	$6.62	$3.39
Auto Parts Ware. 50% Wix	$20.06	$6.85	$4.20
Stewart Stevenson 45% Fram	$23.21	$5.98	$3.32
Truck Ag and Auto 30% Fleetguard	$26.80	$8.31	$4.56

Based on these actual prices to the district, I would like to recommend Stewart Stevenson and Freightliner as our primary vendors. I would also like to recommend we award Auto Parts Warehouse as a local vendor for applications that have to be done in an emergency.

Thanks for your help
Terry Slemmons

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: August 17, 2004
RE: Fencing Services Bid No. 2004-21

SUMMARY:

Fencing services, both chain link and pipe, for the district are purchased on an as needed basis. A bid was let to provide vendors for fencing services for the 2004-2005 school year with the option to renew for two additional one-year terms if agreed to by all parties. Vendors were asked to state a cost per type of fence.

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

The bids were evaluated primarily on the cost, ability to provide required insurance coverage, past experience with the District and ability to meet the District's anticipated needs. Mr. Larry Gehrke, Maintenance Director, reviewed all bids submitted and made the following recommendation for award.

RECOMMENDATION:

It is recommended that the Board award the purchase of fencing services for the 2004-05 school year to Custom Fence for the period of notice of award to July 31, 2005.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Debbie Johnson
Mr. Larry Gehrke

Date Submitted: August 17, 2004

BID FOR BOARD APPROVAL

Board Meeting Date: August 23, 2004 **Bid Number**: 2004-21

1. Item, material or service (specific or classification): Fencing Services - Chain Link and Pipe

2. Brief description: A bid was let to provide a vendor for fencing services, mainly chain link and pipe fencing, at various locations throughout the district on an as needed basis.

3. Period of time bid covers: From written notification of award through July 31, 2005

4. Person and title responsible for the expenditure:

Larry Gehrke, Maintenance Director

5. Number of bids sent to vendors: 9

6. Number of bids received from vendors: 2

7. Listing of recommended vendors and total prices: It is recommended that award be made to Custom Fence. Exact cost of fencing cannot be identified at this time since the priority for the fencing projects is still under review. Anticipated expenses will be $5,000.

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

9. Last bid date (bid of comparable nature within last 5 years): 9/22/02

10. Increase or decrease from last bid:

4' chain link	-	increase of 16.00%
5' chain link	-	increase of 86.41%
6' chain link	-	increase of 12.50%
36 x 2-7/8 pipe	-	increase of 28.22%

11. Budget information: Funds for the fencing projects will come from general operating funds depending on the project and timing.

Sharay S. Boynton
Executive Director of Finance

OFFICE OF THE SUPERINTENDENT

FOR:	Board of Trustees
DATE:	August 23, 2004
ACTION:	Approval

To:	Mr. William Harris, Superintendent	**From:**	Troy K. Green
		Date:	August 16, 2004
		RE:	Certified Appraisers and Appraisal Calendar

SUMMARY:

Texas Education Code 21.351 establishes the recommended appraisal process for classroom teachers. The District uses the commissioner's appraisal process (PDAS). Additionally, Texas Education Code 21.351 (c) sets forth the law with regard to persons who may appraise classroom teachers. With this appraisal process, an appraiser must be the teacher's supervisor or a person approved by the Board of Trustees. Such appraisers must have 36 hours of Instructional Leadership training (ILT) and 18 hours of Professional Development and Appraisal System (PDAS) training. Additionally, eighteen (18) hours of Instructional Leadership Development is now required. All administrators on the attached list have completed the training or are registered to complete it at the first training sessions offered by Region XI.

RECOMMENDATION:

It is recommended that the Board approve the list of certified appraisers and the appraisal calendar, as presented, for this school year.

Respectfully submitted,

William Harris
Superintendent

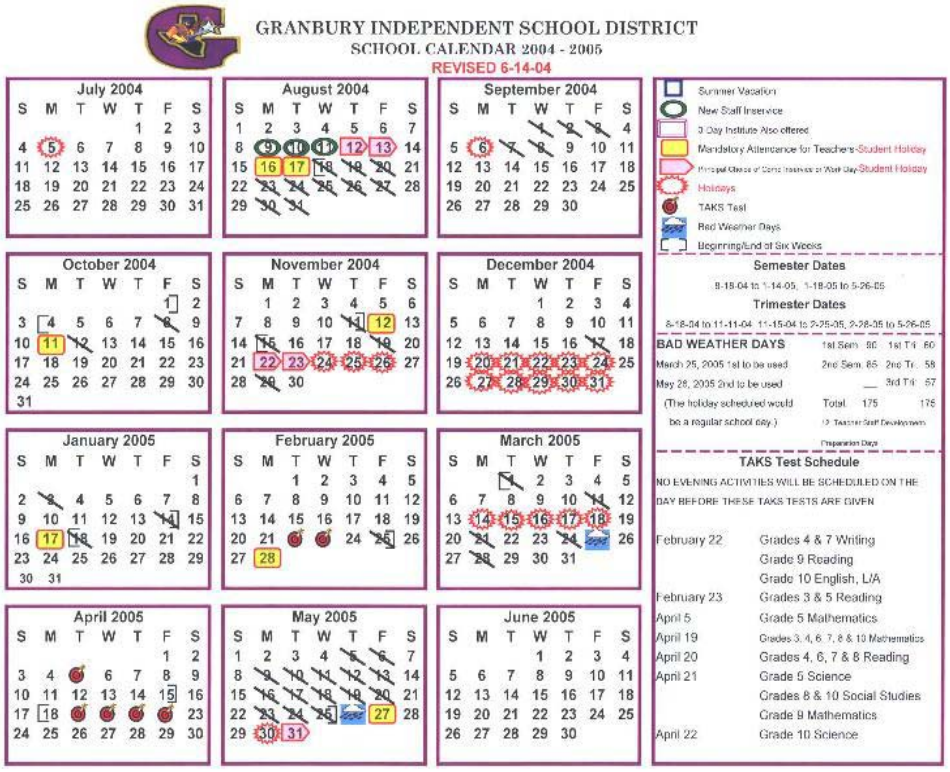
Staff Persons Responsible: Troy Green
Jan VanDorn

Date Submitted: August 16, 2004

Granbury Independent School District
Certified Appraisers, 2003-2004

Acton Elementary:	Ralph Purget	Kendall Condit
Nettie Baccus Elementary:	Nancy Alana	DeAnna Bledsoe
Emma Roberson Elem:	Kellie Lambert	
Crossland Intermediate:	Roger Morgan	
Oak Woods Intermediate:	Heather Allen	Bucky Wood
Brawner Intermediate:	Carolyn Horton	
Mambrino School:	Rebecca Johnson	Melinda Parker
Granbury Middle School:	Jimmy Dawson	Maury Tarvin
		Diane Fullerton
Acton Middle School:	Bobby Mabery	Edwin Young
		Marcus Malloy
Granbury High School:	Cathy Butler	Marsha Grissom
		Barbara Calhoun
		Connie Sanderson
Stars Academy:	John Shreve	
BTC	Biff Peterson	
Central Administration:	William Harris	Jan VanDorn
		Cheryl Meger
		Sharon Whitefield
		Stacie Brown
		Brenda Mabery
		Amy Wood

PDAS Appraisal Calendar and Timelines



- New Teacher Orientation on PDAS: August 10
- Teacher Orientation on PDAS: August 16 or August 17

- Teacher Self-Report 1 due: on or before September 8th
- Formal Observation: Unannounced and may occur any date shown on calendar not marked out. Formal Observations shall: not occur on days scheduled for TAKS, or other standardized tests or final exam days (All other campuses can schedule formal observation when the HS is giving Exit TAKS, etc.); be conducted in accordance with Texas Education Code, Subchapter H, section 21.351-21.356
- Walk through visits: Any date in which school is in session. (Documentation shared within 10 days)
- Teacher Self-Report 11 & 111: February 4 deadline
- Summative Annual Conference: Between February 7, 2005 & May 4, 2005

\ Indicates days on which appraisals cannot occur.

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton, Finance Director
DATE: August 17, 2004
RE: Resolution Amending Authorized Representatives for TexPool

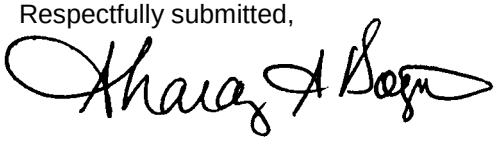
SUMMARY:

The District invests funds in the TexPool investment fund. The Authorized Representatives need to be updated to include the current Board President.

RECOMMENDATION:

It is recommended that the Board adopt the attached resolution amending the authorized representatives to include Mr. Cloud.

Respectfully submitted,



Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Sharay Boynton

Date Submitted: August 17, 2004

TEXPOOL
An Investment Service for Public Funds

RESOLUTION AMENDING AUTHORIZED REPRESENTATIVES

WHEREAS, Granbury ISD Location # 77768

(Participant Name & Location Number)

("Participant") is a local government of the State of Texas and is empowered to delegate to a public funds investment pool the authority to invest funds and to act as custodian of investments purchased with local investment funds; and

WHEREAS, it is in the best interest of the Participant to invest local funds in investments that provide for the preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act; and

WHEREAS, the Texas Local Government Investment Pool ("TexPool/ Texpool *Prime*"), a public funds investment pool, were created on behalf of entities whose investment objective in order of priority are preservation and safety of principal, liquidity, and yield consistent with the Public Funds Investment Act.

NOW THEREFORE, be it resolved as follows:

A. That the individuals, whose signatures appear in this Resolution, are Authorized Representatives of the Participant and are each hereby authorized to transmit funds for investment in TexPool / TexPool *Prime* and are each further authorized to withdraw funds from time to time, to issue letters of instruction, and to take all other actions deemed necessary or appropriate for the investment of local funds.

B. That an Authorized Representative of the Participant may be deleted by a written instrument signed by all remaining Authorized Representatives provided that the deleted Authorized Representative (1) is assigned job duties that no longer require access to the Participant's TexPool / TexPool *Prime* account or (2) is no longer employed by the Participant; and

C. That the Participant may by Amending Resolution signed by the Participant add an Authorized Representative provided the additional Authorized Representative is an officer, employee, or agent of the Participant;

List the Authorized Representatives of the Participant. Any new individuals will be issued personal identification numbers to transact business with TexPool Participant Services.

1. Name Sharay S. Boynton Title Executive Director of Finance

Signature _____ Phone Number 817-408-4015

ORIGINALS REQUIRED TEX – REP

2. Name William Harris Title Superintendent

Signature _____ Phone Number 817-408-4007

3. Name Charlie Cloud Title Board President

Signature _____ Phone Number 817-408-4000

4. Name _____ Title _____

Signature _____ Phone Number _____

List the name of the Authorized Representative listed above that will have primary responsibility for performing transactions and receiving confirmations and monthly statements under the Participation Agreement.

Name Sharay S. Boynton

Email sharay_boynton@granbury.k12.tx.us Fax Number 817-408-4033

In addition and at the option of the Participant, one additional Authorized Representative can be designated to perform only inquiry of selected information. This limited representative cannot perform transactions. If the Participant desires to designate a representative with inquiry rights only, complete the following information.

5. Name _____ Title _____

D. That this Resolution and its authorization shall continue in full force and effect until amended or revoked by the Participant, and until TexPool Participant Services receives a copy of any such amendment or revocation. This Resolution is hereby introduced and adopted by the Participant at its regular/special meeting held on the 23rd day August, 20 04.

NAME OF PARTICIPANT: Granbury ISD

BY: _____
Signature

Charlie Cloud
Printed Name

Board President
Title

ATTEST: _____
Signature

Micky Shearon
Printed Name

Board Secretary
Title

This document supersedes all prior Authorized Representative designations.

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Approval

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: August 17, 2004
RE: ARAMARK Custodial Management Contract Amendment

SUMMARY:

On July 1, 2003 ARAMARK Management Services Limited Partnership (formerly ServiceMaster Management Services L.P.), a Delaware limited partnership ("ARAMARK") and Granbury Independent School District entered into an agreement to provide management of custodial services. Exhibit A - ARAMARK'S Compensation, paragraph B provides that the ARAMARK Fee will be adjusted from time to time including annually by an amount agreed upon by both parties. The CPI for the service sector increased by 2.9% from June 2003 to June 2004

The amendment is effective July 1, 2004. The proposed annual management fee shall be $61,740 compared to $60,000 per year. All other respects of the Agreement shall remain in full force and effect. Please see attached amendment.

The following is Administration's recommendation.

RECOMMENDATION:

It is recommended that the Board allow Mr. Harris to accept the amendment as presented by ARAMARK Corporation.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Mrs. Sharay Boynton

Date Submitted: August 17, 2004

8/13/04

Mr. William Harris
Superintendent
Granbury Independent School District
600 W. Pearl Street
Granbury, TX 76048

Dear Mr. Harris,

On July 1, 2003 ARAMARK Management Services Limited Partnership (formerly ServiceMaster Management Services L.P.), a Delaware limited partnership ("ARAMARK") and Granbury Independent School District entered into an agreement to provide management of custodial services. Exhibit A - ARAMARK'S Compensation, paragraph B provides that the ARAMARK Fee will be adjusted from time to time including annually by an amount agreed upon by both parties. The CPI for the service sector increased by 2.9% from June 2003 to June 2004.

Pursuant to that provision the management fee will be increased by 2.9%. The new management fee will be $61,740 plus the cost of all products, supplies, equipment and services purchased and used, or expenses incurred, by ARAMARK in the performance of the Management Services hereunder and with GRANBURY's approval.

With exception to the adjustment noted above, it is agreed that the Original Agreement dated July 1, 2003, shall in all other respects remain in full force and effect. Please indicate your agreement and acceptance of this adjustment by signing below.

_____	_____
Leonda Whitlow	**William Harris**
District Manager	**Superintendent**

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Action

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: August 17, 2004
RE: Tax Rate

SUMMARY:

If the proposed budgets are adopted by the Board at this meeting, the tax rate will have to be set to raise the revenue needed to fund the budgets.

Several different scenarios have been presented for funding the related budgets. The tax rate will have to be set by September 30, 2004. The attached resolution will need to be adopted specifying the total tax rate and the related M&O and Debt Service rates.

Respectfully submitted,

Sharay S. Boynton
Executive Director of Finance

Staff Person Responsible: Mr. William Harris

Date Submitted: August 17, 2004

RESOLUTION SETTING TAX RATE

WHEREAS, Granbury Independent School District ("District") is a local government of the State of Texas and has the authority to establish a property tax

WHEREAS, the District has adopted the 2004-05 Budget

WHEREAS, the District has received the certified property values from HCAD

BE IT RESOLVED that the Board of Trustees of the District, hereby levy or set the tax rate on $100 valuation for the District for the tax year 2004 at a total rate of $_____, to be assessed and collected by the duly specified assessor and collector as follows:

$_____ for the purpose of maintenance and operation, and

$_____ for the purpose of payment of principal and interest on debts

Dated this 23rd day of August, 2004

Signed: _____
President

Attest: _____
Secretary

GRANBURY INDEPENDENT SCHOOL DISTRICT

INTEROFFICE MEMO

FINANCE AND BUSINESS AFFAIRS

To: Board of Trustees
Date: August 23, 2004
For: Action

TO: Mr. William Harris, Superintendent

FROM: Sharay Boynton
DATE: August 17, 2004
RE: Budget Adoption

SUMMARY:

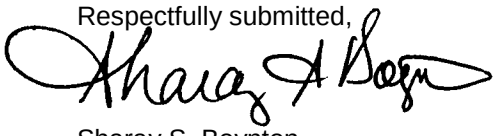
Budgets for General Operating, Debt Service and Food Service have been presented and discussed in budget workshops.

It is law that budgets be adopted prior to the start of the fiscal year, which is September 1, 2004.

RECOMMENDATION:

That the Board adopt the budgets as presented by Administration.

Respectfully submitted,



Sharay S. Boynton
Finance Director

Staff Person Responsible: Mr. William Harris
Mrs. Sharay Boynton

Date Submitted: August 17, 2004

To Be Adopted
8/23/04

GRANBURY ISD
2004-2005 PROPOSED BUDGET
GENERAL OPERATING REVENUE

DESCRIPTION	2003-2004 BUDGET	2004-05 PROPOSED	INCREASE/ (DECREASE)	% INCREASE	% OF TOTAL REVENUE
5711 - CURRENT YEAR TAXES	32,950,000	34,360,000	1,410,000	4%	77%
5713 - PRIOR YEAR TAXES	500,000	500,000	0	0%	1%
5719 - PENALTIES & INTEREST	100,000	100,000	0	0%	0%
5729 - LEA REIMBURSEMENTS	195,000	215,000	20,000	10%	0%
5735 - OUT OF DISTRICT TUITION	20,000	20,000	0	0%	0%
5736 - SUMMER SCHOOL TUITION	20,800	20,000	(800)	-4%	0%
5737- DRIVERS ED TUITION	30,000	36,000	6,000	20%	0%
5738 - HIGH SCHOOL PARKING FEES	25,000	20,000	(5,000)	-20%	0%
5739 - GED REGISTRATION FEES	4,000	7,600	3,600	90%	0%
5751 - FOOD SERVICE INDIRECT REV	25,000	29,000	4,000	16%	0%
5752 - ATHLETIC RECEIPTS	100,000	105,000	5,000	5%	0%
5753 - COMMUNITY ED RECEIPTS	10,000	18,000	8,000	80%	0%
5755 - GEA 7 REVENUE	0	74,000	74,000	100%	0%
5755 - OTHER ENTERPRISING INCOME	100,000	100,000	0	0%	0%
5759 -TEXTBOOK REVENUE	10,000	10,000	0	0%	0%
5742 - INTEREST INCOME	275,000	220,000	(55,000)	-20%	0%
5743 - RENTAL OF LAND	2,500	26,500	24,000	960%	0%
5743 - COMMUNITY ED BLDG USE FEE	40,000	40,000	0	0%	0%
5769 - MISC. LOCAL REVENUE	70,500	70,500	0	0%	0%
5771 - TIER I CED REVENUE	0	0	0	0%	0%
5811 - PER CAPITA REVENUE	1,655,044	2,091,778	436,734	26%	5%
5812 - FOUNDATION REVENUE	4,020,966	4,163,289	142,323	4%	9%
5829-ADDITIONAL STATE REVENUE	0	0	0	0%	0%
5853 - TECHNOLOGY REVENUE	181,209	186,414	5,205	3%	0%
5831 - TRS ON-BEHALF PAYMENTS	1,701,436	1,786,509	85,073	5%	4%
5932 - MAC REVENUE	0	21,000	21,000	100%	0%
5939 - MEDICAID REVENUE	150,000	120,000	(30,000)	-20%	0%
5919 - FEDERAL INDIRECT REVENUE	51,000	30,000	(21,000)	-41%	0%
5948 - JROTC REVENUE	0	47,000	47,000	100%	0%
5765 - DONATIONS	0	0	0	0%	0%
TOTALS	42,237,455	44,417,590	2,180,135	5%	100%

To Be Adopted
8/23/04

GRANBURY ISD - GENERAL OPERATING

SUMMARY OF DISTRICT

2004-2005 BUDGET

FUNCTION	2003-2004 Budget	2004-05 Proposed	INCREASE/ (DECREASE)	% OF BUDGET	% INCREASE
11 - INSTRUCTION	22,644,819	24,663,610	2,018,791	56%	8.9%
12 - INST. RESOURCES & MEDIA	1,717,867	1,893,973	176,106	4%	10.3%
13 - CURRICULUM & STAFF DEV	502,101	595,393	93,292	1%	18.6%
21 - INSTRUCTIONAL LEADERSHIP	498,394	492,725	(5,669)	1%	-1.1%
23 - SCHOOL LEADERSHIP	2,321,236	2,459,335	138,099	6%	5.9%
31 - GUIDANCE/COUNSELING	1,258,467	1,399,311	140,844	3%	11.2%
33 - HEALTH SERVICES	327,068	294,567	(32,501)	1%	-9.9%
34 - TRANSPORTATION	1,981,023	2,607,864	626,841	6%	31.6%
36 - CO-CURRICULAR/EXTRA	1,383,835	1,518,031	134,196	3%	9.7%
41 - GENERAL ADMINISTRATION	1,985,887	2,044,198	58,311	5%	2.9%
51 - PLANT MAINTENANCE	6,296,875	5,499,382	(797,493)	12%	-12.7%
52 - SECURITY & MONITORING SVS	141,992	322,623	180,631	1%	127.2%
53 - DATA PROCESSING	62,500	52,500	(10,000)	0%	-16.0%
61 - COMMUNITY EDUCATION	150,877	216,511	65,634	0%	43.5%
71 - DEBT SERVICE	0	0	0	0%	0.0%
81 - FACILITIES CONST & ACQUIS	654,000	260,000	(394,000)	1%	-60.2%
TOTAL	41,926,941	44,320,023	2,393,082	100%	5.7%

To Be Adopted
8/23/04

GRANBURY ISD
DEBT SERVICE FUND (FUND 599)
PROJECTED BUDGET
2004-05

8/31/04 FUND BALANCE			355,959
REVENUE			
5711 TAXES, CURRENT	5,650,000		
5712 TAXES, PRIOR YEARS	175,000		
5719 PENALTIES & INTEREST	75,000		
5742 INTEREST INCOME	60,000		
5800 TIER III	0		
TOTAL REVENUE		5,960,000	
EXPENDITURES			
FUNCTION 71			
6511 BOND PRINCIPAL	1,284,600		
6521 BOND INTEREST	4,608,073		
6599 OTHER DEBT FEES	6,000		
TOTAL EXPENDITURE		5,898,673	
NET EFFECT TO FUND BALANCE 8/31/2005			61,327
PROJECTED FUND BALANCE 8/31/2005			417,286

ASSUMPTION:

$ 0.245 TAX RATE

99% COLLECTION RATE

To Be Adopted
8/23/04

GRANBURY ISD
FOOD SERVICE FUND (FUND 240)
PROJECTED BUDGET
2004-05

REVENUE			
5742 INTEREST INCOME	7,500		
5751 LOCAL FOOD SERVICE REVENUE	1,256,220		
5829 STATE MATCHING FUNDS	18,500		
5921 BREAKFAST PROGRAM REVENUE	219,915		
5922 LUNCH PROGRAM REVENUE	730,893		
5923 USDA DONATED COMMODITIES	85,000		
TOTAL REVENUE			2,318,028
EXPENDITURES			
FUNCTION 35			
6100 SALARIES & BENEFITS	857,779		
6200 CONTRACTED SERVICES	212,017		
6300 SUPPLIES & MATERIALS	1,100,845		
6400 OTHER OPERATING EXPENSE	18,144		
6600 CAPITAL OUTLAY	166,200		
TOTAL FUNCTION 35		2,354,985	
FUNCTION 51			
6200 CONTRACTED SERVICES	34,966		
TOTAL FUNCTION 51		34,966	
TOTAL EXPENDITURES			2,389,951
NET EFFECT TO FUND BALANCE 8/31/2005			(71,923)