

North East ISD  
015910

DISTRICT LEGAL STATUS

AA  
(LEGAL)

The District derives its legal status from the Constitution of the State of Texas and from the Texas Education Code as passed and amended by the Legislature of Texas. *Texas Const., Art. VII*

GEOGRAPHIC BOUNDARIES

AC  
(LEGAL)

BOUNDARY  
DESCRIPTIONS AND  
MAPS

The District shall file with TEA:

1. A complete and legally sufficient description of the boundaries of the District.
2. A map of the District that is:
  - a. Drawn to the county general highway maps produced by the Texas Department of Transportation or a similar map of sufficient detail to display the names of visible features that the boundaries follow or to which the boundaries are in close proximity; and
  - b. An accurate and legible representation of the boundaries in relationship to other features on the map.
3. A list of voting precincts within the District, separately listing those precincts wholly within the District and those precincts only partly within the District.

The District shall amend the information and maps on file with TEA if the boundaries of the District change or if any other change makes the information on file incomplete or inaccurate.

*Education Code 13.010*

CHANGES AND  
ADJUSTMENTS IN  
BOUNDARIES

Any change in District boundaries because of detachment or annexation shall be approved by a majority of the Board and other affected boards in order for the change to become effective. *Education Code 13.008, 13.051, 13.052, 13.231*

NOTICE TO VOTER  
REGISTRAR

A district that changes its boundaries or the boundaries of districts used to elect members to the Board shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

*Election Code 42.0615*

CONSOLIDATION

Two or more districts may consolidate into a single school district using the procedures found in Education Code Chapter 13, Subchapter D. *Education Code 13.151(a)*

North East ISD  
015910

EDUCATIONAL PHILOSOPHY/MISSION STATEMENT

AE  
(LOCAL)

We challenge and encourage each student to achieve and demonstrate academic excellence, technical skills, and responsible citizenship.

## PUBLIC EDUCATION MISSION, GOALS, AND OBJECTIVES

The mission of the Texas public education system is to ensure that all Texas children have access to a quality education that enables them to achieve their full potential and fully participate now and in the future in the social, economic, and educational opportunities in our state and nation. That mission is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of Texas citizens. It is further grounded on the conviction that a successful public education system is directly related to a strong, dedicated, and supportive family and that parental involvement in the school is essential for the maximum educational achievement of a child. The objectives of public education are:

OBJECTIVE 1: Parents will be full partners with educators in the education of their children.

OBJECTIVE 2: Students will be encouraged and challenged to meet their full educational potential.

OBJECTIVE 3: Through enhanced dropout prevention efforts, all students will remain in school until they obtain a diploma.

OBJECTIVE 4: A well-balanced and appropriate curriculum will be provided to all students.

OBJECTIVE 5: Educators will prepare students to be thoughtful, active citizens who have an appreciation for the basic values of our state and national heritage and who can understand and productively function in a free enterprise society.

OBJECTIVE 6: Qualified and highly effective personnel will be recruited, developed, and retained.

OBJECTIVE 7: Texas students will demonstrate exemplary performance in comparison to national and international standards.

OBJECTIVE 8: School campuses will maintain a safe and disciplined environment conducive to student learning.

OBJECTIVE 9: Educators will keep abreast of the development of creative and innovative techniques in instruction and administration using those techniques as appropriate to improve student learning.

OBJECTIVE 10: Technology will be implemented and used to increase the effectiveness of student learning, instructional management, staff development, and administration.

The academic goals of public education are to serve as a foundation for a well-balanced and appropriate education. The students in the public education system will demonstrate exemplary performance in:

GOAL 1: The reading and writing of the English language.

GOAL 2: The understanding of mathematics.

GOAL 3: The understanding of science.

GOAL 4: The understanding of social studies.

*Education Code 4.001, 4.002*

In discharging its duties, the Board shall function in accordance with applicable state and federal statutes, controlling court decisions, and applicable regulations promulgated pursuant to statute by state and federal agencies. Opinions of the attorney general shall be used for guidance in interpretation of applicable law. The Board shall constitute a body corporate and shall have the exclusive power to govern and oversee the management of the public schools of the District. *Education Code 11.051(a), 11.151(b)*

BOARD LEGAL STATUS

BA  
(LOCAL)

MISSION AND  
PURPOSE

As indicated at AE(LOCAL), the mission of the District is to graduate all students prepared to succeed in higher education. Inasmuch as the Board is responsible for developing the policies to support the mission and purpose of the District and ensuring that its employees and others engaged in business with the District follow all relevant laws, regulations, and procedures, it will provide management oversight of the District's major management systems.

ROLE OF THE BOARD

The Board performs duties and responsibilities in the areas of governance, management oversight, and constituent services.

MANAGEMENT  
OVERSIGHT

Management oversight is a vital Board responsibility. The Board's role in management oversight is to ensure the integrity and the performance of all major District systems, including, but not limited to finance, human resources, safety and security, construction management and facilities maintenance, transportation, custodial services, food services, and technology. In its management oversight role, the Board will review performance results of each system periodically, but no less than annually or no less than required by law. This is accomplished through formal reports, audits, and any other method deemed appropriate by the Board through the Superintendent.

The Board and Superintendent understand that management oversight is the responsibility of the Board as a whole, not of individual Board members. While holding the Superintendent accountable for performance of these systems, the Board will not interfere with the Superintendent's management of the District.

MANAGEMENT  
OVERSIGHT  
WORKSHOPS

The Board will schedule management oversight workshops to review the overall integrity of each major system no less than bi-annually. During the scheduled management oversight workshops, the Board will receive system performance reports and identify any other reports required. The Board will submit information requests or related questions to the Superintendent at least four weeks prior to the scheduled workshop.

The Board President and Superintendent will confer prior to the workshop to finalize the requests for information. The Board will receive final workshop documents including, but not limited to, data summaries and analyses from constituent services for all major systems, not less than one week prior to the scheduled workshops.

BOARD MEMBERS  
ELIGIBILITY/QUALIFICATIONS

BBA  
(LEGAL)

ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, the office of school board Trustee, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined mentally incompetent by a final judgment of a court.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities. *Atty. Gen. Op. LO 96-114 (1996)*
5. Be a resident of Texas and the territory from which the office is elected for the period of time described at CANDIDATE'S RESIDENCY TERM, below. *Tex. Const. Art. XVI, Sec. 14*

*Election Code 141.001(a); Brown v. Patterson, 609 S.W.2d 287 (Tex. Civ. App.—Dallas 1980, no writ)*

QUALIFIED VOTER

A person may not be elected Trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

“Qualified voter” means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined mentally incompetent by a final judgment of a court;
4. Has not been finally convicted of a felony or, if so convicted:
  - a. Has fully discharged his or her sentence, including any term of incarceration, parole, or supervision;
  - b. Has completed a period of probation ordered by any court; or
  - c. Has been pardoned or otherwise released from the resulting disability to vote;
5. Is a resident of this state; and
6. Is a registered voter.

*Election Code 11.002*

BOARD MEMBERS  
ELIGIBILITY/QUALIFICATIONS

BBA  
(LEGAL)

OFFICIAL OATHS	After each election or appointment, the elected or appointed Board members shall file their official oaths with the Board President. <i>Education Code 11.061(a)</i>
COMPENSATION	Trustees serve without compensation. <i>Education Code 11.061(d)</i>
SINGLE-MEMBER DISTRICTS	A candidate for Trustee representing a single-member district must be a resident of the Trustee district he or she seeks to represent. <i>Education Code 11.052(g)</i>
CANDIDATE'S RESIDENCY TERM PREFILED CANDIDACY	An individual seeking election to the office of Trustee by having his or her name placed on the ballot must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the last date on which the candidate could file to be listed on the ballot.
WRITE-IN CANDIDACY	An individual seeking election to the office of Trustee by write-in vote must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the day of the election.
APPOINTMENT TO OFFICE	An individual appointed to the office of Trustee must have been a resident of the state for 12 months, and a resident of the territory from which the office is elected for six months, prior to the day on which the appointment is made.  <i>Election Code 141.001(a)(5)</i>
'RESIDENCE' DEFINED	"Residence" shall mean domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. <i>Election Code 1.015</i>



BOARD MEMBERS  
ELECTIONS

BBB  
(LEGAL)

NUMBER, METHOD OF  
ELECTION AND TERM

The Board consists of seven Trustees elected from single-member districts in accordance with Texas law, serving terms of four years, with elections held biennially. The terms of one-half of the Trustees, or as near to one-half as possible, expire every two years. *Education Code 11.051(b), 11.059*

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

CHANGING  
METHOD OF  
ELECTION

In accordance with Education Code 11.052, the Board may decide, on the Board's motion or by voter petition, to change its method of election.

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**Note:** *For additional information regarding the legal requirements of changing the method of election, see this policy code in the **TASB Policy Reference Manual**.*

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RESIDENCY

Residents of each Trustee district are entitled to elect one Trustee to the Board. A candidate for Trustee representing a single-member Trustee district must be a resident of the district the candidate seeks to represent. A Trustee elected to represent a Trustee district at the first election of Trustees shall be a resident of the district the Trustee represents not later than the 90th day after the day election returns are canvassed or the 60th day after the day of a final judgment in an election contest filed concerning that Trustee district. A Trustee vacates the office if he or she fails to move into the district the Trustee represents within the time provided or ceases to reside in the district the Trustee represents. A person appointed to fill a vacancy in a Trustee district must be a resident of that Trustee district. [See also BBA, BBC]

NUMBER AND  
TERM

At the first election at which some or all of the Trustees are elected in a manner authorized by Education Code 11.052 and after each redistricting, all positions on the Board shall be filled. The Trustees then elected shall draw lots for staggered terms as provided by Education Code 11.059.

REDISTRICTING

Not later than the 90th day before the day of the first regular Board election at which Trustees may officially recognize and act on the last preceding federal census, the Board shall redivide the District into the appropriate number of Trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of the District shall be based on the number of members that are to be elected from single-member Trustee districts, and each Trustee district shall be numbered. The Trustee districts shall be compact and contiguous and shall be as nearly as

BOARD MEMBERS  
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practicable of equal population according to the last preceding federal census.

*Education Code 11.052*

PHASE-IN  
OPTION

The board of a district that adopts a redistricting plan under Education Code 11.052 may provide for the Trustees in office when the plan is adopted or the District is redistricted to serve for the remainder of their terms in accordance with this provision. The Trustee district and any at-large positions provided by the District's plan shall be filled as the staggered terms of Trustees then in office expire. Not later than the 90th day before the date of the first election from Trustee districts and after each redistricting, the Board shall determine the order in which the positions will be filled. *Education Code 11.053*

NOTICE TO VOTER  
REGISTRAR

A district that changes its boundaries or the boundaries of districts used to elect members to the board shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and
2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar's office.

*Election Code 42.0615*

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, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 67th day before election day. 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, except for an election to be held on the general election date for state and county officers, when the day of the filing deadline is the 70th day before election day. 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), (c), 11.056(b), (e); Election Code 31.0021, 141.031, 144.005*

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)*

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(LEGAL)

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*

JOINT ELECTIONS  
REQUIRED

A District Trustee election shall be held on the same date as:

1. The election for the members of the governing body of a municipality located in the District; or
2. The general election for state and county officers.

Elections held on the same date as the election for the members of the governing body of a municipality located in the District or the same date as the general election for state and county officers shall be held as a joint election under Election Code Chapter 271.

The voters of a joint election under this section shall be served by common polling places consistent with Election Code 271.003(b).

The Board shall adjust the terms of office of its members to conform to the new election date if the election date is changed to comply with Education Code 11.0581.

*Education Code 11.0581*

NOTICE

A call for an election shall be made not later than the 62nd day before election day, except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within a district's boundaries or in a newspaper of general circulation in a 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. A 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 at least 22 months after election day. *Election Code 4.004, 4.005, 66.058(a)*

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ELECTIONS

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The Board shall also deliver notice of the election to the county clerk of each county in which the district is located not later than the 60th day before election day. *Election Code 4.008*

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. <i>Election Code 4.003(b), 4.005</i>
BALLOT, ELECTION OFFICIALS, AND POLLING PLACES	<p>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 handi-capped. <i>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)</i></p> <p>If a district not located in a county with a population of more than 3.3 million or a county adjacent to a county with a population of more than 3.3 million holds an election on the November uniform election date, the district shall follow procedures from the secretary of state and designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district. <i>Election Code 42.002(a)(5), 42.0621, 43.004(b)</i></p>
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. <i>Election Code 62.013(b)</i>
NOTICE OF VOTING RIGHTS HOTLINE	A notice of voter's rights, in the form prescribed by the secretary of state and including information required by the secretary of state, shall be publicized as provided by the secretary of state. The notice shall, in part, inform 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. <i>Election Code 31.0055, 62.0115</i>
BILINGUAL MATERIALS	<p>The District shall provide bilingual election materials, as specified by law, when the director of the federal census determines that:</p> <ol style="list-style-type: none"><li>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</li></ol>

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*

VOTING MACHINES  
AND PUNCH-CARD  
BALLOTS

Effective January 1, 2006, a voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

VOTERS WITH  
DISABILITIES

Each polling place in an election of the District that is held jointly with another election in which a federal office appears on the ballot must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments and Title II of the federal Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot.

The requirement imposed above does not apply to any other election of Trustees of the District held before January 1, 2008.

*Election Code 61.012*

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The District may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. *1 TAC 81.55* [See GA]

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

The Board may declare each unopposed candidate elected to the office if:

1. The candidate for an office that is to appear on the ballot in that Trustee district is unopposed, and
2. No proposition is to appear on the ballot.

*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 if the election were held, only the votes cast for that candidate in the election for that office may be counted. 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

Except as provided below, 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.

For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or

BOARD MEMBERS  
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3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.

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

*Election Code 67.003, 67.004*

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.

The presiding officer of the canvass shall also prepare a report of the precinct results as contained in the election register and shall deliver the report to the secretary of state as required by law.

*Election Code 67.016, 67.017, 212.0331*

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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*

MAJORITY VOTE  
OPTION

The board of an independent school district in which the Trustees are elected from single-member Trustee districts as provided by Education Code 11.052 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 in a Trustee district 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)*



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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. <i>Election Code 2.002(g)</i>
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. <i>Election Code 2.002(i)</i>  The cost of the recount shall be paid by the District. <i>Election Code 216.005(b)</i>
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. <i>1 TAC 81.64</i>
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. <i>Tex. Const. Art. XVI, Sec. 1(b)</i> [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. <i>Tex. Const. Art. XVI, Sec. 1(a); Education Code 11.061</i> [See BBB(EXHIBIT)]  The oath may be administered and a certificate of the fact given by: <ol style="list-style-type: none"><li>1. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.</li><li>2. A notary public.</li><li>3. A justice of the peace or clerk of a justice court.</li><li>4. The secretary of state of Texas.</li><li>5. The speaker of the house of representatives.</li><li>6. The lieutenant governor of Texas.</li><li>7. The governor of Texas.</li><li>8. A legislator or retired legislator.</li><li>9. The attorney general.</li></ol> <i>Gov't Code 602.002, 602.006</i>

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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)*

OFFICER'S STATEMENT

"I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God."

*Tex. Const. Art. XVI, Sec. 1(b)*

OATH OF OFFICE

"I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of School Board Trustee for the \_\_\_\_\_ School District of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God."

*Tex. Const. Art. XVI, Sec. 1(a)*

TERMINATION OF  
CAMPAIGN  
TREASURER  
APPOINTMENT

Candidates for the Board shall file the designation of a campaign treasurer and all required financial statements with the Board Secretary in accordance with applicable law and directives from the Texas Ethics Commission. *Election Code 251.001–254.001 et seq.*

In accordance with statute, the Board by ordinance or order may adopt a process by which the Secretary may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the Secretary.

For purposes of this statute, a candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254;
2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate's campaign treasurer appointment; and
3. Has not filed a final report under Election Code Section 254.065 or 254.125, or a dissolution report under Election Code Section 254.126 or 254.159.

Before the Secretary of a political subdivision may terminate a campaign treasurer appointment, the Board must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the Board votes to terminate the appointment. Following that meeting, the Secretary shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

*Election Code 252.0131*

BOARD MEMBERS  
VACANCIES AND REMOVAL FROM OFFICE

BBC  
(LEGAL)

- VACANCY Any vacancy or vacancies occurring on the Board, whether by death, resignation, forfeiture, lack of qualifications, or removal, shall be filled with citizens having the same qualifications as candidates for election. If a vacancy occurs on the Board, the remaining members of the Board may fill the vacancy by appointment until the next regular Board election or may order a special election to fill the vacancy for the unexpired term. If more than one year remains in the term of the position vacated, the vacancy shall be filled not later than the 180th day after the vacancy occurs. *Tex. Const. Art. XVI, Sec. 27; Education Code 11.060; Atty. Gen. Ops. WW-1387 (1962), M-402 (1969)*
- OPTIONAL APPOINTMENT CONSIDERATION An appointment to the Board shall be made as required by applicable law and may be made with the intent to ensure that the Board is representative of the constituency served by the Board. A Board that chooses this optional appointment consideration shall adopt procedures for its implementation. *Local Gov't Code 180.005(b), (c)*
- SPECIAL ELECTION A special election shall be conducted in the same manner as the general election on the next uniform election date that will afford enough time to hold the election in the manner required by law. *Education Code 11.060(c); Election Code 41.001(a), 41.004(a)* [See BBB]
- PRECLEARANCE REQUIRED A special election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a special election or scheduling of events leading up to or following a special election is subject to the preclearance requirement. *28 CFR 51.17* [See BBB]
- RESIGNATION To be effective, a Board member's resignation must be in writing and signed by the officer and must be delivered to the Board for action on the resignation. The Board may not refuse to accept a resignation. If a Trustee submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the Board or on the eighth day after the date of its receipt by the Board, whichever is earlier. *Election Code 201.001(a), 201.023*
- HOLDOVER DOCTRINE 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, except that a Trustee may not vote on the appointment of the Trustee's successor. *Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)* [See DBE]

BOARD MEMBERS  
VACANCIES AND REMOVAL FROM OFFICE

BBC  
(LEGAL)

FORMER TRUSTEE  
EMPLOYMENT

A Trustee is prohibited from accepting employment with the District until the first anniversary of the date the Trustee's membership on the Board ends. *Education Code 11.063*

NONRESIDENCE

A person elected to serve as a Board member must remain a resident of the District throughout the term of office. A Board member who ceases to reside in the District vacates his or her office. *Tex. Const., Art. XVI, Sec. 14; Prince v. Inman, 280 S.W.2d 779 (1955); Whitmarsh v. Buckley, 324 S.W.2d 298 (1959)*

A Trustee elected from a single-member district vacates the office if he or she ceases to reside in the Trustee district he or she represents. *Education Code 11.052(g)*

'RESIDENCE' DEFINED

"Residence" shall mean domicile, one's home and fixed place of habitation to which one intends to return after any temporary absence; one does not lose one's residence status by leaving to go to another place for temporary purposes only. *Election Code 1.015*

REMOVAL FROM  
OFFICE

Board members may be removed from office for:

1. "Incompetency," which means:
  - a. Gross ignorance of official duties;
  - b. Gross carelessness in the discharge of those duties; or
  - c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of election.
2. "Official misconduct," which means intentional, unlawful behavior relating to official duties by a Trustee entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of a Trustee to perform a duty imposed on the Trustee by law and conviction of an offense relating to violation of purchase procedures. [See CH]
3. Intoxication on or off duty caused by drinking an alcoholic beverage, but not if it was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician.
4. Conviction of a Trustee by a jury for any felony or for misdemeanor official misconduct.

Actions for removal of Board members must be brought before the judge of the district court holding jurisdiction, except that any court convicting a Trustee of a felony or official misconduct shall order immediate removal.

BOARD MEMBERS  
VACANCIES AND REMOVAL FROM OFFICE

BBC  
(LEGAL)

*Tex. Const., Art. V, Sec. 24; Local Gov't Code 87.011, 87.012, 87.013, 87.031; Education Code 44.032(e); Hendricks v. State, 49 S.W. 705 (1899), Tovar v. Somerset ISD, 994 S.W.2d 756 (Tex. App.-Corpus Christi 1999)*

TEMPORARY  
REPLACEMENT OF  
BOARD MEMBER ON  
MILITARY ACTIVE  
DUTY

A Board member who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the Board may appoint a replacement to serve as a temporary Board member if the elected or appointed Board member will be on active duty for longer than 30 days.

The Board member who is temporarily replaced may recommend to the Board the name of a person to temporarily fill the office. The Board shall appoint the temporary Board member to begin service on the date specified in writing by the Board member being temporarily replaced as the date the Board member will enter active military service.

A temporary Board member has all the powers, privileges, and duties of the office as the Board member who is temporarily replaced. A temporary Board member shall perform the duties of office for the shorter period of:

1. The term of the active military service of the Board member who is temporarily replaced; or
2. The term of office of the Board member who is temporarily replaced.

“Armed forces of the United States” means the United States Army, the United States Navy, the United States Air Force, the United States Marine Corps, the United States Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

*Tex. Const., Art. XVI, Sec. 72*

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

REQUIRED TRAINING	<p>Each Trustee must complete any training required by the State Board of Education. <i>Education Code 11.159</i></p> <p>Continuing education for Board members includes orientation sessions, an annual team building session with the Board and the Superintendent, and specified hours of continuing education based on identified needs.</p>
LOCAL ORIENTATION	<p>All Board members shall receive a local District orientation and an orientation to the Texas Education Code.</p>
NEW MEMBERS	<p>New Board members shall participate in a local orientation session within 60 days before or after their election or appointment. The purpose of this orientation is to familiarize new Board members with local Board policies and procedures and District goals and priorities.</p> <p>All newly elected Board members shall receive the orientation to the Texas Education Code within the first year of service. The orientation shall be delivered by regional education services centers and shall be three hours in length.</p>
SITTING MEMBERS	<p>All sitting Board members shall receive a basic orientation to the Texas Education Code and relevant legal obligations. The orientation will have special but not exclusive emphasis on statutory provisions related to Texas school district governance. The orientation shall be delivered by regional education services centers and shall be three hours in length. Topics shall include, but not be limited to, Texas Education Code, Chapter 26 (Parental Rights and Responsibilities), and Texas Education Code, Section 28.004 (Local School Health Education Advisory Council and Health Education Instruction). [See BDF, EHAA, and FNG]</p>
LEGISLATIVE UPDATES	<p>After each session of the Texas Legislature, each Board member shall receive an updated session from a regional education service center or any registered provider to the basic orientation to the Texas Education Code. The update session shall be of sufficient length to familiarize Board members with major changes in the Education Code and other relevant legal developments related to school governance. A Board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an additional legislative update.</p>
TEAM BUILDING	<p>The entire Board, including all Board members, shall annually participate with the Superintendent in a team building session facilitated by the regional education service center or any registered provider. The team building session shall be of a length deemed appropriate by the Board, but generally at least three hours. The</p>



BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

purpose of the team building session is to enhance the effectiveness of the Board-Superintendent team and to assess the continuing education needs of the Board-Superintendent team. The assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the governance leadership team for the upcoming year.

CONTINUING  
EDUCATION

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

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

FIRST YEAR

In their first year of service, Board members shall receive at least ten hours of continuing education in fulfillment of assessed needs. Board members may fulfill up to five of the required ten hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

SUBSEQUENT  
YEARS

Following the first year of service, Board members shall receive at least five hours of continuing education annually in fulfillment of assessed needs. Board members may fulfill the five hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

PRESIDENTS

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

LOCAL TRAINING

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

*19 TAC 61.1*

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

SPECIFIC OPEN  
MEETINGS TRAINING

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

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

*Gov't Code 551.005*

SPECIFIC OPEN  
RECORDS TRAINING

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

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

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

*Gov't Code 552.012*

ANNUAL COMPLIANCE  
ANNOUNCEMENT

Annually, at the meeting at which the call for election of Board members is normally scheduled, the President shall announce the name of each Board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in the required continuing education. The President shall cause the minutes to reflect the information and shall make this information available to the local media.

TRAINING DURING  
MEETINGS

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

*19 TAC 61.1*

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LEGAL)

CONVENTIONS AND  
WORKSHOPS

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

COMMENDATION

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

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(LOCAL)

TRAINING ACTIVITIES Each Board member shall be provided with opportunities to develop a broad and comprehensive understanding of the District and other districts. In addition to required training activities, the following methods may be used:

1. Membership in state and national school board associations.
2. Attendance at conventions, conferences, and clinics sponsored by educational institutions, industry, school board associations, colleges and universities, and any other appropriate sponsors.
3. Subscriptions to school board newsletter services, journals, and bulletins of direct use to the Board.
4. Visitation of districts where model or outstanding programs may be observed.
5. Visitation of industrial or business installations where the program is related to the educational program of the District.

The Board, acting as a Committee of the Whole, shall select Board members for participation in activities listed above.

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

## FRAMEWORK FOR SCHOOL BOARD DEVELOPMENT

Preamble: The Board is the educational policy-making body for the District. To effectively meet the challenges of public education, the Board and the Superintendent must function together as a leadership team. Each leadership team must annually assess its development needs as a corporate body and individually to gain its understanding of the vision, structure, accountability, advocacy, and unity needed to provide educational programs and services that ensure the equity and excellence in performance of all students. The Framework for School Board Development has been approved by the State Board of Education to provide the critical areas of development for all public school boards.

1. Vision — The Board ensures creation of a shared vision that promotes enhanced student achievement.
  - The Board keeps the District focus on the educational welfare of all children.
  - The Board adopts a shared vision based on community beliefs to guide local education.
  - The Board ensures that the vision supports the state’s mission, objectives, and goals for education established by law.
  - The Board ensures that the District’s vision expresses the present and future needs of the children and community.
  - The Board demonstrates its commitment to the vision by using the vision to guide all Board deliberations, decisions, and actions.
2. Structure — The Board provides guidance and direction for accomplishing the vision.
  - The Board recognizes the respective roles of the legislature, the State Board of Education, the Texas Education Agency, and the local Board in the governance of the District.
  - The Board fulfills the statutory duties of the local Board and upholds all laws, rules, ethical procedures, and court orders pertaining to schools and school employees.
  - The Board focuses its actions on policy making, planning, and evaluation.
  - The Board adopts a planning and decision-making process consistent with state statute that uses participation, information, research, and evaluation to help achieve the District’s vision.
  - The Board ensures that the District’s planning and decision-making process enables all segments of the community, parents, and professional staff to contribute meaningfully to achieving the District’s vision.
  - The Board develops and adopts policies that provide guidance for accomplishing the District’s vision, mission and goals.
  - The Board adopts a budget that incorporates sound business and fiscal practices and provides resources to achieve the District’s vision, mission, and goals.

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(EXHIBIT)

- The Board adopts goals, approves student performance objectives, and establishes policies that provide a well-balanced curriculum resulting in improved student learning.
  - The Board approves goals, policies, and programs that ensure a safe and disciplined environment conducive to learning.
  - The Board oversees the management of the District by employing the Superintendent and evaluating the Superintendent's performance in providing education leadership, managing daily operations, and performing all duties assigned by law.
  - The Board adopts policies and standards for hiring, assigning, appraising, and compensating school District personnel in compliance with state laws and rules.
3. Accountability — The Board measures and communicates how well the vision is being accomplished.
- The Board ensures progress toward achievement of District goals through a systematic, timely, and comprehensive review of reports prepared by or at the direction of the Superintendent.
  - The Board monitors the effectiveness and efficiency of instructional programs by reviewing reports prepared by or at the direction of the Superintendent and directs the Superintendent to make modifications that promote maximum achievement for all students.
  - The Board ensures that appropriate assessments are used to measure achievement of all students.
  - The Board reports District progress to parents and community in compliance with state laws and regulations.
  - The Board reviews District policies for effective support of the District's vision, mission, and goals.
  - The Board reviews the efficiency and effectiveness of District operations and use of resources in supporting the District's vision, mission, and goals.
  - The Board evaluates the Superintendent's performance annually in compliance with state laws and regulations.
  - The Board annually evaluates its performance in fulfilling the Board's duties and responsibilities, and the Board's ability to work with the Superintendent as a team.
4. Advocacy — The Board promotes the vision.
- The Board demonstrates its commitment to the shared vision, mission, and goals by clearly communicating them to the Superintendent, the staff, and community.
  - The Board ensures an effective two-way communication system between the District and its students, employees, media, and the community.

BOARD MEMBERS  
TRAINING AND ORIENTATION

BBD  
(EXHIBIT)

- The Board builds partnerships with community, business, and governmental leaders to influence and expand educational opportunities and meet the needs of students.
  - The Board supports children by establishing partnerships between the District, parents, business leaders, and other community members as an integral part of the District's educational program.
  - The Board leads in recognizing the achievements of students, staff, and others in education.
  - The Board promotes school board service as a meaningful way to make long-term contributions to the local community and society.
5. Unity — The Board works with the Superintendent to lead the District toward the vision.
- The Board develops skills in teamwork, problem solving, and decision making.
  - The Board establishes and follows local policies, procedures, and ethical standards governing the conduct and operations of the Board.
  - The Board understands and adheres to laws and local policies regarding the Board's responsibility to set policy and the Superintendent's responsibility to manage the District and to direct employees in District and campus matters.
  - The Board recognizes the leadership role of the Board President and adheres to law and local policies regarding the duties and responsibilities of the Board President and other officers.
  - The Board adopts and adheres to established policies and procedures for receiving and addressing ideas and concerns from students, employees, and the community.
  - The Board makes decisions as a whole only at properly called meetings and recognizes that individual members have no authority to take individual action in policy or District and campus administrative matters.
  - The Board supports decisions of the majority after honoring the right of individual members to express opposing viewpoints and vote their convictions.

*Adopted by the State Board of Education, January 1996, as authorized by 19 TAC 61.1*

BOARD MEMBERS  
AUTHORITY

BBE  
(LEGAL)

BOARD ACTIONS

Because the Board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted. *Toyah ISD v. Pecos-Barstow ISD*, 466 S.W.2d 377 (Tex. Civ. App.-San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W.2d 95 (Tex. Civ. App.-Tyler, 1975, no writ)

RIGHT OF ACCESS

Individual Trustees, in their official capacity as public officers entrusted with governing and overseeing the management of the District, have an inherent right of access to records maintained by the District, under Board policies for orderly access. *Atty. Gen. Op. No. JM-119 (1983)*; *Education Code 11.151* [See FL, GBA]

PROTECTIONS FOR  
ACTING ON A  
LEGISLATIVE  
MEASURE

A Board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov't Code 572.059*

BOARD MEMBER  
IMMUNITIES

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

STATE LAW  
IMMUNITIES

A Board member is not personally liable for any act that is incident to or within the scope of the duties of the Board member's position and that involves the exercise of judgment or discretion. *Education Code 22.0511(a)*

FEDERAL LAW  
IMMUNITIES

Except as provided in 20 U.S.C. Section 6736(b), no Board member shall be liable for harm caused by an act or omission of the Board member on behalf of the District if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. *20 U.S.C. Section 6733, 6736(a)*

[See also DH]



BOARD MEMBERS  
AUTHORITY

BBE  
(LOCAL)

BOARD AUTHORITY

The Board has final authority to determine and interpret the policies that govern the schools and, subject to the mandates and limits imposed by state and federal authorities, has complete and full control of the District. Board action shall be taken only in meetings that comply with the Open Meetings Act. [See BE(LEGAL)]

TRANSACTIONING  
BUSINESS

When a proposal is presented to the Board, a discussion shall be held and a decision reached. Although there may be dissenting votes, which are a matter of public record, each Board decision shall be an action by the whole Board binding upon each member.

INDIVIDUAL  
AUTHORITY FOR  
COMMITTING THE  
BOARD

Board members as individuals shall not exercise authority over the District or its property, and shall have no authority to issue directives its employees. [See BOARD DIRECTIVES, below]

Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue. [See BDAB]

BOARD DIRECTIVES

Except when the Board is in session, individual Trustees shall follow the procedure below when initiating a Board directive for administrative implementation. A request for information shall not be considered a "directive" for purposes of this policy.

1. The proposed action shall first be given to the Board Secretary who shall cause an official written request for action to be prepared and presented to the other Board members for approval;
2. The Superintendent shall be given a copy of the proposed request for action in order to provide administrative input, clarify issues, and make recommendations;
3. Upon request of a Board member, the proposed action shall be placed on the agenda for the next available regular Board meeting, unless it is determined that it should be placed on the agenda for a special or emergency meeting;

At the meeting, the Board may take such action as it deems appropriate. Only if the Board votes in favor of the proposed action will it become a directive of the Board.

INDIVIDUAL ACCESS  
TO INFORMATION

An individual Board member, acting in his or her official capacity, shall have the right to seek information pertaining to District fiscal affairs, business transactions, governance, and personnel matters, including information that properly may be withheld from members of the general public in accordance with the Public Information Chapter of the Government Code. [See GBA]

BOARD MEMBERS  
AUTHORITY

BBE  
(LOCAL)

LIMITATIONS	Individual members shall not have access to confidential student records unless the member is acting in his or her official capacity and has a legitimate educational interest in the records in accordance with policies FL(LEGAL) and (LOCAL).
REQUESTS FOR RECORDS	Individual members shall seek access to records or request copies of records from the Superintendent or other designated custodian of records. When a custodian of records other than the Superintendent provides access to records or copies of records to individual Trustees, the provider shall inform the Superintendent of the records provided.
REQUESTS FOR REPORTS	Individual members shall not direct or require District employees to prepare reports derived from an analysis of information in existing District records or to create a new record compiled from information in existing District records. Directives to the Superintendent or custodian of records regarding the preparation of reports shall be by Board action.
DURING A BOARD MEETING	A record of requests by Board members for information and/or reports not immediately available, and the administration's response thereto, if any, during Board meetings shall be maintained by the Board Secretary and a copy of such record shall be presented to the Superintendent or designee on or before the close of the business day following the Board meeting at which a request is made or as soon thereafter as possible.
CONFIDENTIALITY	At the time Board members are provided access to confidential records or to reports compiled from such records, the Superintendent or other District employee shall advise them of their responsibility to comply with confidentiality replace policy requirements.
TRUSTEE'S RIGHT TO CONFER / ADMINISTRATOR'S RIGHT TO ACT	This policy shall not limit the right of an individual Trustee to confer with the administration; nor shall it limit the administration's existing authority to act when it is warranted in the best interest of the District and in conformity with law.
REFERRING COMPLAINTS	<p>If employees, parents, students, or other members of the public bring concerns or complaints to an individual Board member, he or she shall refer them to the Superintendent or another appropriate administrator, who shall proceed according to the applicable complaint policy. [See (LOCAL) policies at DGBA, FNG, and GF]</p> <p>When the concern or complaint directly pertains to the Board's own actions or policy, for which there is no administrative remedy, the Trustee may request that the issue be placed on the agenda.</p>

As a member of the Board, I shall promote the best interests of the District as a whole and, to that end, shall adhere to the following ethical standards:

**E**QUITY  
IN ATTITUDE

- I will be fair, just, and impartial in all my decisions and actions.
- I will accord others the respect I wish for myself.
- I will encourage expressions of different opinions and listen with an open mind to others' ideas.

**T**RUSTWORTHINESS  
IN STEWARDSHIP

- I will be accountable to the public by representing District policies, programs, priorities, and progress accurately.
- I will be responsive to the community by seeking its involvement in District affairs and by communicating its priorities and concerns.
- I will work to ensure prudent and accountable use of District resources.
- I will make no personal promise or take private action that may compromise my performance or my responsibilities.

**H**ONOR  
IN CONDUCT

- I will tell the truth.
- I will share my views while working for consensus.
- I will respect the majority decision as the decision of the Board.
- I will base my decisions on fact rather than supposition, opinion, or public favor.

**I**NTEGRITY  
OF CHARACTER

- I will refuse to surrender judgment to any individual or group at the expense of the District as a whole.
- I will consistently uphold all applicable laws, rules, policies, and governance procedures.
- I will not disclose information that is confidential by law or that will needlessly harm the District if disclosed.

**C**OMMITMENT  
TO SERVICE

- I will focus my attention on fulfilling the Board's responsibilities of goal setting, policymaking, and evaluation.
- I will diligently prepare for and attend Board meetings.
- I will avoid personal involvement in activities the Board has delegated to the Superintendent.
- I will seek continuing education that will enhance my ability to fulfill my duties effectively.

**S**TUDENT-  
CENTERED FOCUS

- I will be continuously guided by what is best for all students of the District.

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

SUBSTANTIAL  
INTEREST AFFIDAVIT  
AND ABSTENTION

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

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

*Local Gov't Code 171.004*

CONTRACTS  
PERMITTED

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

DEFINITION OF  
SUBSTANTIAL  
INTEREST

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

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

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

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

*Local Gov't Code 171.002*

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

DEFINITION OF  
LOCAL PUBLIC  
OFFICIAL

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

DEFINITION OF  
BUSINESS ENTITY

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

MAJORITY  
CONFLICT

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

SEPARATE VOTE  
ON BUDGET

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

VIOLATIONS

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

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

*Local Gov’t Code 171.003*

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

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

VOIDABLE ACTIONS	<p>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. <i>Local Gov't Code 171.006</i></p>
CONFLICTS DISCLOSURE STATEMENT	<p>A local government officer shall file the required conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to an applicable vendor if the vendor has contracted with the District or the District is considering doing business with the vendor; and the vendor has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income; or has given to the local government officer or a family member of the officer one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that such a contract has been executed or the local governmental entity is considering doing business with the vendor.</p> <p>A local government officer shall file the conflicts disclosure statement with the records administrator of the District not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.</p>
VIOLATIONS	<p>A local government officer commits a Class C misdemeanor if the officer knowingly violates this law. It is a defense to prosecution that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice of the violation.</p> <p><i>Local Gov't Code 176.003-.004</i></p>
DEFINITION OF LOCAL GOVERNMENT OFFICER	<p>"Local government officer" means a member of the governing body of a local governmental entity; or a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity. <i>Local Gov't Code 176.001(4)</i></p>
DEFINITION OF FAMILY MEMBER	<p>"Family member" shall mean a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code. <i>Local Gov't Code 176.001(2)</i></p>
DEFINITION OF RECORDS ADMINISTRATOR	<p>"Records administrator" means the director, Superintendent, or other person responsible for maintaining the records of the District. <i>Local Gov't Code 176.001(5)</i> [See CPC]</p>

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(LEGAL)

INTERNET POSTING  
REQUIREMENT

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

AFFIDAVIT  
DISCLOSING  
INTEREST IN  
PROPERTY

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

1. The affidavit shall be filed with the county clerk(s) of the county or counties in which the property is located and of the county in which the public servant resides within ten days before the date on which the property is to be acquired by purchase or condemnation.
2. The affidavit must:
  - a. State the name of the public servant and the public office title or job designation held or sought.
  - b. Fully describe the property.
  - c. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest and the date the interest was acquired.
  - d. Include a verification of the truth of the information in the affidavit. [See BBFA(EXHIBIT)]
  - e. Include an acknowledgment of the same type required for recording a deed in the deed records of a county.

*Gov't Code 553.002, 553.003*

VIOLATIONS

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

DEFINITION OF  
PUBLIC SERVANT—  
GOVERNMENT  
CODE

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

1. A candidate for nomination or election to public office, or
2. An officer of government.

*Gov't Code 553.001*

TRUSTEE FINANCIAL  
STATEMENT

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

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

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

1. A Board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;
2. 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.

#### VIOLATIONS

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

An offense under this section is a Class B misdemeanor.

*Education Code 11.064*

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

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ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(EXHIBIT)

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

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

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

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

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EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST  
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS  
COUNTY OF Bexar

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

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

or

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

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.

San Antonio ISD  
015907

ETHICS  
CONFLICT OF INTEREST DISCLOSURES

BBFA  
(EXHIBIT)

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (month), \_\_\_\_\_ (year).

Signature of official \_\_\_\_\_

Title \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF Bexar

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

\_\_\_\_\_, Notary Public in and for the State of Texas

EXHIBIT B

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS  
COUNTY OF Bexar

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

\_\_\_\_\_ as an officer of, or

\_\_\_\_\_ as a Board candidate for,

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

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

The property is fully described as follows:

\_\_\_\_\_.

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

\_\_\_\_\_.

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

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (*month*), \_\_\_\_\_ (*year*).

Signature of affiant \_\_\_\_\_

Office or public title \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF Bexar

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

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

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ETHICS  
PROHIBITED PRACTICES

BBFB  
(LEGAL)

RESTRICTIONS ON  
PUBLIC SERVANTS —  
PENAL CODE

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

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

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

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

BRIBERY

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

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

*Penal Code 36.01(3), 36.02*

ILLEGAL GIFTS

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

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

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

HONORARIA AND  
EXPENSES

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

ABUSE OF OFFICE

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

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

“Misuse” means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

*Penal Code 39.01(2)*



ETHICS  
PROHIBITED PRACTICES

BBFB  
(LEGAL)

NEPOTISM

5. Except as provided by law, a public official may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:
- a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree [see below]; or
  - b. The public official holds the appointment or confirmation authority as a member of a local board and the person is related to another member of the board by blood or marriage within a prohibited degree.

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

DEFINITION OF  
PUBLIC OFFICIAL

“Public official” shall mean:

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

*Gov't Code 573.001(3)*

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

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

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

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

FORMER TRUSTEE  
EMPLOYMENT

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

INCOMPATIBILITY OF  
OFFICE

7. One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the

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

DEPOSITORY  
CONFLICT

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

TEXTBOOK  
VIOLATIONS —  
COMMISSIONS

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

TEXTBOOK  
VIOLATIONS —  
CONFLICT

10. A Trustee commits a class B misdemeanor offense if the Trustee accepts a gift, favor, or service that:
- a. Is given to the person or the person's school;
  - b. Might reasonably tend to influence a Trustee in the selection of a textbook; and
  - c. Could not be lawfully purchased with funds from the state textbook fund.

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

*Education Code 31.152(b)–(d)*

TEXTBOOK  
VIOLATIONS —  
PURCHASE AND  
DISTRIBUTION

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

BOARD MEMBERS  
COMPENSATION AND EXPENSES

BBG  
(LEGAL)

Board members shall serve without compensation. *Education Code 11.061(d)*

MEMBERS' EXPENSES      Local funds and state funds not designated for a specific purpose may be used for purposes determined by the Board to be necessary in the conduct of the public schools. Reimbursement of travel expenses for Board members is not illegal if the reimbursement is determined to be necessary in the conduct of the school and to serve a proper public purpose. *Education Code 45.105(c); Atty. Gen. Op. H-133 (1973)*

NONMEMBERS' EXPENSES      The Board may not pay the travel expenses of spouses and other persons who have no responsibilities or duties to perform for the Board when they accompany Board members to Board-related activities. *Atty. Gen. Op. MW-93 (1979)*

TRAVEL SERVICES      An officer of a school 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); 1 TAC 125.29*

BOARD MEMBERS  
COMPENSATION AND EXPENSES

BBG  
(LOCAL)

EXPENSE  
REIMBURSEMENT

All Board members shall participate in sufficient training, conferences, conventions, lectures, workshops, and meetings to satisfy the standards set by the State Board on the duties of a Board member. [See BBD] Reimbursement for reasonable expenses associated with such attendance and other approved reasonable expenses incurred for purposes necessary in the conduct of the public schools shall be made by the District.

BUDGETED  
AMOUNTS

An amount for Board member travel expense reimbursement shall be approved in the budget each year.

Total expenses incurred by the Board shall not exceed the budgeted line item for such expenses as adopted by the Board for the fiscal year in which such expenses are incurred.

Authorized travel reimbursement rates should not exceed those authorized in the current *SAISD Travel Guidelines*. The Superintendent shall ensure that accounting records accurately reflect that no state or federal funds were used to reimburse above the rates in the *SAISD Travel Guidelines* approved by administration and presented in Administrative Procedures.

RECEIPTS

To receive reimbursement for transportation, lodging, and other authorized travel expenses, a Board member shall present receipts in accordance with the *SAISD Travel Guidelines*. Expenses for which no receipts are available, such as for parking meters, tolls, bus fares, and the like, may be included up to \$10 per destination.

METHOD OF  
ACCOUNTING

The following shall apply:

1. Board members shall submit to the Superintendent, within five days after returning from any convention, conference, seminar, lecture, workshop, or meeting, a travel expense voucher in a form to be adopted by administration, together with all proper receipts. Board members may include items for non-credit-card, out-of-pocket expenses for which no receipts were obtainable (such as tips and transportation costs) not to exceed \$10 per item, in accordance with *SAISD Travel Guidelines*.
2. The Superintendent or designee shall review all credit card and out-of-pocket expenses, including expenses paid for cash advances, and shall instruct the District business office to issue the related payments and/or reimbursements to Board members for all validated out-of-pocket expenses.

CREDIT CARDS

District credit cards may only be used for school District expenses.

OTHER  
REIMBURSEMENTS

No reimbursement shall be made for out-of-pocket expenses that are not validated. All non-validated credit card and/or out-of-pocket

San Antonio ISD  
015907

BOARD MEMBERS  
COMPENSATION AND EXPENSES

BBG  
(LOCAL)

expenses, including expenses paid for by cash advances, shall be promptly paid by the Board member to the District within ten days after notification by the Superintendent or designee that administration has been unable to validate the expense item.

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF BOARD OFFICERS

BDAA  
(LEGAL)

SELECTION OF  
OFFICERS

At the first meeting after each election and qualification of Trustees, the members of the Board shall organize by selecting:

1. A president, who shall be a member of the Board.
2. A secretary, who may or may not be a member of the Board.
3. Such other officers and committees as the Board may deem necessary.

*Education Code 11.061(c)*

REORGANIZATION

In addition to the required post-election organization, the Board may also organize at other times. *Atty. Gen. Op. MW-531 (1982)*

DUTIES / POWERS OF  
BOARD PRESIDENT

The duties and powers of the President of the Board include, but are not limited to, the following:

PUBLIC MEETING  
ON BUDGET AND  
PROPOSED TAX  
RATE

1. Call a meeting of the Board, giving public notice not earlier than the 30th day or later than the tenth day before the meeting, to discuss and adopt the budget and the proposed tax rate. *Education Code 44.004* [See CE and CCG]

FINANCIAL  
STATEMENTS

2. Ensure that the annual financial statements are published as required by law. *Local Gov't Code 140.006* [See CFA]

MINERAL RIGHTS

3. Execute an oil and/or gas lease or sell, exchange, and convey the minerals in land belonging to the District, approved by resolution of the Board. *Education Code 11.153*

DEEDS

4. Execute the deed for the sale of property, other than minerals, held in trust for free school purposes. *Education Code 11.154(b)*

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF BOARD OFFICERS

BDAA  
(LOCAL)

BOARD OFFICERS	In compliance with Education Code 11.061, at the first meeting after each election and qualification of Trustees, the Board shall reorganize by electing a President, a Vice President, a Secretary, and an Assistant Secretary, who shall be members of the Board. The Board may assign a District employee to provide clerical assistance to the Board. Officers shall be elected by majority vote of the members.
VACANCY	A vacancy among officers of the Board shall be filled by majority action of the Board.
TERM AND DUTIES	Board officers shall serve for a term of one year or until a successor is elected. Officers may succeed themselves in office. Each officer shall perform any legal duties of the office and other duties as required by action of the Board.
PRESIDENT	<p>In addition to the duties required by law, the President of the Board shall:</p> <ol style="list-style-type: none"><li>1. Preside at all Board meetings unless unable to attend.</li><li>2. Have the right to discuss, make motions and resolutions, and vote on all matters coming before the Board.</li><li>3. Provide a monthly report to the Board.</li></ol>
VICE PRESIDENT	<p>The Vice President of the Board shall:</p> <ol style="list-style-type: none"><li>1. Act in the capacity and perform the duties of the President of the Board in the event of the absence or incapacity of the President.</li><li>2. Become President only upon being elected to the position.</li></ol>
SECRETARY	<p>The Secretary of the Board shall:</p> <ol style="list-style-type: none"><li>1. Ensure that an accurate record is kept of the proceedings of each Board meeting.</li><li>2. Ensure that notices of Board meetings are posted and sent as required by law.</li><li>3. In the absence of the President and Vice President, call the meeting to order and act as presiding officer.</li><li>4. Sign or countersign documents as directed by action of the Board.</li></ol>
ASSISTANT SECRETARY	The Assistant Secretary shall perform the duties of the Board Secretary in the absence of same, but shall become Board Secretary only upon majority action of the Board members present.

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

SELECTION	The depository selected under the terms of this policy shall be a bank located in the state of Texas. The depository may be a state bank authorized and regulated under Texas law; a national bank, savings and loan association, or savings bank authorized and regulated by federal law; or a savings and loan association or savings bank organized under Texas law; but shall not be any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation (FDIC). <i>Education Code 45.201(2), 45.203</i>
BID NOTICES	At least 30 days prior to the termination of the current depository contract, the Board shall mail to each bank in the District and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include a uniform bid blank in the form prescribed by State Board rule. <i>Education Code 45.206(a); 19 TAC 109.51</i>
FACTORS TO CONSIDER	All bids received in accordance with these provisions shall be considered by the Board at a regular or special meeting. In determining the best bid, the Board shall consider the interest rate bid on time deposits; the charge for keeping District accounts, records, and reports and furnishing checks; the ability of the bidder to provide the necessary services and perform the duties as school depository, and all other matters the Board considers to be in the best interests of the District. <i>Education Code 45.207(c)</i>
TIE BIDS	If tie bids are received, and each tie bidder has bid to pay the District the maximum interest rates allowed by the Federal Reserve System and the FDIC and, in the Board's judgment, the bids are otherwise equal and two or more of the tie bidders have the facilities and ability to provide the needed services, the Board may: <ol style="list-style-type: none"><li>1. Award the contract to either tie bidder;</li><li>2. Award the contract to each tie bidder or to as many as the Board may select; or</li><li>3. Determine by lot which bidder shall receive the contract.</li></ol> <i>Education Code 45.207(a)</i>
REJECTION OF BIDS	The Board has the right to reject any and all bids. <i>Education Code 45.207(c)</i>
COLLATERAL	In accordance with written Board policy, the District shall determine if an investment security is eligible to secure deposits of public funds covered by the Public Funds Collateral Act.  The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an in-



OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LEGAL)

vestment, and the method by which an investment security used to secure a deposit of public funds is valued.

*Gov't Code 2257.023*

DUTIES

The depository shall:

- |                       |   |
|-----------------------|---|
| TERM OF OFFICE        | 1. Serve for a term of two years and until its successor is duly selected and qualified, except that the District and its depository bank may agree to extend the contract for one additional two-year term. The initial contract term and any extension must coincide with the District's fiscal year. An extension is not subject to the bid notice requirements of Education Code 45.206 [see BID NOTICES above]. <i>Education Code 45.205</i> |
| CONTRACT              | 2. Make and enter into a depository contract(s), bond(s), or other necessary instruments setting forth the duties and agreements pertaining to the depository. The form and content of the documents shall be as prescribed by the State Board. The bid of the depository shall be attached to the contract and incorporated by reference in the contract. <i>Education Code 45.208(a); 19 TAC 109.52</i>   |
| AUTHORIZED COLLATERAL | 3. Secure public funds by eligible securities to the extent and in the manner required by the Public Funds Collateral Act. <i>Gov't Code, Ch. 2257</i>  |
| OTHER DUTIES          | 4. Faithfully perform all legal duties and obligations and make payments from District funds upon order, duly entered, of the Board. <i>Education Code 45.208(c)(1)–(4)</i><br><br>5. Faithfully keep and account for, according to law, all District funds and pay over to the successor depository all balances remaining in District accounts. <i>Education Code 45.208(c)(5), (6)</i>   |

OFFICERS AND OFFICIALS  
DUTIES AND REQUIREMENTS OF DEPOSITORY

BDAE  
(LOCAL)

ALLOWABLE  
COLLATERAL

Eligible securities for collateralization of deposits are those defined as "eligible securities" by the Public Funds Collateral Act.

MONITORING  
COLLATERAL  
ADEQUACY

The District shall require monthly reports with market values of pledged securities from all financial institutions with which the District has collateralized deposits. The investment officers shall monitor adequacy of collateralization levels to verify market values and total collateral positions.

RELEASE OF  
PLEGGED  
SECURITIES

The investment officer or designee shall approve in writing the release or substitution of any securities pledged to the District that are being held by any organization.

OFFICERS AND OFFICIALS  
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF  
(LEGAL)

- APPRAISAL FUNCTION Appraisal of taxable property in the District shall be conducted by the countywide appraisal district(s). *Tax Code 6.01(b)*
- REGISTRATION REQUIREMENTS In accordance with the Property Taxation Professional Certification Act, the following District tax officials shall be registered with the Board of Tax Professional Examiners:
1. Tax assessor-collector.
  2. Tax collector.
  3. Chief administrator, as designated by the Board, of the District's assessment and/or collecting functions.
  4. All persons engaged in appraisals of real or personal property for ad valorem tax purposes.
  5. Other persons, as required by the chief administrator, who perform assessment or collection functions for the District.
- Occupations Code 1151.151*
- SELECTION OF ASSESSOR AND COLLECTOR The Board may, for a tax assessor or collector:
1. Require the county to assess and collect taxes for the District. *Tax Code 6.22(c)*
  2. Contract with another taxing unit or the countywide appraisal district(s) to assess and/or collect. *Tax Code 6.24(a)*
  3. Employ a person to assess or collect taxes. *Education Code 45.231*
- DUTIES
- ASSESSOR The assessor or designated officer or employee shall calculate the effective tax rate and the rollback tax rate and submit these rates to the Board. *Tax Code 26.04(c), (e)*
- The assessor shall:
1. Calculate the tax on each property by applying the adopted rates to the appraised value. *Tax Code 26.09*
  2. Prepare and mail a tax bill, including school-specific requirements found in Tax Code 31.01(d-1), to each person, and authorized agent, in whose name property is listed on the tax roll. *Tax Code 31.01*
  3. Perform other legal duties. *Tax Code 6.23, 26.15*

OFFICERS AND OFFICIALS  
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

BDAF  
(LEGAL)

COLLECTOR

The collector shall:

1. Certify to the Board an estimate of the collection rate for the current year, the amount of debt taxes, if applicable, and other required information. *Tax Code 26.04(b)*
2. At the request of any person, issue a certificate showing the amount of delinquent taxes, penalties, and interest due the District on a property according to the District's current tax records. If the collector collects taxes for more than one taxing unit, the certificate must show the amount of delinquent taxes, penalties, and interest due to each of those taxing units. *Tax Code 31.08(a)*
3. At the request of a property owner, or his or her agent, issue a receipt showing the amount of taxes imposed by the District in the year(s) for which information is requested and the amount of taxes paid. *Tax Code 31.075*
4. Prepare and submit to the Board each month a written report made under oath accounting for all taxes collected for the District during the preceding month. *Tax Code 31.10(a)*
5. Prepare and submit to the Board by the 60th day following the last day of the fiscal year an annual report made under oath accounting for all taxes collected or delinquent on property taxed by the District during the preceding 12-month period. *Tax Code 31.10(b)*
6. At least monthly, deposit in the District's depository(ies) all taxes collected for the District. If taxes are collected by the collector or officer of another taxing unit or the appraisal district, deposits shall be made daily, unless the Board, by official action, provides that deposits may be made less often than daily. *Tax Code 31.10(c), (d)*
7. Refund overpayments or erroneous payments of taxes as provided by law. *Tax Code 31.11*
8. Refund duplicate payments of taxes as provided by law and inform the District's auditor monthly of refunds made during the preceding month. *Tax Code 31.111*
9. Prepare a current and cumulative delinquent tax roll each year. *Tax Code 33.03*
10. At least once each year deliver a delinquent tax notice to each person whose name appears on the delinquent tax rolls, unless the person's address is undetermined or a tax bill was

OFFICERS AND OFFICIALS  
SELECTION AND DUTIES OF CHIEF TAX OFFICIALS

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not mailed because the collector did not send a tax bill for an amount less than \$15. *Tax Code 31.01(f), 33.04*

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

COLLECTOR'S  
BOND

A tax collector who is a District employee shall give bond conditioned on the faithful performance of duties. The bond shall be made payable to and be approved by the Board in an amount determined by the Board.

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

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

*Tax Code 6.29*

LIMIT ON  
CONTRACTING

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

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

*Tax Code 6.036(c), (d)*

The Board may from time to time as it deems necessary create committees to facilitate the efficient operation of the Board.

A committee that includes one or more Board members and has supervision or control over public business or public policy is subject to the Open Meetings Act when it meets to discuss that public business or policy.

A committee that includes less than a quorum of Board members is not subject to the Open Meetings Act if it serves a purely advisory function, with no power to supervise or control public business. However, should the committee actually function as something more than a merely advisory body with the result that it in fact supervises or controls public business or policy, it must comply with the Open Meetings Act to avoid depriving the public of access to the Board's actual decision-making process.

*Education Code 11.061(c)(3); Atty. Gen. Op. Nos. DM-284 (1994), JM-1072 (1989), JM-331 (1985), H-3 (1973); see also Atty. Gen. Op. LO-97-058 (1997). [See BE(LEGAL)]*

BOARD INTERNAL ORGANIZATION  
INTERNAL COMMITTEES

BDB  
(LOCAL)

AD HOC BOARD  
COMMITTEES

The Board may from time to time establish ad hoc committees of the Board for the purpose of bringing policy or other recommendations to the entire Board. The Board president will appoint the chair and members. For all ad hoc committees, the Board must approve a charter outlining the purpose, responsibilities, and start and end dates. The Board may also request staff support from the Superintendent.

SPECIAL  
COMMITTEES

The President may appoint special committees as necessary to fulfill specific assignments. These committees may include District personnel and citizens. The function of committees shall be fact-finding, deliberative, and advisory, but not administrative. Special committees shall report their findings to the Board and shall be dissolved upon completion of the assigned task or vote of the Board.

The President of the Board and the Superintendent shall be ex officio members of all Board committees, unless otherwise provided by Board action.

AUDIT COMMITTEE

The purpose of the audit committee is to assist the Board in the areas of external financial audits and review of the internal audit function. Responsibilities include recommending to the Board for consideration – all after consultations with the Superintendent and the Board Audit Advisory Committee – the audit firm and terms of engagement for the District's annual external audit, acceptance of the external audit, and policies to strengthen the District's financial systems. The audit committee will also make the recommendations to the Board regarding the commissioning of additional external financial or management audits, and the Board's response to all external financial or management audits.

The committee will also review management's internal audit system and summaries of all internal audits, and, at its discretion, selected internal audits. It will make periodic reports to the Board on such matters. Finally, the Board will recommend community members and financial experts for membership on the Board Audit Advisory Committee.

TRANSACTIONING  
BUSINESS

Committees may transact business only within the specific authority granted by the Board. To be binding, all such business must be reported to the Board at the next regular or special meeting for approval and entry into the minutes as a public record.

BOARD INTERNAL ORGANIZATION  
CITIZEN ADVISORY COMMITTEES

BDF  
(LEGAL)

SCHOOL HEALTH  
ADVISORY COUNCIL

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

STATEMENT FOR  
PUBLIC  
INSPECTION

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

1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in physical activity;
2. The number of times during the preceding year the council has met;
3. District policies to ensure compliance with applicable vending machine and food service guidelines for restricting student access to vending machines; and
4. District policies and procedures that prescribe penalties for the use of tobacco products by students and others on school campuses or at school-sponsored or school-related activities.

CHANGES IN  
CURRICULUM

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

*Education Code 28.004*



BOARD MEETINGS

BE  
(LEGAL)

DEFINITIONS

'MEETING'	<p>“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:</p> <ol style="list-style-type: none"><li>1. That is conducted by the Board or for which the Board is responsible;</li><li>2. At which a quorum of members of the Board is present;</li><li>3. That has been called by the Board; and</li><li>4. At which Board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the District, about the public business or public policy over which the Board has supervision or control.</li></ol>
'DELIBERATION'	<p>“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. <i>Gov’t Code 551.001(2)</i></p>
SOCIAL FUNCTION OR CONVENTION	<p>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. <i>Gov’t Code 551.001(4)</i></p>
LEGISLATIVE COMMITTEE OR AGENCY MEETING	<p>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. <i>Gov’t Code 551.0035</i></p>
OPEN TO PUBLIC	<p>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. <i>Gov’t Code 551.002, 551.084, Ch. 551, Subch. D, Subch. E</i> [See BDB and BEC]</p>
PARENTAL ACCESS	<p>A parent, as defined in Education Code 26.002, is entitled to complete access to any meeting of the Board, other than a closed</p>

BOARD MEETINGS

BE  
(LEGAL)

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*

CONTINUED  
MEETING

If the Board recesses an open meeting to the following regular business day, the Board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the Board continues the meeting to another day, the Board body must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

INQUIRY DURING  
MEETING

If a member of the public or of 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)*

BOARD MEETINGS

BE  
(LEGAL)

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(a), 551.051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

If the District is required to post notice of a meeting on the Internet, the District satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The District must still comply with the duty to physically post the notice in the central administration office and if the District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

*Gov't Code 551.043(b)*

INTERNET POSTING

If the District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also, concurrently with the notice, post on the District's Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a district that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the District.

*Gov't Code 551.056*

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

BOARD MEETINGS

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*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*

CATASTROPHE

A board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the Board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

*Gov't Code 5541.0411(b), (c)*

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

BOARD MEETINGS

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(LEGAL)

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

If the District does not extend 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 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.

BOARD MEETINGS

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(LEGAL)

NOTICE OF LOCATIONS	<p>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 the 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.</p> <p>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.</p>
RECORDING	<p>The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.</p>
QUALITY OF AUDIO AND VIDEO SIGNALS	<p>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.</p> <p>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.</p> <p>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:</p> <ol style="list-style-type: none"><li data-bbox="435 1509 1299 1607">1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and</li><li data-bbox="435 1633 1279 1771">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.</li></ol>
REMOTE PARTICIPATION	<p>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 the meeting from a remote location.</p>

*Gov't Code 551.127; 1 TAC 209.10-12*

BOARD MEETINGS

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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*

BOARD MEETINGS

BE  
(LOCAL)

MEETING PLACE	Unless otherwise provided in the notice for a meeting, Board meetings shall be held in the Board Room, at 141 Lavaca, San Antonio.
MEETING TIME	<p>Regular meetings of the Board shall be held on the third Monday of each month at 5:30 p.m. When determined necessary and for the convenience of Trustees, the Board President may change the date or time of a regular meeting. The notice for that meeting shall reflect the changed date or time.</p> <p>Emergency meetings may be called by the President in consultation with the Superintendent subject to appropriate emergency meeting criteria and the posting requirements established by state law.</p> <p>The Board shall meet in a Board Agenda Review Session during the week prior to the regularly scheduled Board meeting.</p> <p>Additionally, Board Work Sessions may be scheduled as needed. The agenda shall be established in advance by the Superintendent in consultation with members of the Board.</p>
MEETING PREPARATION	<p>The Superintendent shall develop procedures for the preparation of Board agendas and notify Board members of the meetings. The Board's agendas shall normally be prepared under the direction of the Superintendent, in consultation with the President of the Board.</p> <p>One or more Board members may request that an item be placed on the agenda for any Board meeting, if proper and timely notice to the public can be reasonably accomplished by the Superintendent or designee.</p> <p>In the event that a Board agenda item must be removed from the agenda, the Board President and the Board member who initiated the request shall be consulted prior to the removal.</p> <p>The agenda shall identify a subset of items labeled the "Consent Agenda," which shall include items selected by the President of the Board to be voted upon without discussion. Any item may be removed from the Consent Agenda at the request of any Board member.</p>
ORDER OF BUSINESS	The order of business for regular business meetings shall normally be established on the agenda, but may be changed by consent of a majority of the Board members present. The Presiding Officer may also change the order of business for economy of operation or other reasonable need, unless a majority of Board members present requires otherwise.
RULES OF ORDER	The Board shall observe, where practicable, the parliamentary procedures as found in <i>Robert's Rules of Order, Newly Revised</i> , ex-



BOARD MEETINGS

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(LOCAL)

cept, however, as otherwise provided by law or Board policy, rule, or procedure. The Board may suspend at any Board meeting, by majority vote of the Board members present, any Board policy, rule, or procedure that would normally be followed in the course of the meeting.

DISCUSSIONS AND  
LIMITATIONS

Discussions shall be addressed to the presiding officer, and then to the entire membership, and shall be directed solely to the business currently under deliberation. The Presiding Officer shall halt discussion that does not apply to the business before the Board. The presiding officer shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Presiding Officer shall not interfere with debate, so long as a Board member wishes to address him/herself to an item under consideration, unless the Board otherwise votes to end debate.

VOTING AND MINUTES

Voting shall be accomplished by voice vote or a show of hands, as required by the presiding officer. Board action shall be carefully recorded by the Board Clerk.

When approved, the minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the President and the Secretary of the Board.

AGENDA REVIEW

- A committee of the whole of the Board shall meet in a Board Agenda Review Session, posted only for discussion, during the week before the regularly scheduled business meeting for the purpose of reviewing the agenda.
- The purpose of the Agenda Review Session is not for decision making. This meeting provides an opportunity for Board members to be fully informed about agenda items prior to the business meeting, ready to debate the issues and vote.
- The Superintendent or designee will present the proposed priority agenda items and proposed consent agenda. He or she will be fully prepared to answer questions.
- Any additional information requested by any Board member will be provided to all Board members as soon as possible prior to the regularly scheduled Board meeting.
- Any revisions to agenda items between the Agenda Review Session and the regular business meeting will be delivered to Board members no later than 24 hours before the business meeting.

BOARD MEETINGS

BE  
(LOCAL)

- The Superintendent may remove agenda items requiring additional information at any time for consideration at a time when such information has been provided.

WORK SESSIONS

Additionally, Board Work Sessions may be scheduled as needed, with an agenda established in advance by the Superintendent in consultation with members of the Board.

By no later than December 31 of every year, the Board shall convene a strategic planning retreat to prepare for the budget formulation and any other topics as deemed necessary.

PRESS  
CONFERENCES

Conferences with the news media for the purpose of conveying official District information to the public are not meetings subject to any of the notice and posting requirements of the Open Meetings Act, so long as no deliberation concerning public business takes place by members of the Board. Such conferences shall normally be coordinated through the Superintendent's office, after notification to each Board member. Press conferences on behalf of the Board shall not be conducted for the purpose of conveying information about a matter for which no official action by the Board has taken place.

BOARD MEETINGS  
CLOSED MEETINGS

BEC  
(LEGAL)

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*

BOARD MEETINGS  
CLOSED MEETINGS

BEC  
(LEGAL)

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. A 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 presiding officer 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. *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 presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer 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 presiding officer 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)*

BOARD MEETINGS  
CLOSED MEETINGS

BEC  
(LEGAL)

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. <i>Gov't Code 551.104(b), (c)</i>
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. <i>Gov't Code 551.145</i>  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. <i>Gov't Code 551.146</i>  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. <i>Gov't Code 551.144(a)</i>
AFFIRMATIVE DEFENSE	It is an affirmative defense to prosecution under Subsection 551.144(a) that a 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. <i>Gov't Code 551.144(c)</i>

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)*

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**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

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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

Public participation at a Board meeting shall be permitted at business meetings, town hall meetings, work sessions, and public hearings. During these meetings comments from the public shall be heard. Persons who wish to speak on any subject, including agenda items, shall place their names on a form (sign-in sheet) provided by the District for such purpose, as established by the presiding officer or designee before the meeting begins and shall indicate the topic about which they wish to speak. No presentation shall exceed three minutes and persons may not relinquish time to another speaker.

PUBLIC COMMENT

Persons wishing to address the Board shall place their names on a form (sign-in sheet) provided by the District for such purpose prior to the meeting at which the persons wish to speak or make comments. All public comments shall immediately follow public recognition on the agenda. Students shall be heard first and all others in the order they appear on the sign-in sheet.

The overall time limit for public comments at business meetings shall be 60 minutes, and at work sessions 30 minutes.

Each person addressing the Board at a regular meeting or a work session is limited to no more than three minutes. Additionally, if the number of persons signed up to speak exceeds 20 for the business meeting or ten for the work session, the presiding officer may, notwithstanding Board policies, redistribute the total time allotted among the speakers to ensure that the public comments do not exceed the time limits.

Depending on the number of citizens wishing to speak to the Board, the presiding officer may require delegations of citizens who wish to so speak about the same subject matter to appoint one or more persons to present their views before the Board. In such event, the presiding officer shall determine the number of presenters.

At all other times during Board meetings, the audience shall not enter into discussion or debate on matters being considered by the Board, unless recognized by the presiding officer.

In the event the time allotted to address the Board is insufficient for a speaker, all speakers who address the Board are encouraged to provide their comments in writing and, if possible, to provide ten copies of their written comments.

DISRUPTION

The Board shall not tolerate disruption by members of the audience during public comment or any time during the meeting. If, after receiving a warning from the presiding officer, any person continues to disrupt the meeting by his or her words or actions, the

BOARD MEETINGS  
PUBLIC PARTICIPATION

BED  
(LOCAL)

presiding officer may request assistance from law enforcement officials to have the person removed from the meeting.

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

SIGNS

Signs or placards brought to a Board meeting shall not block the view of those attending the meeting and shall only be allowed behind the last row of seats and/or against the side walls of the meeting room.

BOARD POLICIES

BF  
(LEGAL)

WAIVERS	Except as indicated below, the District or a campus may apply to the commissioner of education for a waiver of a requirement or prohibition imposed by law or rule of the State Board or commissioner. An application for a waiver must include a written plan approved by the Board that states the achievement objectives of the campus or District and the inhibition imposed on those objectives by the requirement or prohibition and contain written comments from the campus-level or District-level committee. <i>Education Code 7.056(a)(b)</i>
SUBMISSION AND APPROVAL	The application shall be submitted to the commissioner not later than the 31st day before the campus or District intends to take action. If the commissioner does not notify the campus or District of an objection within 30 days after receiving the application, the waiver is granted. <i>Education Code 7.056(b)(c)</i>
DURATION	A waiver is effective for the period stated in the application, which cannot exceed three years. <i>Education Code 7.056(d)</i>
RESTRICTIONS	<p>A campus or the District may not receive an exemption or waiver from requirements imposed by federal law or rule, including requirements for special education or bilingual education programs, or from a requirement or prohibition imposed by state law or rule relating to:</p> <ol style="list-style-type: none"><li>1. A prohibition on conduct that constitutes a criminal offense.</li><li>2. Essential knowledge or skills or minimum graduation requirements.</li><li>3. Public school accountability.</li><li>4. Extracurricular activities.</li><li>5. Health and safety.</li><li>6. Purchasing.</li><li>7. Elementary school class size limits, except as provided by Education Code 25.112.</li><li>8. Removal of a disruptive student from the classroom.</li><li>9. At-risk programs.</li><li>10. Prekindergarten programs.</li><li>11. Educator rights and benefits.</li><li>12. Special education programs.</li><li>13. Bilingual education programs.</li></ol>

14. First day of instruction requirements under Education Code 25.0811.

*Education Code 7.056(e)*

BOARD POLICIES

BF  
(LOCAL)

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

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

HARMONY WITH LAW	No policy or regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable law.
SEVERABILITY	If any portion of a policy or its application to any person or circumstance is found to be invalid, that invalidity shall not affect other provisions or applications of policy that can be given effect without the invalid provision or application; and to this end the provisions of this policy manual are declared to be severable.
POLICY DEVELOPMENT	<p>Policies and policy amendments may be initiated by the Superintendent, Board members, school personnel, or community citizens.</p> <p>Policies or policy changes proposed by the Board, school personnel, or the general public shall be submitted to the Superintendent for his or her consideration and recommendation.</p>
OFFICIAL POLICY MANUAL	The Board shall designate one copy of the local policy manual as the official policy manual of the District. The official copy shall be kept in the Superintendent's office, and the Superintendent or designee shall be responsible for its accuracy and integrity and shall maintain an historical record of the District's policy manual.
ADOPTION AND AMENDMENT	<p>Proposed local policies or amendments introduced and recommended to the Board at one meeting shall not be adopted until a subsequent meeting. Emergency adoption, however, may occur in one meeting if special circumstances demand an immediate response.</p> <p>Local policies become effective upon Board adoption or at a future date designated by the Board at the time of adoption.</p>
TASB LOCALIZED UPDATES	After Board review of legally referenced policies and adoption of local policies, the new material shall be incorporated into the official policy manual and into other localized policy manuals maintained by the District. If discrepancies occur between different copies of the manual distributed throughout the District, the version contained in the official policy manual shall be regarded as authoritative.

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)*

SUPERINTENDENT  
QUALIFICATIONS AND DUTIES

BJA  
(LOCAL)

QUALIFICATIONS	<p>The Superintendent shall have at least:</p> <ol style="list-style-type: none"><li>1. A master's degree in educational administration from an accredited college or university.</li><li>2. Prior experience in school administration. [See BJA(LEGAL)]</li><li>3. Other qualifications deemed necessary by the Board.</li></ol>
JOB GOAL	<p>The Superintendent shall be the chief executive employee of the District and shall be responsible for the effective execution of policies adopted by the Board. The Superintendent shall manage the administration of all District operations and shall assign personnel responsibilities.</p>
DUTIES	<p>In addition to responsibilities specifically provided by law or in the Superintendent's contract, the Superintendent shall:</p>
EDUCATIONAL LEADERSHIP	<ol style="list-style-type: none"><li>1. Provide leadership and direction for the development of an educational system that is based on the needs of students, on standards of excellence and equity, and on community goals. Toward that end, the Superintendent shall:<ol style="list-style-type: none"><li>a. Establish effective mechanisms for communication to and from staff in instructional evaluation, planning, and decision making.</li><li>b. Oversee annual planning for instructional improvement and monitor for effectiveness.</li><li>c. Ensure that goals and objectives form the basis of curricular decision making and instruction and communicate expectations for high achievement.</li><li>d. Ensure that appropriate data are used in developing recommendations and making decisions regarding the instructional program and resources.</li><li>e. Oversee a system for regular evaluation of instructional programs, including identifying areas for improvement, to attain desired student achievement.</li><li>f. Oversee student services, including health and safety services, counseling services, and extracurricular programs, and monitor for effectiveness.</li><li>g. Oversee a discipline management program and monitor for equity and effectiveness.</li><li>h. Encourage, oversee, and participate in activities for recognition of student efforts and accomplishments.</li></ol></li></ol>
INSTRUCTIONAL MANAGEMENT	
STUDENT SERVICES MANAGEMENT	

SUPERINTENDENT  
QUALIFICATIONS AND DUTIES

BJA  
(LOCAL)

- |   |  |
|---|--|
| STAFF<br>DEVELOPMENT<br>AND<br>PROFESSIONAL<br>GROWTH | i.   Oversee a program of staff development and monitor staff development for effectiveness in improving district performance.<br><br>j.   Stay abreast of developments in educational leadership and administration.  |
| DISTRICT<br>MANAGEMENT                                | 2.   Demonstrate effective planning and management of District administration, finances, operations, and personnel. To accomplish this, the Superintendent shall:  |
| FACILITIES AND<br>OPERATIONS<br>MANAGEMENT            | a.   Implement and oversee a planning process that results in goals, targets, or priorities for all major areas of District operations, including facilities maintenance and operations, transportation, and food services.<br><br>b.   Monitor effectiveness of District operations against appropriate benchmarks.<br><br>c.   Oversee procedures to ensure effective and timely compliance with all legal obligations, reporting requirements, and policies.<br><br>d.   Ensure that key planning activities within the District are coordinated and are consistent with Board policy and applicable law and that goals and results are communicated to staff, students, and the public as appropriate. |
| FISCAL<br>MANAGEMENT                                  | e.   Oversee a budget development process that results in recommendations based on District priorities, available resources, and anticipated changes to district finances.<br><br>f.   Oversee budget implementation to ensure appropriate expenditure of budgeted funds, to provide for clear and timely budget reports, and to monitor for effectiveness of the process.<br><br>g.   Ensure that District investment strategies, risk management activities, and purchasing practices are sound, cost-effective, and consistent with District policy and law.<br><br>h.   Maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the District.                |
| HUMAN<br>RESOURCES<br>MANAGEMENT                      | i.   Ensure that the system for recruiting and selection results in personnel recommendations based on defined needs, goals, and priorities.<br><br>j.   Organize District staff in a manner consistent with District priorities and resources and monitor administrative organization at all levels for effectiveness and efficiency.   |



SUPERINTENDENT  
QUALIFICATIONS AND DUTIES

BJA  
(LOCAL)

- k. Oversee a performance appraisal process for all staff that reinforces a standard of excellence and assesses deficiencies; ensure that results are used in planning for improvement.
- l. Administer a compensation and benefits plan for employees based on clearly defined goals and priorities.
- m. Encourage, oversee, and participate in staff recognition and support activities.
- n. Oversee a program for staff retention and monitor for effectiveness.

BOARD AND  
COMMUNITY  
RELATIONS

- 3. Maintain positive and professional working relationships with the Board and the community. The responsibilities in this regard shall encompass the following:

BOARD

- a. Keep the Board informed of significant issues as they arise, using agreed upon criteria and procedures for information dissemination.
- b. Respond in a timely and complete manner to Board requests for information that are consistent with Board policy and established procedures.
- c. Provide recommendations and appropriate supporting materials to the Board on matters for Board decision.
- d. Articulate and support Board policy and decisions to staff and community.

COMMUNITY

- e. Direct a proactive program of internal and external communication at all levels designed to improve staff and community understanding and support of the District.
- f. Establish mechanisms for community and business involvement in the schools and encourage participation.
- g. Work with other governmental entities and community organizations to meet the needs of students and the community in a coordinated way.

DELEGATION

To the extent permitted by law, the Superintendent may delegate responsibilities to other employees of the District but shall remain accountable to the Board for the performance of all duties, delegated or otherwise.

SUPERINTENDENT  
RECRUITMENT AND APPOINTMENT

BJB  
(LEGAL)

NAMES OF  
APPLICANTS

The name of an applicant for Superintendent is excepted from disclosure under Chapter 552, Government Code.

EXCEPTION

The Board must give public notice of the name or names of the finalists being considered for Superintendent at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

*Gov't Code 552.126*

San Antonio ISD  
015907

SUPERINTENDENT  
CONTRACT

BJC  
(LEGAL)

TERM OF CONTRACT      The Board may employ by contract a Superintendent for a term not to exceed five years. *Education Code 11.201(b)*

PROPERTY INTEREST      A contract of employment with the District creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sindermann, 408 U.S. 593, 92 S.Ct. 2694 (1972); Board of Regents of State Colleges v. Roth, 408 U.S. 564, 92 S.Ct. 2701 (1972)*

SUPERINTENDENT  
EVALUATION

BJCD  
(LEGAL)

PENALTY FOR  
NONCOMPLIANCE

Funds of the District may not be used to pay a Superintendent who has not been appraised in the preceding 15 months. *Education Code 21.354(d)*

APPRAISAL PROCESS

The Board shall appraise the Superintendent annually using either:

1. The commissioner's recommended appraisal process and criteria [see BJCD(EXHIBIT)]; or
2. An appraisal process and performance criteria that are:
  - a. Developed by the District in consultation with the District- and campus-level committees; and
  - b. Adopted by the Board.

*Education Code 21.354(c)*

ANNUAL  
PERFORMANCE  
REPORT

The information in the annual report describing the educational performance of the District [see BQ series] shall be a primary consideration of the Board in evaluating the Superintendent. *Education Code 39.054(3)(C)*

SUPERINTENDENT  
EVALUATION

BJCD  
(LOCAL)

EVALUATION  
INSTRUMENT

The instrument used to evaluate the Superintendent shall be based on the Superintendent's job description [see BJA(LOCAL)] and performance goals and shall be adopted by the Board.

WRITTEN  
EVALUATION

The Board shall prepare a written evaluation of the Superintendent at annual or more frequent intervals.

The Board shall furnish the Superintendent with a copy of the completed evaluation and shall discuss its conclusions with the Superintendent in closed meeting.

OBJECTIVES

The Board shall strive to accomplish the following objectives in conducting the Superintendent's written evaluation:

1. Clarify to the Superintendent his or her role, as seen by the Board.
2. Clarify to Board members the Superintendent's role, according to the Board's written criteria, as expressed in the Superintendent's job description and the District's goals and objectives.
3. Foster an early understanding among new Board members of the evaluation process and the Superintendent's current performance objectives and priorities.
4. Develop and sustain a harmonious working relationship between the Board and the Superintendent.
5. Ensure administrative leadership for excellence in the District.

INFORMAL  
EVALUATION

The Board may at any time conduct and communicate oral evaluations to augment its written evaluations.

PROCEDURES FOR APPRAISAL OF SUPERINTENDENT  
RECOMMENDED BY THE COMMISSIONER

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**Note:** The following procedures, which are recommended but not required by the commissioner, may be used in whole or in part for the Superintendent's evaluation.

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The Board shall establish an annual calendar providing for the following activities, in which both the Board and the Superintendent shall participate:

1. Procedures for setting goals that define expectations and set priorities for the Superintendent.
2. Formative conference.
3. Summative conference.

The Superintendent shall be involved in developing, selecting, or revising the appraisal instrument and process.

*19 TAC 150.1022*

Student performance shall be a part of locally developed appraisal instruments for Superintendents as specified in Education Code 39.054. *19 TAC 150.1022(e)*

A student performance domain shall be included in the appraisal of the Superintendent as follows: "The Superintendent promotes improvement of the performance of students in the District through activities such as comparing disaggregated student performance results to state accountability standards and to prior year performance."

The domains and descriptors used to evaluate the Superintendent may also include:

1. Instructional management.
2. School or organization morale.
3. School or organization improvement.
4. Personnel management.
5. Management of administrative, fiscal, and facilities functions.
6. Student management.
7. School or community relations.
8. Professional growth and development.
9. Academic excellence indicators and campus performance objectives.
10. Board relations.

SUPERINTENDENT  
EVALUATION

BJCD  
(EXHIBIT)

In developing the appraisal instrument, the Board shall use the Superintendent's job description as applicable.

*19 TAC 150.1021*

The Board may implement a process for collecting staff input for evaluating the Superintendent. If such a process is implemented for use in the Superintendent's evaluation, staff input shall not be anonymous.

Before conducting the Superintendent's appraisal, Board members shall have evidence of training in appropriate personnel evaluation skills related to the locally established criteria and process.

The District, with the approval of the Board, may select the commissioner-recommended student performance domain for Superintendents or may develop an alternative process in consultation with the District- and campus-level committees and adopted by the Board. If the District uses the commissioner-recommended student performance domain, it shall meet the following requirements:

1. The Superintendent shall be required to attend an orientation approved by the commissioner;
2. The results on the commissioner-recommended student performance domain shall be incorporated into the local appraisal instrument;
3. The results on the commissioner-recommended student performance domain shall be a primary consideration of the Board in evaluating the Superintendent;
4. For a Superintendent new to the District, the results from the commissioner-recommended student performance domain shall be on a "report only" basis during the first year. Dropout and attendance data for the Superintendent shall be on a "report only" basis for the first two years.

*19 TAC 150.1022*

SUPERINTENDENT  
DISMISSAL

BJCE  
(LEGAL)

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)*

GROUND 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.



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SUPERINTENDENT  
DISMISSAL

BJCE  
(LEGAL)

*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)

SUPERINTENDENT  
NONRENEWAL

BJCF  
(LEGAL)

The Board may choose not to renew the Superintendent's term contract at the end of the contract period. *Education Code 21.212(a)*

REASONS

The Board shall establish by policy reasons for nonrenewal of the Superintendent's contract. *Education Code 21.212(d)*

NOTICE

If a majority of the Board determines that the Superintendent's contract should be considered for nonrenewal, it must give the Superintendent written notice of the proposed nonrenewal not later than the 30th day before the last day of the contract term. The notice of proposed nonrenewal shall contain reasonable notice of the reason for the proposed nonrenewal. *Education Code 21.212(a)*

If the Board fails to give notice of proposed nonrenewal as described above, it shall employ the Superintendent in the same professional capacity for the following school year. *Education Code 21.212(b)*

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. The Board shall provide for a hearing to be held not later than the 15th day after receiving written notice from the Superintendent requesting a hearing, unless the parties agree to a different date. The hearing shall be closed, unless an open hearing is requested by the Superintendent, and shall be conducted in accordance with rules promulgated by the Board or by the process described at DFD(LEGAL), if the Board has decided to use hearing examiners for nonrenewal hearings. At the hearing, the Superintendent may:

1. Be represented by a representative of the Superintendent's choice;
2. Hear the evidence supporting the reasons;
3. Cross-examine adverse witnesses; and
4. Present evidence.

*Education Code 21.207*

BOARD DECISION  
HEARING

To evaluate the evidence put before it, the Board shall use the preponderance of the evidence standard of review. *Whitaker v. Marshall ISD, Comm. Ed. Dec. No. 112-R1-598 (1998)*

If the Superintendent requests a hearing, following the hearing the Board shall take the appropriate action to renew or nonrenew the contract and shall notify the Superintendent in writing of that action not later than the 15th day following the conclusion of the hearing. *Education Code 21.208(b)*

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SUPERINTENDENT  
NONRENEWAL

BJCF  
(LEGAL)

NO HEARING

If the Superintendent fails to request a hearing, the Board shall take the appropriate action and shall notify the Superintendent in writing of that action not later than the 30th day after the date the Board sends the notice of proposed nonrenewal. *Education Code 21.212(c)*

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 non-renewal 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.

SUPERINTENDENT  
NONRENEWAL

BJCF  
(LOCAL)

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 recommenda-

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SUPERINTENDENT  
NONRENEWAL

BJCF  
(LOCAL)

tion 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.

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SUPERINTENDENT  
NONRENEWAL

BJCF  
(EXHIBIT)

NOTICE OF PROPOSED CONTRACT NONRENEWAL

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Dear \_\_\_\_\_:

YOU ARE HEREBY NOTIFIED that a majority of the Board of Trustees of \_\_\_\_\_ ISD has determined at a lawfully called meeting of the Board of Trustees on (date) \_\_\_\_\_, that your employment contract as Superintendent in the District should not be renewed for the succeeding school year, and the Board voted to propose nonrenewal.

This notice is given pursuant to the provisions of Section 21.212 of the Texas Education Code.

The recommendation not to renew your contract is being made for the following reasons:

[List all reasons in detail]

If you desire a hearing, not later than the 15th day after receiving this written notice, you must notify the Board of Trustees in writing of that request. The Board shall provide a hearing to be held not later than the 15th day after receiving your notice requesting a hearing. Such hearing shall be closed unless you request an open hearing. If you fail to make a timely request for a hearing, the Board may proceed and make a determination on its proposed action not later than the 30th day after the date the Board sends you notice of the proposed nonrenewal.

If you have any questions concerning any of the reasons supporting the proposed action to nonrenew your contract, please advise me in writing.

Attached to this notice is a copy of the District's policy on nonrenewal of the Superintendent's term contract, containing the rules for the hearing.

This notice dated at (City/State/Zip): \_\_\_\_\_,

Date: \_\_\_\_\_ BY: \_\_\_\_\_

President, Board of Trustees

\_\_\_\_\_ ISD



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)*



ADMINISTRATIVE ORGANIZATION  
LINE AND STAFF RELATIONS

BKB  
(LOCAL)

COMMUNICATION  
BETWEEN STAFF  
MEMBERS

The Board desires the Superintendent to establish a clear understanding on the part of all personnel of the working relationship and the line of administrative authority.

The District shall operate on a "line and staff" basis with regard to routine communications between employees, their supervisors, and the Superintendent. This shall not, however, prevent an individual from going directly to the Superintendent or any other executive on matters of personal concern other than official grievance, complaints, and appeals for which there is an established procedure.

To establish these channels of communication and lines of authority the Superintendent shall prepare, or cause to be prepared, a set of job manuals setting forth the job descriptions, the qualifications, performance responsibilities and reporting line of authority.

These descriptions shall be reviewed annually by the Superintendent and Board. Changes shall be made as required to accommodate changes in job assignment.

The job manuals shall reflect the District's organizational chart as presented by the Superintendent to the Board.

The job manuals when approved shall be the operating line of authority in the District.

ADMINISTRATIVE REGULATIONS

BP  
(LEGAL)

DISTRICT  
MANAGEMENT

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 (in part) [see also BJA(LEGAL)]:

1. Managing the day-to-day operations of the District as its administrative manager.
2. Preparing recommendations for policies to be adopted by the Board and overseeing the implementation of adopted policies.
3. Developing or causing to be developed appropriate administrative regulations to implement policies established by the Board.

*Education Code 11.201(d)*

ADMINISTRATIVE REGULATIONS

BP  
(LOCAL)

DEVELOPMENT

The Superintendent and administrative staff shall be responsible for developing and enforcing procedures for the operation of the District. Procedures must be consistent with Board policy and law and shall be designed to promote the achievement of District goals and objectives.

These procedures shall constitute the administrative regulations of the District and shall consist of guides, handbooks, and forms, as well as other documents defining standard operating procedure and designated "Regulations." In addition, documents titled Administrative Procedures shall be developed and disseminated to further clarify Districtwide operating procedures.

All administrative regulations shall be under the direction of the Superintendent; variations from defined procedures shall be with the prior approval of the Superintendent or designee. Administrative regulations shall not be adopted by the Board. In case of conflict between the administrative regulations and policy, policy shall prevail.

REVISION

Administrative regulations may be amended at any time by the Superintendent or designated staff, with the prior approval of the Superintendent.

OFFICIAL COPY

The official copy of all documents constituting administrative regulations shall be kept in the Superintendent's office, and the Superintendent or designee shall be responsible for their accuracy. If discrepancies occur among different copies of administrative regulations distributed throughout the District, the official copy shall be regarded as authoritative.

AVAILABILITY

All administrative regulations, including Administrative Procedures, manuals, guides, handbooks, and forms, shall be kept up-to-date and shall be made accessible to staff and the public as required by the Public Information Chapter of the Government Code. [See GBA]

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

REQUIRED PLANS

The Board shall ensure that a District improvement plan and improvement plans for each campus are developed, reviewed, and revised annually for the purpose of improving the performance of all students. The Board shall annually approve District and campus performance objectives and shall ensure that the District and campus plans:

1. Are mutually supportive to accomplish the identified objectives; and
2. At a minimum, support the state goals and objectives under Education Code Chapter 4.

*Education Code 11.251(a)*

DISTRICT  
IMPROVEMENT  
PLAN

The District shall have a District improvement plan that is developed, evaluated, and revised annually, in accordance with District policy, by the Superintendent with the assistance of the District-level committee. The purpose of the District improvement plan is to guide District and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the academic excellence indicators. [See GND]

The District improvement plan must include provisions for:

1. A comprehensive needs assessment addressing District student performance on the academic excellence indicators, and other appropriate measures of performance, that are disaggregated by all student groups served by the District, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable District performance objectives for all appropriate academic excellence indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
3. Strategies for improvement of student performance that include:
  - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
  - b. Methods for addressing the needs of students for special programs, such as suicide prevention, conflict resolution, violence prevention, or dyslexia treatment programs.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

- c. Dropout reduction.
  - d. Integration of technology in instructional and administrative programs.
  - e. Discipline management.
  - f. Staff development for professional staff of the District.
  - g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.
  - h. Accelerated education.
4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and counselors, and those students' parents information about:
    - a. Higher education admissions and financial aid opportunities.
    - b. The TEXAS grant program and the Teach for Texas grant program.
    - c. The need for students to make informed curriculum choices to be prepared for success beyond high school.
    - d. Sources of information on higher education admissions and financial aid.
  5. Resources needed to implement identified strategies.
  6. Staff responsible for ensuring the accomplishment of each strategy.
  7. Time lines for ongoing monitoring of the implementation of each improvement strategy.
  8. Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

*Education Code 11.252(a)*

9. A discipline management program providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in schools, on school grounds, and in school vehicles. *Education Code 37.083(a)* [See FNC]

The District's plan for the improvement of student performance is not filed with TEA, but the District must make the plan available to TEA on request.

*Education Code 11.252(b)*

CAMPUS-LEVEL  
PLAN

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the academic excellence indicators and any other appropriate performance measures for special needs populations.

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the academic excellence indicator system.
2. Set the campus performance objectives based on the academic excellence indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Provide for a program to encourage parental involvement at the campus.
9. Include goals and methods for violence prevention and intervention on campus.

*Education Code 11.253(c), (d)*

EVALUATION

At least every two years, the District shall evaluate the effectiveness of the District's decision-making and planning policies, procedures, and staff development activities related to District- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance.

*Education Code 11.252(d)*



PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

PLANNING AND  
DECISION-MAKING  
PROCESS

The Board shall adopt a policy to establish a District- and campus-level planning and decision-making process that will involve the professional staff of the District, parents of students enrolled in the District, business representatives, and community members in establishing and reviewing the District's and campuses' educational plans, goals, performance objectives, and major classroom instructional programs. *Education Code 11.251(b)*

ADMINISTRATIVE  
PROCEDURE

The Board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the Superintendent, central office staff, principals, teachers, District-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. The Board shall also ensure that the District-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the District and campus levels. *Education Code 11.251(d)*

REQUIREMENTS

The District policy must provide that all pertinent federal planning requirements are addressed through the District- and campus-level planning process. *Education Code 11.251(f)*

The planning and decision-making requirements do not:

1. Prohibit the Board from conducting meetings with teachers or groups of teachers other than the District-level committee meetings.
2. Prohibit the Board from establishing policies providing avenues for input from others, including students or paraprofessional staff, in District- or campus-level planning and decision making.
3. Limit or affect the power of the Board to govern the public schools.
4. Create a new cause of action or require collective bargaining.

*Education Code 11.251(g)*

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LOCAL)

DISTRICT MISSION,  
GOALS, AND  
OBJECTIVES AND  
CAMPUS OBJECTIVES

The Board shall approve and periodically review the District's mission and goals to improve student performance. The mission, goals, and the approved District and campus objectives shall be mutually supportive and shall support the state goals and objectives under Education Code, Chapter 4. [See AF(EXHIBIT)]

DISTRICT  
IMPROVEMENT  
PLANNING PROCESS

The District's planning process to improve student performance includes the development of the District's educational goals, the legal requirements for the District and campus improvement plans, all pertinent federal planning requirements, and administrative procedures. The Board shall approve the process under which the educational goals are developed and shall ensure that input is gathered from the District-level committee.

PARENTAL  
INVOLVEMENT  
PLAN

The Board shall ensure that the District and campus improvement plans, as applicable, address all elements required by federal law for receipt of Title I, Part A funds, including elements pertaining to parental involvement. The District-level and campus-level committees shall involve parents in the development of such plans and in the process for campus review and improvement of student academic achievement and campus performance. [See EHBD]

ADMINISTRATIVE  
PROCEDURES AND  
REPORTS

The Board shall ensure that administrative procedures meet legal requirements in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization; adequately reflect the District's planning process; and include implementation guidelines, time frames, and necessary resources. The Superintendent shall report periodically to the Board on the status of the planning process, including a review of the related administrative procedures, any revisions to improve the process, and progress on implementation of identified strategies.

EVALUATION

The Board shall ensure that data are gathered and criteria are developed to undertake the required biennial evaluation to ensure that policies, procedures, and staff development activities related to planning and decision-making are effectively structured to positively impact student performance.

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

PROCESS

The Board shall establish a procedure under which meetings are held regularly by the District-level planning and decision-making committee that includes representative professional staff, parents of students enrolled in the District, business representatives, and community members. The committee shall include a business representative, without regard to whether the representative resides in the District or whether the business the person represents is located in the District. The Board, or the Board's designee, shall periodically meet with the District-level committee to review the District-level committee's deliberations. *Education Code 11.251(b)*

COMMITTEE

The Board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff in the District to nominate and elect the professional staff representatives who shall serve on the District-level committee. At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and District-level professional staff members.

Board policy must provide procedures for:

1. The selection of parents to the District-level committee.
2. The selection of community members and business representatives to serve on the District-level committee in a manner that provides for appropriate representation of the community's diversity.

*Education Code 11.251(e)*

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**Note:** See BF for information on the committee's role in requesting waivers.

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DEFINITIONS

For purposes of establishing the composition of committees:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of the District is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.
4. Community members must reside in the District and must be at least 18 years of age.

*Education Code 11.251(c)*

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

CONSULTATION

A Superintendent shall regularly consult the District-level committee in the planning, operation, supervision, and evaluation of the District educational program. *Education Code 11.252(f)*

DISTRICT  
IMPROVEMENT PLAN

The District shall have a District improvement plan that is developed, evaluated, and revised annually, in accordance with District policy, by the Superintendent with the assistance of the District-level committee. The purpose of the District improvement plan is to guide District and campus staff in the improvement of student performance for all student groups in order to attain state standards in respect to the academic excellence indicators. *Education Code 11.252(a)* [See BQ]

DROPOUT  
PREVENTION REVIEW

The District-level planning and decision-making committee shall analyze information related to dropout prevention, including:

1. The results of the audit of dropout records required by Education Code 39.055;
2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;
3. The number of students who enter a high school equivalency certificate program and:
  - a. Do not complete the program,
  - b. Complete the program but do not take the high school equivalency examination, or
  - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
5. The results of an evaluation of each school-based dropout prevention program in the District.

The District-level planning and decision-making committee shall use the information reviewed under this policy in developing District improvement plans.

*Education Code Section. 11.255*

PUBLIC MEETINGS

The District-level committee established under Education Code 11.251 shall hold at least one public meeting per year. The re-

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LEGAL)

quired meeting shall be held after receipt of the annual District performance report from the agency for the purpose of discussing the performance of the District and the District performance objectives. District policy and procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input and to provide information to those persons regarding the recommendations of the District-level committee. This does not create a new cause of action or require collective bargaining. *Education Code 11.252(e)*

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LOCAL)

DISTRICT-LEVEL  
COMMITTEE (DLT)

In compliance with Education Code 11.251, the District-level committee (District leadership team [DLT]) shall advise the Board or its designee in establishing and reviewing the District's educational goals, objectives, and major Districtwide instructional programs identified by the Board or its designee. The DLT shall serve exclusively in an advisory role except that it shall approve staff development of a Districtwide nature.

AREA LEADERSHIP  
TEAM (ALT)

The District shall establish three area leadership teams (ALTs) of campus-based staff to support the DLT in reviewing the District's goals, objectives, and major Districtwide classroom instructional programs. The area leadership teams shall consist of the schools that form the areas as divided for supervision in the campus operations department, as identified by the Superintendent. These teams (ALTs) shall serve exclusively in an advisory role to the Superintendent.

CHAIRPERSONS OF  
DLT, ALT, AND  
ADVISORY  
COMMITTEES

The Superintendent shall be the Board's designee and shall serve as chairperson of the DLT with a cochairperson elected by the members of the committee.

District-level staff members shall be appointed by the Superintendent and shall serve as chairpersons of each ALT or advisory committee with a cochairperson elected by the members of each ALT or advisory committee to convene and facilitate each meeting.

MEETINGS

The chairpersons of the DLT shall set its agenda, and shall schedule at least six meetings per year. Additional meetings may be held at the call of the Superintendent. All DLT meetings shall be held outside of the regular school day.

The Superintendent or designee shall schedule meetings at the beginning of the school year, taking into consideration the scheduled DLT meetings and the need to communicate with DLT and the campus leadership teams (CLTs).

The chairperson shall be responsible for ensuring that items placed on the agenda for DLT are within the area of decision making as specified by law. [See BQB(LEGAL)]

COMPOSITION OF DLT

The DLT shall be composed of members who shall represent campus-based professional staff, paraprofessional/classified staff and parents, District-level professional staff, paraprofessional and classified staff, businesses, and the community, as specified below. For purposes of this policy, District-level professional staff shall be defined as professionals who have responsibilities at more than one campus, including, but not limited to, central office staff. District-level paraprofessional/classified staff shall be defined as non-

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LOCAL)

professionals who have responsibilities at more than one campus, including but not limited to, central office staff.

PARENT MEMBERS OF  
DLT

The DLT shall include six parents of students currently enrolled within the District, selected in accordance with administrative procedures. In addition to the six parent representatives, the president of the Districtwide parent organization shall serve on the DLT. The Superintendent shall inform all parents on the ALT about the DLT's duties and responsibilities. Each area parent ALT shall elect one elementary and one secondary representative to serve on the DLT. [See BQA(LEGAL)]

COMMUNITY  
MEMBERS OF DLT

The DLT shall include three community members selected by a process that provides for adequate representation of the community's diversity, in accordance with administrative procedures. The Superintendent shall use several methods of communication to ensure that community residents are informed of the committee and are provided the opportunity to participate in the selection process, and shall solicit volunteers. All community member representatives must reside in the District.

BUSINESS  
REPRESENTATIVE ON  
DLT

The DLT shall include one business person selected by a process that provides for adequate representation of the community's diversity, in accordance with administrative procedures. The Superintendent shall use several methods of communication to ensure that members of the business community are informed of the committee and are provided the opportunity to participate in the selection process, and shall solicit volunteers. A business member representative need not reside, nor operate a business, in the District.

STAFF MEMBERS ON  
DLT

The District staff members of the DLT shall consist of the following:

1. Fifteen teaching professionals, consisting of five teaching professionals nominated from and elected by each area leadership team. These five shall consist of:
  - a. Two elementary teachers, one middle school teacher, and one high school teacher.
  - b. The remaining teacher may be from any level.
2. Three campus-based paraprofessional/classified staff members who shall be nominated from and elected by the ALT, one member from each ALT.
3. Three principals, nominated from and elected by the members of the Superintendent's principals' advisory committee. The three shall consist of one elementary, one middle, and one high school principal.

PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
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4. One advisory committee member from each participating advisory committee.

DLT ADVISORS	In addition to the elected members, other staff advisors shall be designated to attend the DLT meetings to offer information exclusively in an advisory capacity only and shall not participate in decision making by the DLT. The advisors shall include three District-level professionals; the lead administrators in curriculum and instruction, finance, and human resources. In addition, any organized employee group may have an advisory representative present at the DLT meetings. The selection of the advisors must be approved by the Superintendent and the membership of the DLT. The DLT and the Superintendent may request other staff members to be advisors on a limited or a continuing basis, or may add non-members to any subcommittees established by the DLT.
COMPOSITION OF AREA LEADERSHIP TEAMS (ALT)	Each area leadership team (ALT) shall consist of one representative nominated from and elected by each campus leadership team. The representative may be any current member of the CLT with the exception of campus administrators (principals or assistant principals).
ELECTIONS	<p>An employee's affiliation or lack of affiliation with any organization or association shall not be a factor in either the nomination or election of representatives on the committee. [See also DGA]</p> <p>The consent of each nominee shall be obtained before the person's name may appear on the ballot. Election of the committee shall be held after the beginning of the school year at a time determined by the Board or its designee. Nomination and election shall be conducted in accordance with this policy and administrative procedures.</p>
TERM	Representatives shall serve two-year terms and shall be limited to two consecutive terms.
VACANCY	If a vacancy occurs among the representatives on an ALT or DLT, the vacancy shall be filled in accordance with administrative procedures.
OTHER ADVISORY GROUPS	The existence of the District-level committee shall not affect the authority of the Board or its designee to appoint or establish other advisory groups or task forces to assist it in matters pertaining to District instruction.
COMMUNICATION WITH COMMUNITY	The Superintendent or designee shall ensure that the District-level committee obtains broad-based community, parent, and staff input and provides information to those persons on a systematic basis. Communication shall include but not be limited to, the following:



PLANNING AND DECISION-MAKING PROCESS  
DISTRICT-LEVEL

BQA  
(LOCAL)

1. Periodic meetings to gather input and provide information on the work of the committee. These meetings shall be advertised in District publications and through the media.
2. Articles in in-house publications regarding the committee.
3. Periodic reports to the principals on the committee that may be posted on campus bulletin boards.
4. Periodic reports or minutes of meetings posted on the District's Web page.

WITH ALT AND CLT

Communication shall flow to and from the DLT and the campus teams through the ALT/advisory committees. Each ALT/advisory committee member elected to the DLT shall report back to the area leadership team or respective group, and shall also bring issues from the ALT or respective group to the DLT. Further communication shall be facilitated by the ALT/advisory committee members who shall report information about the DLT and ALT to the campus team or respective group and shall take issues to the ALT/advisory committee meetings for consideration when appropriate.

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LEGAL)

	<p>The District shall maintain current policies and procedures to ensure that effective planning and site-based decision making occur at each campus to direct and support the improvement of student performance for all students. <i>Education Code 11.253(a)</i></p>
COMMITTEES	<p>The District's policy and procedures shall establish campus-level planning and decision-making committees as provided by Education Code 11.251(b)–(e). <i>Education Code 11.253(b)</i></p>
CONSULTATION	<p>A principal shall regularly consult the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. <i>Education Code 11.253(h)</i></p>
RESPONSIBILITIES	<p>In accordance with the administrative procedures established under Education Code 11.251(b), the campus-level committee shall be involved in decisions in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization. <i>Education Code 11.253(e)</i></p>
CAMPUS IMPROVEMENT PLAN	<p>Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations with respect to the academic excellence indicators [see GND] and any other appropriate performance measures for special needs populations. <i>Education Code 11.253(c)</i> [See BQ]</p>
STAFF DEVELOPMENT	<p>The campus-level committee must approve the portions of the campus plan addressing campus staff development needs.</p> <p>The above paragraphs do not create a new cause of action or require collective bargaining.</p> <p><i>Education Code 11.253(e), (f)</i></p>
DROPOUT PREVENTION REVIEW	<p>Each campus-level planning and decision-making committee for a junior, middle, or high school campus shall analyze information related to dropout prevention, including:</p> <ol style="list-style-type: none"><li>1. The results of the audit of dropout records required by Education Code 39.055;</li><li>2. Campus information related to graduation rates, dropout rates, high school equivalency certificate rates, and the percentage of students who remain in high school more than four years after entering grade level 9;</li><li>3. The number of students who enter a high school equivalency certificate program and:<ol style="list-style-type: none"><li>a. Do not complete the program,</li></ol></li></ol>

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LEGAL)

- b. Complete the program but do not take the high school equivalency examination, or
  - c. Complete the program and take the high school equivalency examination but do not obtain a high school equivalency certificate;
4. For students enrolled in grade levels 9 and 10, information related to academic credit hours earned, retention rates, and placements in disciplinary alternative education programs and expulsions under Chapter 37; and
  5. The results of an evaluation of each school-based dropout prevention program in the District.

Each campus-level planning and decision-making committee shall use the information reviewed under this policy in developing District or campus improvement plans.

*Education Code 11.255*

PROCESS

The Board shall establish a procedure under which meetings are held regularly by campus-level planning and decision-making committees that include representative professional staff, parents of students enrolled in the District, business representatives, and community members. The committees shall include a business representative, without regard to whether the representative resides in the District or whether the business the person represents is located in the District. *Education Code 11.251(b)*

SELECTION OF  
COMMITTEES

The Board shall adopt a procedure, consistent with Education Code 21.407(a) [see DGA], for the professional staff in the District to nominate and elect the professional staff representatives who shall serve on the campus planning and decision-making committees. At least two-thirds of the elected professional staff representatives must be classroom teachers. The remaining staff representatives shall include both campus- and District-level professional staff members.

Board policy must provide procedures for:

1. The selection of parents to the campus-level committees.
2. The selection of community members and business representatives to serve on the committee in a manner that provides for appropriate representation of the community's diversity.

*Education Code 11.251(e)*

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**Note:** See BF for information on the committee's role in requesting waivers.

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DEFINITIONS

For purposes of establishing the composition of committees:

1. A person who stands in parental relation to a student is considered a parent.
2. A parent who is an employee of the District is not considered a parent representative on the committee.
3. A parent is not considered a representative of community members on the committee.
4. Community members must reside in the District and must be at least 18 years of age.

*Education Code 11.251(c)*

PRINCIPAL  
PERFORMANCE  
INCENTIVES

A performance incentive awarded to a principal shall be distributed to the principal's school. The campus-level committee shall determine the manner in which the performance incentive shall be distributed and used, in accordance with Education Code 39.094(a).  
*Education Code 21.357(c)*

PUBLIC MEETING

Each campus-level committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from the agency to discuss the performance of the campus and the campus performance objectives. District policy and campus procedures must be established to ensure that systematic communications measures are in place to periodically obtain broad-based community, parent, and staff input, and to provide information to those persons regarding the recommendations of the campus-level committees. *Education Code 11.253(g)*

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LOCAL)

CAMPUS LEADERSHIP  
TEAM (CLT)

A campus-level committee (Campus Leadership Team [CLT]) shall be established on each campus to assist the principal. The committee membership shall be reflective of the identified organizational units established by the District's local accountability system within each campus. The CLT shall meet for the purpose of implementing planning processes and site-based decision making in areas of planning (including planning for parental involvement), curriculum, staffing patterns, budget, school organization, and staff development. [See BQB(LEGAL)] The functioning of the CLT shall be in accordance with Board policy and administrative procedures and shall be chaired by the principal with a cofacilitator elected by the members of the committee.

The CLT shall serve exclusively in an advisory role except that each campus team shall approve staff development of a campus nature.

CAMPUS  
PERFORMANCE  
OBJECTIVES

Each principal shall be responsible for the development of campus performance objectives. These objectives shall be formulated annually in accordance with a schedule established by the District, shall support the District's educational goals and objectives, and shall be specific to the academic achievement of students served by the campus. Schools that have grade levels 6 through 12 must analyze information related to dropout prevention and utilize the information to develop campus improvement plans. The Board shall review and approve campus performance objectives.

WAIVERS

The principal shall be responsible for ensuring that no campus-initiated decision violates rule, law, or policy, unless the campus has obtained a waiver [see BQB preceding and BF].

Except as prohibited by law [see BF], a campus may apply to the Board for a waiver of a local policy. An application for a waiver must state the achievement objectives of the campus and the reasons for requesting the waiver.

COMMUNICATIONS

The principal or designee shall ensure that the CLT obtains broad-based community, parent, and staff input, and provides information to those persons on a systematic basis. Communication shall include, but not be limited to, the following:

1. Periodic meetings to gather input and provide information on the work of the committee. Meetings shall be advertised in the District or campus publications and through the media.
2. Articles in District or campus publications regarding the work of the committee.
3. Periodic reports on the work of the committee that may be posted on campus bulletin boards.

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LOCAL)

COMPOSITION

The CLT shall be composed of members representing campus-based professional, paraprofessional, classified staff, and District-level professional staff; and members who shall represent parents, students, businesses, and the community. At least two-thirds of the District and campus professional staff shall be classroom teachers. The remaining membership shall be professional nonteaching District- and campus-level staff. For purposes of this policy, District-level professional staff shall be defined as professionals who have responsibilities at more than one campus, including, but not limited to, central office staff.

Some circumstances may prevent a campus CLT from adhering to the membership guidelines in this policy. Identification of such factors and approved variations of these guidelines shall be addressed in administrative procedures.

PARENTS

The CLT shall include at least two parents of students currently enrolled within the District, selected in accordance with administrative procedures. At least two parents shall be elected officers of the organizations affiliated with the campus: for elementary schools, PTA, PTO, etc.; for secondary schools, PTA, PTSA, and/or parent boosters. The principal shall, through various channels, inform all parents of campus students about the CLT's duties and composition, and shall solicit volunteers. [See BQB(LEGAL)]

STUDENTS

The CLT shall include at least two students currently enrolled in the District, who are in the fourth grade or above, selected in accordance with administrative procedures. The principal shall inform all students about the CLT's duties and composition and shall solicit volunteers.

COMMUNITY  
MEMBERS

The CLT shall include at least two community members, selected in accordance with administrative procedures that provide for adequate representation of the community's diversity. The principal shall use several methods of communication to ensure that community residents are informed of the CLT and are provided the opportunity to participate in the selection process, and shall solicit volunteers. All community member representatives must reside in the District.

BUSINESS  
REPRESENTATIVES

The CLT shall include at least one business representative, selected in accordance with administrative procedures. The principal shall use several methods of communication to ensure that community residents are informed of the committee and are provided the opportunity to participate in the selection process, and shall solicit volunteers. Business member representatives need not reside in nor operate businesses in the District.

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LOCAL)

CLASSROOM  
TEACHERS

Classroom teachers shall be nominated and elected by classroom teachers assigned to that campus. Each teacher shall be elected by teachers in their respective organizational units. Organizational units are defined as grade levels, departments, and/or learning teams such as schools within schools, and other vertical or multi-grade-level teaching teams or academies. The following guidelines shall be utilized to determine teacher membership:

ELEMENTARY  
SCHOOL  
TEACHERS

In elementary schools, the teachers shall include:

1. One teacher representing teachers in each grade level represented on the campus, from prekindergarten through grade 8, as applicable;
2. One teacher representing teachers of special areas (physical education, fine arts, etc.);
3. One teacher representing special education teachers;
4. One teacher representing bilingual teachers; and
5. One teacher representing gifted/talented teachers.

MIDDLE SCHOOL  
TEACHERS

In middle schools, the teachers shall include:

1. Four teachers, composed of one teacher representing teachers of each of the following subject areas: English/language arts/reading, mathematics, social studies/history, and science;
2. Two teachers representing teachers of electives (fine arts, physical education, etc.);
3. Three teachers to be composed of one teacher representing each grade level (sixth, seventh, and eighth);
4. One teacher representing special education teachers; and
5. Up to three teachers representing vertical learning teams, such as schools within schools.

HIGH SCHOOL  
TEACHERS

In high schools, the teachers shall include:

1. Four teachers to be composed of one teacher representing teachers of each of the following subjects areas: English/reading, mathematics, social studies/history, and science;
2. Two teachers representing teachers of electives (fine arts, physical education, career/technology, etc.);
3. Four teachers to be composed of one teacher representing each grade level (ninth, tenth, eleventh, and twelfth);
4. One teacher representing special education teachers; and

PLANNING AND DECISION-MAKING PROCESS  
CAMPUS-LEVEL

BQB  
(LOCAL)

5. Up to three teachers representing vertical learning teams, such as schools within schools.
- PARAPROFESSIONAL AND CLASSIFIED STAFF Two members of the paraprofessional and classified staff shall be nominated and elected by the paraprofessional and classified staff members assigned to that campus. The two members may be one in each category or may be both paraprofessionals or both classified staff members.
- CAMPUS-BASED NONTEACHING PROFESSIONALS Up to two other campus-based nonteaching professionals shall be nominated and elected by nonteaching professionals assigned to that campus.
- DISTRICT-LEVEL PROFESSIONAL One District-level professional shall be nominated and elected by campus nonteaching professional staff.
- ELECTIONS An employee's affiliation or lack of affiliation with any organization or association shall not be a factor in either the nomination or election of representatives on the CLT. Nominated employees shall give their consent to serve on the CLT before they are eligible for election. Nominations and elections shall be conducted in accordance with this policy and administrative procedures.
- TERMS Representatives shall serve two-year terms and shall be limited to two consecutive terms on the CLT.
- VACANCY A vacancy during a term shall be filled for the remainder of the term in accordance with administrative procedures.
- MEETINGS The CLT shall meet at the call of the principal. The principal and cofacilitator shall set the agenda for each meeting. All team meetings shall be held outside the regular school day.
- TRAINING Each principal must ensure that a training plan be established that addresses orientation/training of ongoing members and new members. Each principal shall also be the primary provider of this training.
- IMPLEMENTATION The principal shall ensure the effective implementation of policy and procedures and overall effective operation of the campus CLT. Area superintendents shall evaluate each principal regarding the implementation, overall effectiveness, and level of functioning of the CLT.



PERFORMANCE / AEIS  
REPORT

The Board shall publish an annual report describing the educational performance of the District and of each campus in the District. This report is provided by TEA and is termed the Academic Excellence Indicator System (AEIS) report. It is intended to inform the public about the educational performance of the District and of each campus in relation to the District, the state, and a comparable group of schools. The report shall include:

1. Uniform student performance and descriptive information as required by rules of the Commissioner.
2. Campus performance objectives and the progress of each campus toward those objectives.
3. The District's performance rating and the performance rating for each campus.
4. A comparison provided by TEA of:
  - a. The performance of each campus to its previous performance and to state-established standards;
  - b. The performance of the District to its previous performance and to state-established standards; and
  - c. The performance of each campus or district to comparable improvement.
5. The District's current special education compliance status with TEA.
6. A statement of the number, rate, and type of violent or criminal incidents that occurred on each District campus, to the extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). [See FL]
7. Information concerning school violence prevention and violence intervention policies and procedures that the District is using to protect students.
8. The findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.).
9. A statement of the amount, if any, of the District's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.
10. Information received from postsecondary institutions reporting student performance during the first year enrolled after graduating from high school for each high school campus in

REPORTS

BR  
(LEGAL)

the District, presented in a form determined by the Commissioner.

ADDITIONAL  
INFORMATION

The District may not alter the report provided by TEA; however, it may concurrently provide additional information to the public that explains information in the report, such as:

1. Student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings, and retention rates.
2. Financial information, including revenue and expenditures.
3. Staff information, including number and type of staff by gender, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover.
4. Program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program.
5. Number of students placed in a disciplinary alternative education program under Education Code 37.

PUBLIC HEARING

Within 90 days after the report is received from TEA, the Board shall hold a hearing for public discussion of the report and shall notify property owners and parents in the District of the hearing. The notification must include notice to a newspaper of general circulation in the District and notice to electronic media serving the District.

PUBLICATION

The report must be published within two weeks after the hearing, in the same format as it was received from TEA.

AEIS  
DISSEMINATION

After the hearing, the Board shall disseminate the report by posting it in public places, such as school offices, local businesses, and public libraries.

*Education Code 39.053; 19 TAC 61.1022*

AEIS INTERNET  
DISSEMINATION

A district that maintains an Internet Web site shall, not later than the tenth day of instruction of each school year, make the information contained in the most recent AEIS report available to the public on the Web site. *Education Code 39.252*

PRIMARY  
CONSIDERATION

The information required to be reported in Education Code 39.053 shall be a primary consideration in District and campus planning. *Education Code 39.054(2)*

SCHOOL REPORT  
CARD (SRC)

TEA is required to prepare a campus report card for every campus in the state. This report is called the school report card (SRC) and

REPORTS

BR  
(LEGAL)

is intended to inform each student's parents or guardians about the school's performance.

SRC  
DISSEMINATION

Each school campus must disseminate the school report card within six weeks after it is received from TEA. The campus may disseminate the school report card in the same manner it normally transmits official communications to parents and guardians. These methods may include:

1. Including the SRC in a weekly folder sent home with each student;
2. Mailing it to each student's residence;
3. Providing it at a parent-teacher conference; or
4. Enclosing it with the student report card.

On written request, the District shall provide a copy of a campus report card to any other party.

ADDITIONAL  
INFORMATION

A school may not alter the SRC, but it may include additional information with the report that explains or supplements information contained within the report.

*Education Code 39.052; 19 TAC 61.1021*

SRC INTERNET  
DISSEMINATION

A district that maintains an Internet Web site shall, not later than the tenth day of instruction of each school year, make the information contained in the most recent SRC for each campus available to the public on the Web site. *Education Code 39.252*

ANNUAL FINANCIAL  
MANAGEMENT  
REPORT

The Commissioner shall develop a reporting procedure under which the District is required to prepare and distribute an annual financial management report. The annual financial management report prepared by the District must include a description of the District's financial management performance based on a comparison, provided by TEA, of the District's performance on the indicators in Texas Administrative Code Title 19, Section 109.1002.

The public shall be given an opportunity to comment on the report at a hearing.

REPORT  
REQUIREMENTS

The report shall contain information on state-established standards and the District's financial management performance under each indicator for the current and previous years' financial accountability ratings, along with any descriptive information required by the Commissioner including:

1. A copy of the Superintendent's current employment contract. The District may publish the Superintendent's employment

contract on the District's Internet site in lieu of publication in the annual financial management report;

2. A summary schedule for the fiscal year (12-month period) of total reimbursements received by the Superintendent and each Board member, including transactions resulting from use of the District's credit card(s) to cover expenses incurred by the Superintendent and each Board member. The summary schedule shall separately report reimbursements for meals, lodging, transportation, motor fuel, and other items (the summary schedule of total reimbursements is not to include reimbursements for supplies and materials that were purchased for the operation of the District);
3. A summary schedule for the fiscal year of the dollar amount of compensation and/or fees received by the Superintendent from another school district or any other outside entity in exchange for professional consulting and/or other personal services. The schedule shall separately report the amount received from each entity;
4. A summary schedule for the fiscal year of the total dollar amount received by the executive officers and Board members of gifts that had an economic value of \$250 or more in the aggregate in the fiscal year. This reporting requirement only applies to:
  - a. Gifts received by the District's executive officers and Board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, as a person related to another person within the first degree by consanguinity or affinity) from an outside entity that received payments from the District in the prior fiscal year, and
  - b. Gifts from competing vendors that were not awarded contracts in the prior fiscal year.

This reporting requirement does not apply to reimbursement of travel-related expenses by an outside entity when the purpose of the travel is to investigate or explore matters directly related to the duties of an executive officer or Board member, or matters related to attendance at education-related conferences and seminars whose primary purpose is to provide continuing education (this exclusion does not apply to trips for entertainment-related purposes or pleasure trips). This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had an aggregate economic

value of less than \$250 per executive officer or Board member; and

5. A summary schedule for the fiscal year of the dollar amount by Board member for the aggregate amount of business transactions with the District. This reporting requirement is not to duplicate the items disclosed in the summary schedule of reimbursements received by Board members; and
6. Any other information the Board of the District determines to be useful.

PUBLIC HEARING

The Board shall hold a public hearing on the report. The Board shall give notice of the hearing to property owners and to parents of District students.

The public hearing on the annual financial management report shall be held in the District's facilities within two months of receipt of a final financial accountability rating.

In addition to other notice required by law, notice of the hearing must be provided to a newspaper of general circulation in the District once a week for two weeks prior to holding the public meeting, providing the time and place where the hearing is to be held. The first notice in the newspaper may not be more than 30 days prior to or less than 14 days prior to the public meeting. If there is not a newspaper published in the county in which the District's central administration office is located, then the notice is to be published in the county nearest the county seat of the county in which the District's central administration office is located.

Notice of the hearing must also be provided through electronic mail to media serving the District.

At the hearing, the annual financial management report shall be disseminated to parents and taxpayers in attendance. The annual financial management report shall be retained in the District for at least a three-year period after the public hearing and shall be made available to parents and taxpayers upon request.

CORRECTIVE ACTION  
PLAN

A corrective action plan shall be filed with TEA by each school district that received a rating of Substandard Achievement or Suspended—Data Quality. The corrective action plan, prepared in accordance with the instructions from the Commissioner, is to be filed within one month after the District's public hearing.

DISSEMINATION

After the hearing, the report shall be disseminated in the District in the manner prescribed by the Commissioner.

*Education Code 39.203; 19 TAC 109.1005*

FISCAL MANAGEMENT GOALS AND OBJECTIVES  
FINANCIAL ETHICS

CAA  
(LOCAL)

All Trustees, employees, vendors, contractors, consultants, volunteers, and any other parties who are involved in the District's financial transactions shall act with integrity and diligence in duties involving the District's fiscal resources.

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**Note:** See the following policies and/or administrative regulations regarding conflicts of interest, ethics, and financial oversight:

- Code of ethics:  
for Board members—BBF  
for employees—DH
- Financial conflicts of interest:  
for public officials—BBFA  
for all employees—DBD
- Financial conflicts involving federal funds: CBB
- Systems for monitoring the District's investment program: CDA
- Budget planning and evaluation: CE
- Compliance with accounting regulations: CFC
- Activity fund management: CFD
- Criminal history record information for employees: DC
- Disciplinary action for fraud by employees: DCD, DCE, and DF series

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FRAUD AND  
FINANCIAL  
IMPROPRIETY

The District prohibits fraud and financial impropriety, as defined below, in the actions of its Trustees, employees, vendors, contractors, consultants, volunteers, and others seeking or maintaining a business relationship with the District.

DEFINITION

Fraud and financial impropriety shall include but not be limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the District.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.
3. Misappropriation of funds, securities, supplies, or other District assets, including employee time.

FISCAL MANAGEMENT GOALS AND OBJECTIVES  
FINANCIAL ETHICS

CAA  
(LOCAL)

4. Impropriety in the handling of money or reporting of District financial transactions.
5. Profiteering as a result of insider knowledge of District information or activities.
6. Unauthorized disclosure of confidential or proprietary information to outside parties.
7. Unauthorized disclosure of investment activities engaged in or contemplated by the District.
8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the District, except as otherwise permitted by law or District policy. [See DBD]
9. Inappropriately destroying, removing, or using records, furniture, fixtures, or equipment.
10. Failure to provide financial records required by state or local entities.
11. Failure to disclose conflicts of interest as required by law or District policy.
12. Any other dishonest act regarding the finances of the District.

FINANCIAL CONTROLS  
AND OVERSIGHT

Each employee who supervises or prepares District financial reports or transactions shall set an example of honest and ethical behavior and shall actively monitor his or her area of responsibility for fraud and financial impropriety.

FRAUD PREVENTION

The Superintendent or designee shall maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the District.

REPORTS

Any person who suspects fraud or financial impropriety in the District shall report the suspicions immediately to any supervisor, the Superintendent or designee, the Board President, or local law enforcement.

Reports of suspected fraud or financial impropriety shall be treated as confidential to the extent permitted by law. Limited disclosure may be necessary to complete a full investigation or to comply with law. All employees involved in an investigation shall be advised to keep information about the investigation confidential.

PROTECTION  
FROM  
RETALIATION

Neither the Board nor any District employee shall unlawfully retaliate against a person who in good faith reports perceived fraud or financial impropriety. [See DG]

FISCAL MANAGEMENT GOALS AND OBJECTIVES  
FINANCIAL ETHICS

CAA  
(LOCAL)

FRAUD  
INVESTIGATIONS

In coordination with legal counsel and other internal or external departments or agencies, as appropriate, the Superintendent, Board President, or a designee shall promptly investigate reports of potential fraud or financial impropriety.

RESPONSE

If an investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall promptly inform the Board of the report, the investigation, and any responsive action taken or recommended by the administration.

If an employee is found to have committed fraud or financial impropriety, the Superintendent or designee shall take or recommend appropriate disciplinary action, which may include termination of employment. If a contractor or vendor is found to have committed fraud or financial impropriety, the District shall take appropriate action, which may include cancellation of the District's relationship with the contractor or vendor.

When circumstances warrant, the Board, Superintendent, or designee may refer matters to appropriate law enforcement or regulatory authorities. In cases involving monetary loss to the District, the District may seek to recover lost or misappropriated funds.

The final disposition of the matter and any decision to file a criminal complaint or to refer the matter to the appropriate law enforcement or regulatory agency for independent investigation shall be made in consultation with legal counsel.

ANALYSIS OF FRAUD

After any investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall analyze conditions or factors that may have contributed to the fraudulent or improper activity. The Superintendent or designee shall ensure that appropriate administrative procedures are developed and implemented to prevent future misconduct. These measures shall be presented to the Board for review.



STATE AND FEDERAL REVENUE SOURCES  
STATE

CBA  
(LEGAL)

AVAILABLE SCHOOL  
FUND

The available school fund is apportioned annually to Texas counties according to the scholastic population of each. *Education Code 43.001(b)*

FOUNDATION SCHOOL  
PROGRAM

The provision of public education is a state responsibility that shall be substantially financed through state revenue sources. The public school finance system shall adhere to a standard of neutrality that provides for substantially equal access to similar revenue per student at similar tax effort. *Education Code 42.001*

The Foundation School Program consists of: (1) two tiers that provide for sufficient financing for all school districts to be rated academically acceptable or higher, and for substantially equal access to funds to provide an enriched program; and (2) a facilities component as provided by Education Code Chapter 46. *Education Code 42.002(b)* [See CCA(LEGAL)]

STATE AND FEDERAL REVENUE SOURCES  
FEDERAL

CBB  
(LEGAL)

The Texas Education Agency may enter into an agreement with a federal agency concerning a project related to education, including provision of school lunches and construction of school buildings. TEA, or another state agency designated by the governor, shall coordinate the District's actions relating to participation in a federal financial assistance program. *Education Code 7.021(b), (c); Gov't Code 742.003*

RETIREMENT AND  
INSURANCE  
CONTRIBUTIONS

If the District applies to obtain money provided by the United States government or its agencies and if any of the money will pay part or all of any employee's salary, the District must also apply for any legally available funds to pay state contributions to the retirement system as set out in Government Code 825.404, and to pay state contributions to the group insurance program for retired school employees as set out in Insurance Code Chapter 1575.

When the District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the General Revenue Fund of the state treasury. The District shall report monthly to the system, in a form it prescribes, the names of each employee paid in whole or in part from a grant, the source of the grant, the amount of the employee's salary paid from the grant, the amount of money provided for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

*Gov't Code 825.406; Insurance Code 1575*

BLOCK GRANT FUNDS

If the District receives more than \$5,000 in block grant funds to be used as the District determines is appropriate, it shall provide evidence to TEA that a public meeting or hearing was held in a timely manner solely to seek public comment on the needs or uses of block grant funds. This meeting or hearing may be held in conjunction with another Board meeting or hearing if the meeting or hearing to consider block grant funds is clearly noted on the public announcement for the other meeting or hearing. *Gov't Code 2105.058*

CONTRACTS  
SUPPORTED BY  
FEDERAL FUNDS

No employee or Board member shall participate in selection, award, or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of the following has a financial or other interest in the firm selected for award:

STATE AND FEDERAL REVENUE SOURCES  
FEDERAL

CBB  
(LEGAL)

1. An employee or Board member.
2. Any member of the immediate family of an employee or Board member.
3. The partner of an employee or Board member.
4. An organization that employs or is about to employ any of the above.

The District's employees and Board members shall neither solicit nor accept gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to subagreements.

The District may establish minimum rules where the financial interest is not substantial or the gift is an unsolicited item of nominal intrinsic value.

*7 CFR 3016.36*

LOCAL REVENUE SOURCES  
BOND ISSUES

CCA  
(LEGAL)

BONDS AND BOND  
TAXES

The Board may obtain funds to construct, acquire, or equip school buildings, to purchase necessary sites, to purchase new school buses, or to acquire or refinance property financed under a contract entered under the Public Property Finance Act by issuing bonds and assessing annual ad valorem taxes sufficient to pay the principal and interest on the bonds as they come due. *Education Code 45.001(a)*

All bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

INSTRUCTIONAL  
FACILITY  
ALLOTMENT

Except as provided by Education Code 46.005 and 46.006, a district that issues bonds to construct, acquire, renovate or improve an instructional facility is guaranteed certain state funding to pay principal and interest on eligible bonds under the Instructional Facilities Allotment program, Education Code Chapter 46, Subchapter A. *Education Code 46.003; 19 TAC 61.1032*

EXISTING DEBT  
ALLOTMENT

Each district is guaranteed certain state funding to pay the principal and interest on eligible bonds under Education Code Chapter 46, Subchapter B. Bonds are eligible if the District made payments on the bonds during the 2004–05 school year or taxes levied to pay the principal and interest on the bonds were included in the District's audited debt service collections for that school year, and the District does not receive state assistance under the Instructional Facilities Allotment for payment of the principal and interest on the bonds. *Education Code 46.032, 46.033; 19 TAC 61.1035*

POLITICAL  
ADVERTISING

No officer or employee of the District shall expend or authorize the expenditure of District funds for the purpose of political advertising. Funds may be expended, however, for advertising that describes the factual reasons for a measure and does not advocate the passage or defeat of such measure. *Election Code 255.003*

ELECTIONEERING

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party. *Education Code 11.168*

ELECTIONS

No bonds shall be issued or taxes levied unless approved by a majority of the qualified voters of the District who vote at an election held for such purpose. The election shall be called by Board resolution, which shall set the date, polling places, and propositions to be voted on.

The election shall be held on a uniform election date.

Except for elections held on a uniform election date or in an emergency situation approved by the governor, elections may not be held within 30 days before or after the date of the general election

for state and county officers, general primary election, or runoff primary election.

*Education Code 45.003(a); Election Code 41.001(a), (c) [See BBB]*

CALL FOR ELECTION	A call for an election shall be made not later than the 62nd day before election day except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. <i>Election Code 3.005</i>
NOTICE OF ELECTION	Notice of each election shall be published not earlier than the 30th day or later than the tenth day before election day in a newspaper of general circulation in the District or a newspaper of general circulation in the territory if none is published in the District. The person responsible for giving the notice must retain a copy of the published notice that contains the name of the newspaper and the date of publication.  The Board shall also deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day. <i>Election Code 4.008</i>
POSTING	In addition, notice of the election, which must include the location of each polling place, must be posted not later than the 21st day before election day on the bulletin board used for posting notices of Board meetings. 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.  <i>Election Code 4.003(a)(1), (b), (c), 4.004, 4.005</i>
PRECLEARANCE REQUIRED	A bond election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a bond election or scheduling of events leading up to or following a bond election is subject to the preclearance requirement. <i>28 CFR 51.17 [See BBB]</i>
NEW DEBT	Before issuing bonds, the District must demonstrate to the attorney general that, with respect to the proposed issuance, the District has a projected ability to pay the principal of and interest on the proposed bonds and all previously issued bonds, other than bonds authorized to be issued at an election held on or before April 1, 1991, and issued before September 1, 1992, from a tax at a rate not to exceed \$0.50 per \$100 of valuation.

LOCAL REVENUE SOURCES  
BOND ISSUES

CCA  
(LEGAL)

CURRENT TAXABLE VALUE	The District may demonstrate the ability to comply by using the most recent taxable value of property in the District, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.
FUTURE TAXABLE VALUE	<p>The District may demonstrate the ability to comply by using a projected future taxable value of property in the District anticipated for the earlier of the tax year five years after the current tax year or the tax year in which the final payment is due for the bonds submitted to the attorney general, combined with state assistance to which the District is entitled under Chapter 42 or 46 that may be lawfully used for the payment of bonds.</p> <p>The District must submit a certification of the projected taxable value prepared by a registered, certified professional appraiser who has demonstrated professional experience in projecting taxable values or who can obtain any necessary assistance from an experienced person.</p> <p>The certification of the District's projected taxable value must be signed by the Superintendent. The attorney general must base a determination of whether the District has complied on a taxable value that is equal to 90 percent of the value certified.</p> <p><i>Education Code 45.0031</i></p>
PROPOSITIONS	<p>Each proposition submitted to authorize the issuance of bonds shall include the question of whether the Board may levy ad valorem taxes either:</p> <ol style="list-style-type: none"><li data-bbox="435 1301 1285 1367">1. Sufficient, without limits as to rate or amount, to pay the principal of and interest on said bonds; or</li><li data-bbox="435 1389 1285 1498">2. Sufficient to pay the principal of and interest on said bonds, provided that the annual aggregate bond taxes in the District shall never exceed the rate stated in the proposition.</li></ol> <p><i>Education Code 45.003(b)</i></p>
REFUNDING BONDS AUTHORITY	The Board is authorized to refund or refinance all or any part of any of its outstanding bonds and interest thereon, payable from ad valorem taxes, by issuing refunding bonds payable from ad valorem taxes in accordance with legal requirements for the issuance. <i>Education Code 45.004; Gov't Code 1207</i>
INSTRUCTIONAL FACILITIES REFUNDING BONDS	<p>The District may use state funds received under Education Code Chapter 46 to pay principal of and interest on refunding bonds that:</p> <ol style="list-style-type: none"><li data-bbox="435 1858 1243 1886">1. Are issued to refund bonds eligible under Section 46.003;</li></ol>

LOCAL REVENUE SOURCES  
BOND ISSUES

CCA  
(LEGAL)

2. Do not have a final maturity date later than the final maturity date of the bonds being refunded;
3. May not be called for redemption earlier than the earliest call date of all bonds being refunded;
4. Result in a present value savings as defined in Education Code 46.007.

*Education Code 46.007*

AUTHORIZED  
UNISSUED BONDS

If the District has authorized school bonds for a specific purpose and that purpose has been accomplished by other means or has been abandoned and all or a portion of the authorized bonds remains unissued, the Board may call an election to determine whether the authorized bonds may be issued or sold for a different purpose or purposes specified in the election order. If a majority of those voting at the election favor the sale of the unissued bonds, the Board is authorized to issue the bonds and use the proceeds for the purpose or purposes stated in the election order. *Education Code 45.110*

GUARANTEED BONDS

The District may apply to the Commissioner of Education for approval to guarantee bonds issued in accordance with the provisions above or bonds issued under Government Code Chapter 1207, by the corpus and income of the permanent school fund. The application shall include:

1. The name of the District and the principal amount of the bonds to be issued;
2. The name and address of the financial institution designated by the District as its agent for payment of principal and interest for guaranteed bonds; and
3. The maturity schedule, estimated interest rate, and date of the bonds.

*Education Code 45.051, 45.052, 45.054, 45.055*

An application must be accompanied by a fee set by rule of the State Board in an amount designed to cover the costs of administering the guarantee program. *Education Code 45.055(c)*

USE OF BOND  
PROCEEDS FOR  
UTILITIES

The proceeds of bonds issued by school districts for the construction and equipment of school buildings in the District and the purchase of the necessary sites for school buildings may be used, among other things, to pay the cost of acquiring, laying, and installing pipes or lines to connect with the water, sewer, or gas lines of a municipality or private utility company, whether or not the water, sewer, or gas lines adjoin the school, so that the District may provide its public school buildings the water, sewer, or gas services.

*Education Code 45.101*

LOCAL REVENUE SOURCES  
TIME WARRANTS

CCB  
(LEGAL)

PURPOSES

The Board may issue interest-bearing time warrants in amounts sufficient to construct, repair, or renovate school buildings; to purchase school buildings and equipment; to equip school property with necessary utilities; or to pay all or part of the compensation of the person to compile taxation data when the District's funds are insufficient to cover these items.

Warrants shall mature in serial installments of not more than five years from date of issue. Upon maturity, and in the order of their maturity dates, the warrants shall be entitled to first payment out of any available funds of the District.

*Education Code 45.103(a)*

An interest-bearing time warrant includes a promissory note or other evidence of indebtedness issued under Chapter 45 of the Education Code. *Education Code 45.103(g)*

The maximum rate of interest for any issue or series of public securities shall be a net effective interest rate of 15 percent. *Gov't Code 1204.006*

LIMITATIONS

Warrants may be issued and sold for not less than face value, and proceeds derived shall be used only for the purposes for which the warrants were issued. *Education Code 45.103(a)*

The Board may not issue warrants in excess of five percent of the assessed valuation of the District for the year in which the warrants are issued. Also, the payment of the warrants in any given year shall not exceed the anticipated surplus income of the District for the year based on the District's budget for that year and exclusive of bond taxes. Finally, the District shall not have outstanding at any one time warrants exceeding \$500,000. *Education Code 45.103(c)*

PROCEDURES

Time warrants shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*



LOCAL REVENUE SOURCES  
CERTIFICATES OF INDEBTEDNESS

CCC  
(LEGAL)

AUTHORITY	If the District is located in a county with a population of 200,000 or more, the District may issue interest-bearing certificates of indebtedness to provide funds to erect or equip school buildings in the District or refinance outstanding certificates, subject to certain restrictions as outlined below and as contained in Education Code 45.111:
MINIMUM ASSESSED VALUATION	1. The assessed valuation of the District must be greater than \$1 million.
PAYMENT OF CERTIFICATES	2. The Board shall pay for these certificates by appropriating and pledging funds derived under authority of Education Code 45.002 or other similar law that limits the amount of tax that may be levied for maintenance purposes, as distinguished from bond requirements.
OUTSTANDING CERTIFICATES	3. The District shall not at any one time have certificates outstanding and unpaid in principal amount in excess of \$250,000, unless the excess is authorized under Education Code 45.111.
PRINCIPAL AND PRINCIPAL MATURITY AMOUNT	4. The principal amount of certificates and the scheduling of their principal maturity shall be restricted as provided in Education Code 45.111(d).
MATURITY	5. Certificates shall mature over a period not exceeding 25 years from date of issuance. <i>Education Code 45.111(a)-(f)</i>
INTEREST	Certificates may not bear interest at a rate in excess of seven percent per annum. <i>Education Code 45.111(f)</i>
PROCEDURES	Certificates of indebtedness shall be issued in accordance with Education Code 45.111.

North East ISD  
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LOCAL REVENUE SOURCES  
RECREATIONAL FACILITIES BONDS

CCD  
(LEGAL)

The Board may acquire, construct, improve, equip, operate, and maintain gymnasiums, stadiums, or other recreational facilities on behalf of the District. The facilities may be located inside or outside of the District. To provide funds the Board may issue revenue bonds to be paid from and secured by liens on and pledges of all or any part of revenues obtained from rentals, rates, or charges from these facilities as provided by Education Code Chapter 45, Subchapter B. *Education Code 45.031, 45.032*

LOCAL REVENUE SOURCES  
LOANS AND NOTES

CCF  
(LEGAL)

LOAN SECURED BY  
DELINQUENT TAX  
PLEDGE

The Board may pledge its delinquent taxes levied for maintenance purposes for specific past, current, and future school years as security for a loan, and may evidence any such loan with negotiable notes, and the delinquent taxes pledged shall be applied against the principal and interest of the loan. Negotiable notes issued under this subsection must mature not more than 20 years from their date.

The District may not pledge delinquent taxes levied for school bonds as security for a loan.

Funds secured through loans secured by delinquent taxes may be employed for any legal maintenance expenditure or purpose of the District, including all costs incurred in connection with: (1) environmental cleanup and asbestos removal programs implemented by districts; or (2) maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties.

*Education Code 45.104*

LOANS FOR CURRENT  
MAINTENANCE  
EXPENSES

The Board may, when deemed necessary, borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable notes, except that the loans may not at any time exceed 75 percent of the previous year's income. The notes may be payable from and secured by a lien on and pledge of any available funds of the District, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this policy means any lawful expenditure of the District other than payment of principal of and interest on bonds. The term includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by the District or in connection with the maintenance, repair, rehabilitation, or replacement of heating, air conditioning, water, sanitation, roofing, flooring, electric, or other building systems of existing school properties. Notes issued pursuant to this policy may be issued to mature in not more than 20 years from their date. Notes issued for a term longer than one year shall be treated as "debt" as defined in Section 26.012(7), Tax Code, as amended.

Such notes may be issued only after a budget has been adopted for the current school year. Notes shall be authorized by resolution adopted by a majority of the Board, signed by the President or Vice-President, and attested to by the Secretary.

*Education Code 45.108*

LOCAL REVENUE SOURCES  
LOANS AND NOTES

CCF  
(LEGAL)

SHORT-TERM  
OBLIGATIONS AND  
CREDIT AGREEMENTS

A district that has an average daily attendance of 50,000 or more may issue, sell, and deliver certain obligations under Government Code Chapter 1371 to the extent authorized by Education Code 45.003. *Gov't Code 1371.0521*

Subject to the restrictions of Education Code 45.011(c) and (d), a district with an average daily attendance of at least 2,000 or a combined aggregate principal of at least \$50 million in outstanding and voted but unissued bonds may, in the issuance of negotiable coupon bonds for which voters have authorized the District to levy taxes without limit as to rate or amount, issue obligations and execute credit agreements as described in Government Code Chapter 1371. *Education Code 45.0011*

The maximum rate of interest for any issue or series of public securities shall be a net effective interest rate of 15 percent. *Gov't Code 1204.006*

Short-term notes shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

MAINTENANCE TAX	The Board may levy, assess, and collect annual ad valorem taxes for the maintenance of the District's schools. <i>Education Code 45.002</i>
TAX RATE CAP	<p>If authorized by a majority of qualified voters of the District voting at an election held for that purpose, the District may impose a maintenance tax rate at a rate not to exceed the rate stated in the proposition. For any year, the maintenance tax rate per \$100 of taxable value adopted by the District may not exceed the rate equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by \$1.50.</p> <p>A rate that exceeds this maximum rate for the year in which the tax is to be imposed is void. A district with a tax rate that is void under this subsection may, subject to requirements imposed by other law, adopt a rate for that year that does not exceed the specified maximum rate for that year.</p> <p>Notwithstanding any other law, a district that levied a maintenance tax for the 2005 tax year at a rate greater than \$1.50 per \$100 of taxable value in the District as permitted by special law may not levy a maintenance tax at a rate that exceeds the rate per \$100 of taxable value that is equal to the sum of \$0.17 and the product of the state compression percentage, as determined under Education Code 42.2516, multiplied by the rate of the maintenance tax levied by the District for the 2005 tax year.</p> <p><i>Education Code 45.003(a), (d), (e), (f)</i></p>
APPRAISAL ROLL	By August 1 or as soon thereafter as practicable, the District's tax assessor shall submit to the Board the District's appraisal roll, showing the total appraised, assessed, and taxable values of all property and the total taxable value of new property.
	<hr/> <p><b>Note:</b> The Texas comptroller of public accounts annually publishes <i>Truth in Taxation: A Guide for Setting Tax Rates</i>. School districts should consult the <i>Truth in Taxation</i> guide, available in print form or through the comptroller's Web site, for detailed guidance on setting local property tax rates.</p> <hr/>
	<p>By August 1 or as soon thereafter as practicable, the District's tax collector shall certify to the Board the estimates and amounts required by law.</p> <p><i>Tax Code 26.04(b)</i></p>

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

CERTIFIED ESTIMATE	By June 7, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. <i>Tax Code 26.01(e)</i>
MEETING ON BUDGET AND PROPOSED TAX RATE	The Board shall call a public meeting to discuss and adopt its budget and proposed tax rate. The Board must provide notice of the budget and proposed tax rate meeting, as described below. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. [See CE]
PUBLISHED NOTICE	The Board President shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or bi-weekly newspaper published in the District. If no daily, weekly, or biweekly newspaper is published in the District, the President shall provide for publication of notice in at least one newspaper of general circulation in the county in which the District's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.
FORM OF NOTICE	<p>The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.</p> <p>The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.</p>
TAXPAYER INJUNCTION	If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.
DISTRICTS WITH JULY 1 FISCAL YEAR	<p>A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of District property in preparing the published notice if the District does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the published notice prepared using the estimate, but the District may not adopt a tax rate before the District receives the certified appraisal roll for the District.</p> <p>After receipt of the certified appraisal roll, the District must publish a revised published notice and hold another public meeting before the District may adopt a tax rate that exceeds:</p>

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

1. The rate proposed in the notice prepared using the estimate;  
or
2. The District's rollback rate determined under Tax Code 26.08  
using the certified appraisal roll.

*Education Code 44.004*

TAX RATE

Before the later of September 30 or the 60th day after the date the certified appraisal roll is received, the Board shall adopt a tax rate for the current tax year that reflects the two components, maintenance and operations expenditures and the debt service rate published under Education Code Section 44.004(c)(2)(A)(ii)(b), and shall notify the assessor of the tax rate adopted. The two components shall be approved separately. *Tax Code 26.05(a)*

The Board may not impose property taxes in any year until it has adopted a tax rate for that year, and the annual tax rate must be set by ordinance, resolution, or order. The vote on the ordinance, resolution, or order setting the tax rate must be separate from the vote adopting the budget. The budget shall be adopted before the adoption of the tax rate. *Tax Code 26.05(b); Education Code 44.004(g)*

EFFECTIVE TAX RATE

The vote on the ordinance setting a tax rate that exceeds the effective tax rate must be a record vote. A motion to adopt an ordinance setting a tax rate that exceeds the effective tax rate must be made in the following form: "I move that property taxes be increased by the adoption of a tax rate of (specify tax rate)." *Tax Code 26.05(b)*

MAINTENANCE AND  
OPERATIONS TAX  
RATE

If the ordinance sets a tax rate that, if applied to the total taxable value, will impose an amount of taxes to fund maintenance and operation expenditures of the taxing unit that exceeds the amount of taxes imposed for that purpose in the preceding year, the Board must include in the ordinance in type larger than the type used in any other portion of the document the following statement: "THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$(Insert amount)." The District shall also include on the home page of any Internet Web site operated by the District the following statement: "(Insert name of unit) ADOPTED A TAX RATE THAT WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE"; and if the tax rate exceeds the effective maintenance and operations rate, the following statement: "THE TAX RATE WILL RAISE TAXES

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME  
BY APPROXIMATELY \$(Insert amount).”

*Tax Code 26.05(b)*

ELECTION TO RATIFY  
SCHOOL TAXES

If the Board adopts a tax rate that exceeds the District’s rollback tax rate as defined in Tax Code 26.08, the registered voters of the District at an election held for that purpose must determine whether to approve the adopted tax rate. When increased expenditure of money is necessary due to a natural disaster and the governor has requested federal disaster assistance, an election is not required.

*Tax Code 26.08(a)*

The Board shall order that the election be held in the District on a date not less than 30 or more than 90 days after the date on which it adopted the tax rate. The election need not be held on a uniform election date unless a uniform election date falls within the 30–90 day time period. *Tax Code 26.08(b)*

2006 TAX YEAR  
ELECTION

An election to approve the adopted tax rate for the 2006 tax year must be ordered not later than August 31, 2006, and must be held on September 30, 2006. If the election is not held on that date, the Board may not adopt a tax rate for the 2006 tax year that exceeds the District’s rollback tax rate. *Tax Code 26.08(p)*

APPROVAL OF  
PROPOSITION

If a majority of votes cast in the District favor the proposition, the tax rate for the current year is the rate that was adopted by the Board. If the proposition is not approved, the Board may not adopt a tax rate for the current year that exceeds the District’s rollback tax rate. *Tax Code 26.08(c), (d)*

CALL FOR  
ELECTION

A call for an election shall be made not later than the 62nd day before election day except that for an election to be held on the date of the general election for state and county officers, the election shall be called not later than the 70th day before the election day. *Election Code 3.005* [See BBB]

NOTICE TO  
COUNTY CLERK

The Board shall deliver notice of the election to the county clerk of each county in which the District is located not later than the 60th day before election day. *Election Code 4.008*

PRECLEARANCE  
REQUIRED

A rollback election is subject to federal preclearance requirements to the extent that the District makes changes in the practices or procedures to be followed. Any discretionary setting of the date for a rollback election or scheduling of events leading up to or following a rollback election is subject to the preclearance requirement. *28 CFR 51.17* [See BBB]

DISCOUNTS

The Board may adopt one or both of the following discount options for early payment of District taxes.



LOCAL REVENUE SOURCES  
AD VALOREM TAXES

CCG  
(LEGAL)

- OPTION 1                      If the Board adopts Option 1, the following apply regardless of the date on which the District mails its tax bills.
1. Three percent if the tax is paid in October or earlier.
  2. Two percent if the tax is paid in November.
  3. One percent if the tax is paid in December.
- Tax Code 31.05*
- This discount does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.04(c)*
- OPTION 2                      If the Board adopts Option 2, the following discounts apply only when the District mails its tax bills after September 30:
1. Three percent if the tax is paid before or during the next full calendar month following the date on which the tax bills were mailed.
  2. Two percent if the tax is paid during the second full calendar month following the date on which the tax bills were mailed.
  3. One percent if the tax is paid during the third full calendar month following the date on which the tax bills were mailed.
- BOTH OPTIONS                If the Board adopts both discount options, the discounts described at Option 1 apply unless the District mails its tax bills after September 30, in which case only the discounts described at Option 2 apply.
- Tax Code 31.05*
- SPLIT PAYMENT                The Board may provide for split payment of taxes. If a person pays one-half of the taxes before December 1, he or she may pay the remaining one-half of the taxes without penalty or interest at any time before July 1 of the following year. This payment option does not apply to taxes that are calculated too late for it to be available. *Tax Code 31.03, 31.04(c)*
- DISASTER AREA                Owners of certain property in a disaster area are permitted to pay taxes in installment payments. Installment payments are an option for an owner of real property that:
1. Is the residence homestead of the owner or consists of property that is used for residential purposes and that has fewer than five living units;
  2. Is located in a disaster area and has been damaged as a direct result of the disaster; and
  3. Has had taxes imposed upon it by a taxing unit before the first anniversary of the disaster.

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

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If the owner of such property pays at least one-fourth of the taxes imposed on the property before the delinquency date, accompanied by notice that the person will pay the remaining taxes in installments, the owner may make the remainder of the payments in three equal installments. Such installment payments shall not incur penalty or interest if paid by the applicable dates provided for in the tax code.

*Tax Code 31.032*

PERFORMING  
SERVICES IN LIEU OF  
PAYING TAXES

The Board may permit certain individuals or business entities to provide certain services to the District in lieu of paying the District property taxes. While performing services for the District, the individual is not an employee of the District and is not entitled to any benefit, including workers' compensation coverage, that the District provides to its employees.

PERSONS 65 AND  
OVER

Subject to the requirements contained in Tax Code 31.035, the Board by order or resolution may permit an individual who is at least 65 years of age to perform services for the taxing unit in lieu of paying taxes imposed by the District on property owned by the individual and occupied as the individual's residence homestead.

*Tax Code 31.035*

TEACHING  
SERVICES BY  
INDIVIDUAL

Subject to the requirements contained in Tax Code 31.036, the Board by resolution may permit qualified individuals, who are not employed by the District, to perform teaching services for the District at a junior high school or high school of the District in lieu of paying taxes imposed by the District on property owned and occupied by the individual as a residence homestead. *Tax Code 31.036*

TEACHING  
SERVICES BY  
EMPLOYEE OF  
BUSINESS ENTITY

Subject to the requirements contained in Tax Code 31.037, the Board by resolution may authorize a corporation or other business entity to permit a qualified individual employed by the business entity to perform teaching services in a high school or a junior high school for the District in lieu of paying taxes imposed by the District on property owned by the business entity. *Tax Code 31.037*

INSTALLMENT  
PAYMENTS  
CERTAIN  
HOMESTEADS

An individual who is disabled or at least 65 and qualifies for a homestead exemption may pay taxes on the residence homestead property in installments. To do so, the individual must pay at least one-fourth of the taxes due before the delinquency date. This payment must be accompanied by notice that the individual will pay the remaining taxes in installments. The person may pay the remaining taxes without penalty or interest. The first installment must be paid before April 1, the second before June 1, and the third before August 1. *Tax Code 31.031*

LOCAL REVENUE SOURCES  
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PARTIAL PAYMENTS	<p>The tax collector may decide to accept partial payments of District property taxes. Acceptance of a partial payment does not affect the delinquency date, but penalties and interest are incurred only by the portion of tax that remains unpaid on the date the tax becomes delinquent. The discounts described above do not apply to any portion of a partial payment of District taxes. <i>Tax Code 31.07(c)</i></p>
DELINQUENCY DATE	<p>Taxes are delinquent if not paid before February 1 of the year following the year in which imposed, except as provided below:</p> <ol style="list-style-type: none"><li>1. The District has provided for split payments. <i>Tax Code 31.03</i></li><li>2. The District's tax bills are mailed after January 10. <i>Tax Code 31.04(a)</i></li><li>3. The District's tax bills are mailed after September 30 and the Board has adopted discounts provided by Tax Code 31.05(c). <i>Tax Code 31.04(d)</i></li></ol> <p><i>Tax Code 31.02</i></p>
DELINQUENT TAX COLLECTION	<p>The Board may contract with any competent attorney to represent the District to enforce the collection of delinquent taxes. The attorney's compensation is set in the contract, but the total amount of compensation provided may not exceed 20 percent of the amount of delinquent tax, penalty, and interest collected. <i>Tax Code 6.30(c)</i></p>
ADDITIONAL PENALTIES	<p>If the District or the tax collector for the District has contracted with a private attorney for the collection of delinquent taxes, the Board may impose, by official action, an additional penalty on taxes that become delinquent on or after February 1 but not later than May 1 and remain delinquent on July 1 of the year in which they become delinquent. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall deliver notice to the property owner of the delinquency and the penalty 30 to 60 days before July 1. <i>Tax Code 33.07</i></p> <p>If the District or the tax collector for the District has imposed the penalty described above and has contracted with a private attorney for collection of delinquent taxes, the Board may impose, by official action, an additional penalty on all taxes that become delinquent on or after June 1 under Tax Code 26.15(e), 31.03, 31.031, 31.032, or 31.04. This penalty may not exceed the amount of compensation specified in the contract with the attorney to be paid in connection with the collection of the delinquent taxes and shall be secured by a tax lien. The District's tax collector shall send notice of the delinquency and the penalty to the property owner. The penalty is</p>

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

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incurred on the first day of the first month that begins at least 21 days after the date the notice is sent. *Tax Code 33.08*

HOMESTEAD  
EXEMPTIONS

An adult is entitled to exemption from taxation of \$15,000 of the appraised value of his residence homestead except that \$10,000 of the exemption does not apply to an entity operating under former Education Code Chapters 17, 18, 25, 26, 27, or 28, as those chapters existed on May 1, 1995. An adult who is disabled or 65 or older is entitled to an additional \$10,000 exemption of the appraised value of his residence homestead. *Tax Code 11.13(b), (c)*

APPLICATION FOR  
EXEMPTION

To receive the residence homestead exemptions, the person claiming the exemption must apply for the exemption. *Tax Code 11.43*

PERSONS 65  
AND OVER OR  
DISABLED  
PERSONS

The District shall not increase the total annual amount of ad valorem tax it imposes on the residence homestead of an individual 65 years of age or older, or on the residence homestead of an individual who is disabled as defined by Section 11.13 of the Tax Code, above the amount of the tax it imposed in the first tax year in which the individual qualified that residence homestead for an applicable exemption.

The District may increase the taxes if improvements are made to the property, but that tax amount is then frozen.

*Tax Code 11.26(a), (b)*

PORTABILITY OF  
LIMITATION

If an individual who receives the 65-and-over limitation on tax increases subsequently qualifies for a different resident homestead, the District may impose taxes on the subsequently acquired homestead only in accordance with Tax Code 11.26. *Tax Code 11.26(g), (h)*

ADDITIONAL  
EXEMPTIONS

The Board may grant additional tax exemptions for homesteads, historic sites, and charitable organizations, as provided by law. *Tax Code 11.13, 11.184, 11.24; Tex. Const. Art. VIII, Sec. 1-b(e)*

NATURAL DISASTER

If the District is located partly or entirely inside an area declared by the governor to be a natural disaster area, the Board may authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster. *Tax Code 23.02(a)*

REINVESTMENT  
ZONES / TAX  
INCREMENT  
FINANCING

When a portion of the real property taxable by the District is proposed for inclusion in a municipal or county reinvestment zone, the Board shall be notified of a description of the proposed boundaries of the zone, the tentative plans for the development or redevelopment of the zone, and an estimate of the general impact of the proposed zone on property values and tax revenues. The District may request additional information from the governing body of the municipality or county proposing to designate a reinvestment zone,

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and Board members may attend the formal presentation required of the governing body of the municipality or county. Within 15 days of receipt of the notice, the Board shall designate a representative to meet with the governing body of the municipality or county proposing to designate a reinvestment zone to discuss the project plan and the reinvestment zone financing plan and shall notify the municipality or county governing body of its designation. *Tax Code 311.003(e), (f), (g)*

BOARD OF  
DIRECTORS

The Board may appoint one member of the reinvestment zone's board of directors or may waive that right. *Tax Code 311.009(a)*

In certain reinvestment zones, the Board may be entitled to appoint more than one member of the reinvestment zone's board of directors. *Tax Code 311.0091(a), (b)*

When the reinvestment zone has been designated upon petition of property owners under Tax Code 311.005(a)(5), the Board may appoint a member or members, as appropriate, of the reinvestment zone's board of directors only if it has approved the payment of all or part of the tax increment produced by the District. *Tax Code 311.009(b), 311.0091(c)*

COLLECTION AND  
DEPOSIT OF TAX  
INCREMENTS

The District shall provide for the collection of its taxes in the zone as for any other property tax and shall pay into the zone's tax increment fund the amount specified by law. This payment shall be made no later than 90 days after the delinquency date for District property taxes, except that the District is not required to pay the portion attributable to delinquent taxes until those taxes are collected. The District shall not be required to pay a tax increment into the zone's tax increment fund beyond three years from the date the zone was created, except as provided by law. *Tax Code 311.013*

The District is not required to pay into the tax increment fund any of its tax increment produced from a reinvestment zone created upon petition of property owners under Tax Code 311.005(a) unless it enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(f)*

The District is not required to pay into the tax increment fund any of its tax increment produced from property located in an area added to a reinvestment zone under Tax Code 311.007 unless the Board enters into an agreement to do so with the governing body of the municipality or county that created the zone. *Tax Code 311.013(k)*

A district whose taxable value is reduced under Government Code 403.302(d)(5) shall pay into the tax increment fund, in addition to the amount otherwise required to be paid, the amount by which the

LOCAL REVENUE SOURCES  
AD VALOREM TAXES

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amount of taxes the District would have been required to pay into the fund in the current year if the District levied taxes at the rate the District levied in 2005 exceeds the amount the District is otherwise required to pay into the fund in the year of the reduction, not to exceed the amount the District realizes from the reduction in the District's taxable value. *Tax Code 311.013(n)*

REINVESTMENT  
ZONES — TAX  
ABATEMENT

On or after September 1, 2001, the District may not enter into a tax abatement agreement under Chapter 312. *Tax Code 312.002(f)*

TEXAS ECONOMIC  
DEVELOPMENT ACT

In order to attract large-scale capital investments, create new jobs, strengthen the economy, and expand the property tax base, districts may offer certain ad valorem tax benefits and financial benefits in accordance with the Texas Economic Development Act. *Tax Code 313*

Districts should strictly interpret the criteria and selection guidelines and approve only those applications for an ad valorem tax benefit or financial benefit that:

1. Enhance the local community;
2. Improve the local public education system;
3. Create high-paying jobs; and
4. Advance the economic development goals of Texas as identified by the Texas Strategic Economic Development Planning Commission.

*Tax Code 313.004(3)*

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**Note:** *For complete information regarding the Texas Economic Development Act, refer to Tax Code Chapter 313.*

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LOCAL REVENUE SOURCES  
APPRAISAL DISTRICT

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(LEGAL)

PARTICIPATION	The District shall participate in the appropriate countywide appraisal district. <i>Tex. Const. Art. VIII, Sec. 18(b)</i>
ELECTION OF BOARD OF DIRECTORS	The Board shall participate in the election of the board of directors of the appraisal district or districts as provided by law.
ELIGIBILITY	<p>To be eligible to serve on the appraisal district board of directors, an individual other than a county assessor-collector serving as a nonvoting director must be a resident of the District and must have resided in the District for at least two years immediately preceding the date the individual takes office. An individual who is otherwise eligible to serve on the board is not ineligible because of membership on the governing body of a taxing unit.</p> <p>A District employee is not eligible to serve on the board of directors unless the employee is also a member of another governing body or an elected official of a taxing unit that also participates in the appraisal district.</p> <p><i>Tax Code 6.03</i></p>
RESTRICTIONS NEPOTISM	An individual is ineligible to serve on an appraisal district board of directors if the individual is related within the second degree by consanguinity or affinity, as determined under Government Code, Ch. 573, Subch. B [see DBE(LEGAL)], to an individual who is engaged in the business of appraising property for compensation for use in proceedings relating to property taxes or of representing property owners for compensation in proceedings relating to property taxes in the appraisal district.
DELINQUENT TAXES	<p>An individual is ineligible to serve on an appraisal district board of directors if the individual owns property on which delinquent taxes have been owed to a taxing unit for more than 60 days after the date the individual knew or should have known of the delinquency unless the delinquent taxes and any penalties and interest are being paid under an installment payment agreement, or a suit to collect the delinquent taxes is deferred or abated.</p> <p><i>Tax Code 6.035(a)</i></p>
CONFLICT OF INTEREST	<p>An individual is not eligible to be appointed to or to serve on the board of directors of an appraisal district if the individual or a business entity in which the individual has a substantial interest is a party to a contract with:</p> <ol style="list-style-type: none"><li>1. The appraisal district.</li><li>2. A taxing unit that participates in the appraisal district, if the contract relates to the performance of an activity relating to property taxes.</li></ol>

An individual has a substantial interest in a business entity if the combined ownership of the individual and the individual's spouse is at least 10 percent of the voting stock or shares of the business entity or the individual or the individual's spouse is a partner, limited partner, or officer of the business entity.

"Business entity" means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or other entity recognized by law.

*Tax Code 6.036*

RECALL

The Board, by resolution submitted to the county clerk, may call for the recall of a member of the board of directors of an appraisal district for whom the Board cast any of its votes in the appointment of the appraisal district board. *Tax Code 6.033*

APPRAISAL REVIEW  
BOARD

An appraisal review board is established for each appraisal district. Members of the appraisal review board are appointed by the appraisal district board of directors. *Tax Code 6.41, 6.412*



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

WRITTEN POLICIES

Investments shall be made in accordance with written policies approved by the Board. The investment policies must primarily emphasize safety of principal and liquidity and must address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must include:

1. A list of the types of authorized investments in which the District's funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the District;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds; and
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis.

*Gov't Code 2256.005(b)*

ANNUAL REVIEW

The investment policy and the investment strategy shall be reviewed not less than annually. The Board shall adopt a written instrument stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Gov't Code 2256.005(e)*

ANNUAL AUDIT

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

INVESTMENT  
STRATEGIES

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

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

2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the investment needs to be liquidated before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

*Gov't Code 2256.005(d)*

INVESTMENT  
OFFICER

The Board shall designate one or more officers or employees as investment officer(s) to be responsible for the investment of its funds. If the Board has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the contracting Board's District. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances that a prudent person would exercise in the management of the person's own affairs, but the Board retains the ultimate responsibility as fiduciaries of the assets of the District. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the investing entity. Authority granted to a person to invest an entity's funds is effective until rescinded by the Board or until termination of the person's employment by the District.

*Gov't Code 2256.005(f)*

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

INVESTMENT  
TRAINING  
INITIAL

Within 12 months after taking office or assuming duties, the treasurer or chief financial officer and the investment officer of the District shall attend at least one training session from an independent source approved either by the Board or by a designated investment committee advising the investment officer. This initial training must contain at least ten hours of instruction relating to their respective responsibilities under the Public Funds Investment Act.

*Gov't Code 2256.008(a)*

WITHIN A TWO-  
YEAR PERIOD

The treasurer or chief financial officer and the investment officer must also attend an investment training session not less than once in a two-year period and receive not less than ten hours of instruction relating to investment responsibilities under the Public Funds Investment Act from an independent source approved by the Board or a designated investment committee advising the investment officer.

cer. If the District has contracted with another investing entity to invest the District's funds, this training requirement may be satisfied by having a Board officer attend four hours of appropriate instruction in a two-year period. *Gov't Code 2256.008(a), (b)*

Investment training shall include education in investment controls, security risks, strategy risks, market risks, diversification of investment portfolio, and compliance with the Government Code, Chapter 2256. *Gov't Code 2256.008(c)*

STANDARD OF  
CARE

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

1. Preservation and safety of principal;
2. Liquidity; and
3. Yield.

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

1. The investment of all funds, rather than the prudence of a single investment, over which the officer had responsibility.
2. Whether the investment decision was consistent with the Board's written investment policy.

*Gov't Code 2256.006*

PERSONAL  
INTEREST

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

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

2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer's gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

*Gov't Code 2256.005(i)*

QUARTERLY  
REPORTS

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

1. Contain a detailed description of the investment position of the District on the date of the report;
2. Be prepared jointly and signed by all District investment officers.
3. Contain a summary statement for each pooled fund group (i.e., each internally created fund in which one or more accounts are combined for investing purposes). The report must be prepared in compliance with generally accepted accounting principles and must state:
  - a. Beginning market value for the reporting period;
  - b. Additions and changes to the market value during the period;
  - c. Ending market value for the period; and
  - d. Fully accrued interest for the reporting period.
4. State the book value and market value of each separately invested asset at the beginning and end of the reporting period by the type of asset and fund type invested.
5. State the maturity date of each separately invested asset that has a maturity date.
6. State the account or fund or pooled group fund in the District for which each individual investment was acquired.
7. State the compliance of the investment portfolio of the District as it relates to the District's investment strategy expressed in

the District's investment policy and relevant provisions of Government Code, Chapter 2256.

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

*Gov't Code 2256.023*

SELECTION OF  
BROKER

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

AUTHORIZED  
INVESTMENTS

The Board may purchase, sell, and invest its funds and funds under its control in investments described below, in compliance with its adopted investment policies and according to the standard of care set out in this policy. Investments may be made directly by the Board or by a nonprofit corporation acting on behalf of the Board or an investment pool acting on behalf of two or more local governments, state agencies, or a combination of the two. *Gov't Code 2256.003(a)*

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

The following investments are authorized:

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities; direct obligations of the state of Texas or its agencies and instrumentalities; collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States; other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, the state of Texas, the United States, or their respective agencies and instrumentalities; obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by

a nationally recognized investment rating firm not less than A or its equivalent; and bonds issued, assumed, or guaranteed by the state of Israel. *Gov't Code 2256.009(a)*

The following investments are not authorized:

- a. Obligations whose payment represents the coupon payments on the outstanding principal balance of the underlying mortgage-backed security collateral and pays no principal.
- b. Obligations whose payment represents the principal stream of cash flow from the underlying mortgage-backed security collateral and bears no interest.
- c. Collateralized mortgage obligations that have a stated final maturity date of greater than ten years.
- d. Collateralized mortgage obligations the interest rate of which is determined by an index that adjusts opposite to the changes in a market index.

*Gov't Code 2256.009(b)*

2. Certificates of deposit or share certificates issued by a depository institution that has its main office or a branch office in Texas that is guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor and is secured by obligations described in item 1 above, including mortgage-backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates (but excluding those mortgage-backed securities described in Section 2256.009[b]) or secured in any other manner and amount provided by law for the deposits of the investing entity. *Gov't Code 2256.010(a)*

In addition to the authority to invest funds in certificates of deposit under the previous section, an investment in certificates of deposit made in accordance with the following conditions is an authorized investment under Government Code 2256.010:

- a. The funds are invested by the District through a depository institution that has its main office or a branch office in this state and that is selected by the District;
- b. The depository institution selected by the District arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the District;

- c. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States;
- d. The depository institution selected by the District acts as custodian for the District with respect to the certificates of deposit issued for the account of the District entity; and
- e. At the same time that the funds are deposited and the certificates of deposit are issued for the account of the District, the depository institution selected by the District receives an amount of deposits from customers of other federally insured depository institutions, wherever located, that is equal to or greater than the amount of the funds invested by the District through the depository institution.

*Gov't Code 2256.010(b)*

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

- 3. Fully collateralized repurchase agreements that have a defined termination date, are secured by obligations of the United States or its agencies and instrumentalities, are pledged to the District, held in the District's name, and deposited with the District or a third party selected and approved by the Board, and placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas. The term of any reverse security repurchase agreement may not exceed 90 days after the date the reverse security repurchase agreement is delivered. Money received by the District under the terms of a reverse security repurchase agreement shall be used to acquire additional authorized investments, but the term of the authorized investments acquired must mature not later than the expiration date stated in the reverse security repurchase agreement. *Gov't Code 2256.011*
- 4. A securities lending program if:
  - a. The value of securities loaned is not less than 100 percent collateralized, including accrued income, and the loan allows for termination at any time;
  - b. The loan is secured by:

- (1) Pledged securities described by Government Code 2256.009;
  - (2) Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
  - (3) Cash invested in accordance with Government Code 2256.009, 2256.013, 2256.014, or 2256.016;
- c. The terms of the loan require that the securities being held as collateral be pledged to the investing entity, held in the investing entity's name, and deposited at the time the investment is made with the entity or with a third party selected by or approved by the investing entity; and
  - d. The loan is placed through a primary government securities dealer or a financial institution doing business in this state.

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

*Gov't Code 2256.0115*

5. Banker's acceptance, with a stated maturity of 270 days or fewer from the date of issuance that will be liquidated in full at maturity, which is eligible for collateral for borrowing from a Federal Reserve Bank, and is accepted by a bank meeting the requirements of Government Code 2256.012(4). *Gov't Code 2256.012*
6. Commercial paper that has a stated maturity of 270 days or fewer from the date of issuance and is rated not less than A-1 or P-1 or an equivalent rating by at least two nationally recognized credit rating agencies or by one nationally recognized credit rating agency provided the commercial paper is fully secured by an irrevocable letter of credit issued by a bank organized and existing under U.S. law or the law of any state. *Gov't Code 2256.013*
7. No-load money market mutual funds that:
  - a. Are registered with and regulated by the Securities and Exchange Commission;



- b. Provide the District with a prospectus and other information required by the Securities and Exchange Act of 1934 (15 U.S.C. 78a et seq.) or the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.);
- c. Have a dollar-weighted average stated maturity of 90 days or fewer; and
- d. Include in their investment objectives the maintenance of a stable net asset value of \$1 for each share.

However, investments in no-load money market mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c).

- 8. No-load mutual funds that:
  - a. Are registered with the Securities and Exchange Commission;
  - b. Have an average weighted maturity of less than two years;
  - c. Are invested exclusively in obligations approved by Government Code Chapter 2256, Subchapter A, regarding authorized investments (Public Funds Investment Act);
  - d. Are continuously rated by at least one nationally recognized investment rating firm of not less than AAA or its equivalent; and
  - e. Conform to the requirements in Government Code Section 2256.016(b) and (c) relating to the eligibility of investment pools to receive and invest funds of investing entities.

Investments in no-load mutual funds shall be limited to the percentages authorized by Government Code 2256.014(c). In addition, the District may not invest any portion of bond proceeds, reserves, and funds held for debt service, in no-load mutual funds described in this item.

*Gov't Code 2256.014*

- 9. A guaranteed investment contract, as an investment vehicle for bond proceeds, if the guaranteed investment contract:
  - a. Has a defined termination date.
  - b. Is secured by obligations described by Government Code Section 2256.009(a)(1), excluding those obliga-

tions described by Section 2256.009(b), in an amount at least equal to the amount of bond proceeds invested under the contract.

- c. Is pledged to the District and deposited with the District or with a third party selected and approved by the District.

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

To be eligible as an authorized investment:

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

*Gov't Code 2256.015*

- 10. A public funds investment pool meeting the requirements of Government Code 2256.016 and 2256.019, if the Board authorizes the investment in the particular pool by resolution.  
*Gov't Code 2256.016, 2256.019*

CHANGE IN LAW

The District is not required to liquidate investments that were authorized investments at the time of purchase. *Gov't Code 2256.017*

SELLERS OF  
INVESTMENTS

A written copy of the investment policy shall be presented to any person offering to engage in an investment transaction with an investing entity or to an investment management firm under contract

with an investing entity to invest or manage the entity's investment portfolio. For purposes of this policy, a business organization includes investment pools and an investment management firm under contract with an investing entity to invest or manage the entity's investment portfolio. The qualified representative of the business organization offering to engage in an investment transaction with the District shall execute a written instrument in a form acceptable to the District and the business organization substantially to the effect that the business organization has:

1. Received and thoroughly reviewed the District investment policy; and
2. Has acknowledged that the business organization has implemented reasonable procedures and controls in an effort to preclude investment transactions conducted between the District and the organization that are not authorized by the District's policy, except to the extent that this authorization is dependent on an analysis of the makeup of the entity's entire portfolio or requires an interpretation of subjective investment standards.

The investment officer may not acquire or otherwise obtain any authorized investment described in the District's investment policy from a person who has not delivered to the District the instrument described above.

*Gov't Code 2256.005*

DONATIONS

A gift, devise, or bequest made to provide college scholarships for District graduates may be invested by the Board as provided in Property Code 117.004, unless otherwise specifically provided by the terms of the gift, devise, or bequest. *Education Code 45.107*

Investments donated to the District for a particular purpose or under terms of use specified by the donor are not subject to the requirements of Government Code Chapter 2256, Subchapter A. *Gov't Code 2256.004(b)*

ELECTRONIC FUNDS  
TRANSFER

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

OTHER REVENUES  
INVESTMENTS

CDA  
(LOCAL)

INVESTMENT  
AUTHORITY

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

TRAINING OF  
PERSONNEL

In compliance with the Public Funds Investment Act 2256.008 and District policies, the District shall provide for investment personnel periodic training in investments through courses and seminars offered by professional organizations and associations.

APPROVED  
INVESTMENT  
INSTRUMENTS

From those investments authorized by law and described further in CDA(LEGAL), the Board shall permit investment of District funds in only the following investment types, consistent with the strategies and maturities defined in this policy:

1. Obligations of, or guaranteed by, governmental entities as permitted by Government Code 2256.009.
2. Certificates of deposit and share certificates as permitted by Government Code 2256.010.
3. Fully collateralized repurchase agreements permitted by Government Code 2256.011.
4. A securities lending program as permitted by Government Code 2256.0115.
5. Banker's acceptances as permitted by Government Code 2256.012.
6. Commercial paper as permitted by Government Code 2256.013.
7. Two types of mutual funds as permitted by Government Code 2256.014: money market mutual funds and no-load mutual funds.
8. A guaranteed investment contract as an investment vehicle for bond proceeds, provided it meets the criteria and eligibility requirements established by Government Code 2256.015.
9. Public funds investment pools as permitted by Government Code 2256.016.

EFFECT OF LOSS OF  
REQUIRED RATING

Upon awareness by investment staff of a downgrade in a District investment, prudent measures shall be taken to liquidate an investment that is downgraded to less than the required minimum rating.

OTHER REVENUES  
INVESTMENTS

CDA  
(LOCAL)

SAFETY AND  
INVESTMENT  
MANAGEMENT

The main goal of the investment program is to ensure its safety and maximize financial returns within current market conditions in accordance with this policy. Investments shall be made in a manner that ensures the preservation of capital in the overall portfolio, and offsets during a 12-month period any market price losses resulting from interest-rate fluctuations by income received from the balance of the portfolio. No individual investment transaction shall be undertaken that jeopardizes the total capital position of the overall portfolio.

POOLING OF FUNDS

Except for cash in certain restricted and special funds, the District may consolidate cash balances from all funds to maximize investment earnings.

LIQUIDITY AND  
MATURITY

Any internally created pool fund group of the District shall have a maximum weighted maturity of one year. The holding periods of investment funds shall match liquidity needs of the District. In no case shall the average maturity of investments of the District's operating funds exceed two years. The maximum final stated maturity of any investment shall not exceed five years.

The maximum allowable stated maturity of any other individual investment owned by the District shall not exceed legal limits or limits authorized by District policies. The District's investment portfolio shall have sufficient liquidity to meet anticipated cash flow requirements.

DIVERSITY

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

COLLATERAL

The market value of pledged collateral must be at least 110 percent of the principal plus accrued interest for excess cash balances, certificates of deposit, guaranteed investment contracts, and repurchase agreements. Evidence of proper collateralization shall be provided to a District investment officer no less than quarterly. An authorized District representative shall approve and release all pledged collateral.

Investment securities described in Government Code 2256.009(a) shall be eligible for use as collateral of District monies governed by this policy.

MONITORING MARKET  
PRICES

The investment officer shall monitor the investment portfolio and shall keep the Board informed of significant declines in the market value of the District's investment portfolio. Information sources may include financial/investment publications and electronic media, available software for tracking investments, depository banks,

OTHER REVENUES  
INVESTMENTS

CDA  
(LOCAL)

commercial or investment banks, financial advisors, and representatives/advisors of investment pools or money market funds. Monitoring shall be done monthly or more often as economic conditions warrant by using appropriate reports, indices, or benchmarks for the type of investment.

FUNDS / STRATEGIES	Investments of the following fund categories shall be consistent with this policy and in accordance with the strategy defined below.
OPERATING FUNDS	Investment strategies for operating funds (including any commingled pools containing operating funds) shall have as their primary objectives safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
AGENCY FUNDS	Investment strategies for agency funds shall have as their objectives safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
DEBT SERVICE FUNDS	Investment strategies for debt service funds shall have as their objective sufficient investment liquidity to timely meet debt service payment obligations in accordance with provisions in the bond documents. Maturities longer than one year are authorized provided legal limits are not exceeded.
CAPITAL PROJECTS	Investment strategies for capital project funds shall have as their objective sufficient investment liquidity to timely meet capital project obligations. Maturities longer than one year are authorized provided legal limits are not exceeded.
PROPRIETARY FUNDS	Investment strategies for proprietary funds shall have as their primary objectives safety, investment liquidity, and maturity sufficient to meet anticipated cash flow requirements.
SAFEKEEPING AND CUSTODY	Securities shall be held by a third-party custodian designated by the District and held in the District's name as evidenced by safekeeping receipts of the institution with which the securities are deposited.
BROKERS / DEALERS	Prior to handling investments on behalf of the District, brokers/dealers must submit required written documents in accordance with law. [See SELLERS OF INVESTMENTS, CDA(LEGAL)] Representatives of brokers/dealers shall be registered with the Texas State Securities Board and must have membership in the Securities Investor Protection Corporation (SIPC), and be in good standing with the National Association of Securities Dealers.
SOLICITING BIDS	In order to get the best return on its investments, the District may solicit bids for certificates of deposit in writing, by telephone, electronically, or by a combination of these methods.

For any investment purchased or sold through the secondary market, the District shall obtain at least three proposals from authorized institutions in writing, by telephone, electronically, or by a combination of these methods.

**INTEREST RATE RISK** Interest rate risk is specific to the individual funds and is addressed indirectly under the investment guidelines for each fund. Liquidity and diversity are specifically discussed in other portions of this policy.

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

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

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

**PORTFOLIO REPORT** In addition to the quarterly report required by law and signed by the District's investment officer, a comprehensive report on the investment program and investment activity shall be presented annually to the Board. This report shall include a performance evaluation that may include, but not be limited to, comparisons to 91-day U.S. Treasury Bills, six-month U.S. Treasury Bills, the Fed Fund rate, the Lehman bond index, and rates from investment pools. The annual report shall include a review of the activities and total yield for the preceding 12 months, suggest policies, strategies, and improvements that might enhance the investment program, and propose an investment plan for the ensuing year.

OTHER REVENUES  
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB  
(LEGAL)

SALE OR EXCHANGE  
OF REAL PROPERTY

The Board may authorize the sale of any property, other than minerals, held in trust for free school purposes, by means of a Board resolution. The Board President shall execute a deed to the purchaser which shall recite the Board resolution authorizing the sale. The District may employ, retain, contract with, or compensate a licensed real estate broker or salesperson for assistance in the acquisition or sale of real property. *Education Code 11.154*

PUBLICATION OF  
NOTICE AND  
BIDDING  
REQUIREMENTS

Any sale or exchange of land by the District, except as permitted by Local Government Code 272.001(b), (g), or (j), shall be in accordance with the following legal requirements:

1. The Board shall publish in a newspaper of general circulation in the county where the land is located or in an adjoining county, if there is no such newspaper, a notice to the general public that the land is to be offered for sale or exchange, its description, its location, and the procedure under which sealed bids to purchase the land or offers to trade for the land may be submitted.
2. Notice shall be so given on at least two separate occasions and no sale or exchange shall be made until after the 14th day after the last notice is published.

*Local Gov't Code 272.001(a)*

EXCEPTIONS TO  
NOTICE AND  
BIDDING  
REQUIREMENTS

The notice and bidding requirements set out above do not apply to the types of land and real property interests described below and owned by the District. The land and those interests described below may not be conveyed, sold, or exchanged for less than the fair market value of the land or interest unless the conveyance, sale, or exchange is with one or more abutting property owners who own the property outright. The fair market value is determined by an appraisal obtained by the District that owns the land or interest. The appraisal price is conclusive of the fair market value of the land or interest. This applies to:

1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned outright or used by easement;
3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the political subdivision chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;



OTHER REVENUES  
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB  
(LEGAL)

4. Land that the District wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2 above may be sold to:
  - a. Abutting property owners in the same subdivision if the land has been subdivided; or
  - b. Abutting property owners in proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

This section does not require the Board to accept any bid or offer or to complete a sale or exchange.

*Local Gov't Code 272.001(b)-(d)*

EXCEPTION:  
HIGHER  
EDUCATION  
INSTITUTION

The District may donate, exchange, convey, sell, or lease land or an interest in real property to an institution of higher education for less than its fair market value and without complying with the notice and bidding requirements of Local Government Code 272.001(a) in order to promote a public purpose related to higher education. The District shall determine the terms and conditions of the transaction so as to effectuate and maintain the public purpose. *Local Gov't Code 272.001(j)*

SALE OF  
INSTRUCTIONAL  
FACILITY FINANCED  
WITH STATE  
ALLOTMENT

If an instructional facility financed by bonds paid with state and local funds under Chapter 46 of the Education Code is sold before the bonds are fully paid, the District shall send to the comptroller a percentage of the District's net proceeds as required by statute. *Education Code 46.011* [See also CCA]

SALE OR LEASE OF  
MINERALS

Sale or lease of minerals in land belonging to the District shall be authorized by a resolution adopted by a majority of the Board. *Education Code 11.153; Natural Resources Code 71.005*

PUBLICATION OF  
NOTICE — MINERAL  
LEASES

The Board must give notice of its intention to lease the land. The notice must be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

1. Describe the land to be leased;
2. Designate the time and place at which the Board will receive and consider bids for the lease.

*Natural Resources Code 71.005*

OTHER REVENUES  
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB  
(LEGAL)

When the sale or lease of minerals has been authorized by the Board, the Board President may execute a lease or may sell or exchange the minerals in accordance with the terms authorized by the Board. The mineral lease or deed shall recite the approval of the Board. *Education Code 11.153*

SALE, LEASE, OR  
CONVEYANCE OF ANY  
INTEREST IN REAL  
PROPERTY

The District shall notify the Commissioner of Education whenever it intends to sell, lease, or otherwise convey any interest in real property. The District shall include in the instrument of conveyance the required restrictive covenants prohibiting racial discrimination. *United States v. Texas, Civil Order No. 5281 (E.D. Tex., August 9 and 15, 1973)*

DONATION OF  
FORMER SCHOOL  
CAMPUS

The Board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization if:

1. Before adopting the resolution, the Board holds a public hearing concerning the donation and, in addition to any other notice required, gives notice of the hearing by publishing the subject matter, location, date, and time of the hearing in a newspaper having general circulation in the territory of the District;
2. The Board determines that:
  - a. The improvements have historical significance;
  - b. The transfer will further the preservation of the improvements; and
  - c. At the time of the transfer, the District does not need the real property or improvements for educational purposes; and the entity to whom the transfer is made has shown, to the satisfaction of the Board, that the entity intends to continue to use the real property and improvements for public purposes.

The Board President shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization. The deed must:

1. Recite the resolution of the Board authorizing the donation; and
2. Provide that ownership of the real property and improvements revert to the District if the municipality, county, state agency, or nonprofit organization:
  - a. Discontinues use of the real property and improvements for public purposes; or

OTHER REVENUES  
SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY

CDB  
(LEGAL)

- b. Executes a document that purports to convey the property.

*Education Code 11.1541(a), (b)*

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**Note:** Regarding disposal of school buses, see CNB. Regarding disposal of school-owned personal property, see CI.

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North East ISD  
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SALE, LEASE, OR EXCHANGE OF SCHOOL-OWNED PROPERTY  
REVENUE BONDS FROM PROCEEDS

CDBA  
(LEGAL)

The Board may sell real property owned by the District and issue revenue bonds payable from the proceeds of the sale in accordance with applicable state law. *Education Code 45.081-.084*

PROCEDURES

These revenue bonds shall be issued in accordance with the Public Security Procedures Act. *Gov't Code 1201*

REFUNDING BONDS

The Board may issue refunding bonds for these revenue bonds in accordance with Government Code Chapter 1207.

MAXIMUM INTEREST

The maximum rate of interest for these revenue bonds shall be a net effective interest rate of 15 percent. *Gov't Code 1204.006*

OTHER REVENUES  
GRANTS FROM PRIVATE SOURCES

CDC  
(LEGAL)

APPLICATION FOR  
GRANT

If the District applies to obtain money from any privately sponsored source and if any of the money will pay part or all of any employee's salary, the District must also apply for any legally available funds to pay state contributions to the retirement system as set out in Government Code 825.404 and to pay the state contribution to the group insurance program for retired school employees as set out in Insurance Code 1575, Subchapter E.

When the District receives funds to pay for state contributions for retirement and insurance pursuant to this application, it shall immediately send such funds to the retirement system for deposit in the General Revenue Fund of the state treasury. The District shall report monthly to the system, in a form it prescribes, the names of each employee paid in whole or in part from a grant, the source of the grant, the amount of the employee's salary paid from the grant, the amount of money provided for state contributions for the employee by the grant, and such other information as the retirement system deems necessary.

The District shall comply with applicable rules governing examination of its records by the Teacher Retirement System.

*Gov't Code 825.406(b), (c); Insurance Code 1575 Subch. F*

USE OF FUNDS

All bequests of property for the benefit of the public schools shall, when not otherwise directed by the grantor, vest the property in the Board. Funds or other property donated, or the income therefrom, may be expended:

1. For any purpose designated by the donor that is in keeping with the lawful purposes of the schools that are to benefit from the donation; or
2. For any legal purpose if the donor designated no specific purpose.

*Education Code 11.156*

FINANCIAL  
STATEMENT

All gifts or bequests shall be included among the total receipts of the District which are reported in the annual financial statement.  
*Local Gov't Code 140.005*

If the Board determines that it is in the public interest and to the benefit of its residents and the citizens of this state that a corporation be created under Local Government Code Chapter 303 to finance, refinance, or provide the costs of District public facilities, the Board by resolution may authorize and create one or more non-member, nonstock, nonprofit public facility corporations to issue bonds to purchase District obligations, finance public facilities for the District, or loan the proceeds of the obligations to other entities to accomplish the purposes of the District.

The District may use the corporation to acquire, construct, rehabilitate, renovate, repair, equip, furnish, or place in service public facilities of the District or to issue bonds on the District's behalf to finance the cost of District's public facilities.

*Local Gov't Code 303*

ANNUAL OPERATING BUDGET

CE  
(LEGAL)

AUTHORIZED  
EXPENDITURES

The District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.-Houston [1st Dist.] 1976, no writ)*

The District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. Nor shall the District pay or authorize the payment of any claim against the District under any agreement or contract made without authority of law. *Tex. Const. Art. III, Sec. 53; Harlingen ISD v. C.H. Page and Bro. 48 S.W.2d 983 (Comm. App. 1932)*

The state and county available funds disbursed to the District shall be used exclusively for salaries of professional certified staff and for interest on money borrowed on short time to pay such salaries, when salaries become due before school funds for the current year become available. Loans for paying professional certified staff salaries may not be paid out of funds other than those for the current year. *Education Code 45.105(b)*

Local funds from District taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for salaries of any personnel and for purchasing appliances and supplies; for the payment of insurance premiums; for buying school sites; for buying, building, repairing, and renting school buildings, including acquisition of school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and for other purposes necessary in the conduct of the public schools to be determined by the Board. *Education Code 45.105(c)*

No public funds of the District may be spent in any manner other than as provided for in the budget adopted by the Board. *Education Code 44.006(a)*

USE OF DISTRICT  
RESOURCES

The Board shall not enter into an agreement authorizing the use of District employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the District.

The Board may not use state or local funds or other resources of the District to electioneer for or against any candidate, measure, or political party.

*Education Code 11.168*

ANNUAL OPERATING BUDGET

CE  
(LEGAL)

COMMITMENT OF  
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

*Local Gov't Code 271.903*

FISCAL YEAR

The Board may determine if the District's fiscal year begins on July 1 or September 1 of each year. *Education Code 44.0011*

BUDGET  
PREPARATION

The Superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of the District for the following fiscal year. *Education Code 44.002*

DEADLINES

The proposed budget shall be prepared on or before a date set by the State Board of Education, currently August 20 (June 19 if the District uses a July 1 fiscal year start date). *Education Code 44.002(a); 19 TAC 109.1(a), 109.41*

The adopted budget must be filed with the Texas Education Agency on or before the date established in the *Financial Accountability System Resource Guide. Education Code 44.005; 19 TAC 109.1(a)*

PUBLIC MEETING ON  
BUDGET AND  
PROPOSED TAX RATE

After the proposed budget has been prepared, the Board President shall call a Board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of the District may be present and participate in the meeting. *Education Code 44.004*  
[See CCG for provisions governing tax rate adoption]

The meeting must comply with the notice requirements of the Open Meetings Act. *Gov't Code 551.041, 551.043*

PUBLISHED NOTICE

The Board President shall also provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or bi-weekly newspaper published in the District. If no daily, weekly, or biweekly newspaper is published in the District, the President shall provide for publication of notice in at least one newspaper of general circulation in the county in which the District's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing.



ANNUAL OPERATING BUDGET

CE  
(LEGAL)

FORM OF NOTICE    The published notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and content requirements dictated by law.

The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller.

TAXPAYER  
INJUNCTION        If the District has not complied with the published notice requirements in the FORM OF NOTICE described above, and the requirements for DISTRICTS WITH JULY 1 FISCAL YEAR below, if applicable, and the failure to comply was not in good faith, a person who owns taxable property in the District is entitled to an injunction restraining the collection of taxes by the District. An action to enjoin the collection of taxes must be filed before the date the District delivers substantially all of its tax bills.

*Education Code 44.004*

PUBLICATION OF  
PROPOSED  
BUDGET  
SUMMARY        Concurrently with the publication of notice of the budget under Education Code 44.004, the District shall post a summary of the proposed budget on the District's Internet Web site or, if the District has no Internet Web site, in the District's central administrative office.

The budget summary must include a comparison to the previous year's actual spending and information relating to per student and aggregate spending on:

1. Instruction;
2. Instructional support;
3. Central administration;
4. District operations;
5. Debt service; and
6. Any other category designated by the Commissioner.

*Education Code 44.0041*

BUDGET ADOPTION    The Board shall adopt a budget to cover all expenditures for the succeeding fiscal year at the meeting called for that purpose and before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins.

DISTRICTS WITH  
JULY 1 FISCAL  
YEAR            A district with a fiscal year beginning July 1 may use the certified estimate of the taxable value of District property in preparing the published notice if the District does not receive the certified appraisal roll on or before June 7. A district that uses a certified estimate may adopt a budget at the public meeting designated in the

published notice prepared using the estimate, but the District may not adopt a tax rate before the District receives the certified appraisal roll for the District.

*Education Code 44.004*

By June 7, the chief appraiser shall prepare and certify an estimate of the taxable value of District property. *Tax Code 26.01(d)*

AMENDMENT OF  
APPROVED BUDGET

The Board shall have the authority to amend the approved budget or to adopt a supplementary emergency budget to cover necessary unforeseen expenses.

Copies of any amendment or supplementary budget must be prepared and filed in accordance with State Board rules.

*Education Code 44.006*

FAILURE TO COMPLY  
WITH BUDGET  
REQUIREMENTS

A Board member who votes to approve any expenditure of school funds in excess of the item or items appropriated in the adopted budget or a supplementary or amended budget commits a misdemeanor offense. *Education Code 44.052(c)*

CERTAIN DONATIONS

The District may donate funds or other property or service to the adjutant general's department or to the Texas National Guard. *Gov't Code 431.035(b), 431.045(b)*

ANNUAL OPERATING BUDGET

CE  
(LOCAL)

FISCAL YEAR	The District shall operate on a fiscal year beginning July 1 and ending June 30.
BUDGET PLANNING	Budget planning shall be an integral part of overall program planning so that the budget effectively reflects the District's programs and activities and provides the resources to implement them. In the budget planning process, general educational goals, specific program goals, and alternatives for achieving program goals shall be considered, as well as input from the District- and campus-level planning and decision-making committees. Budget planning and evaluation are continuous processes and shall be a part of each month's activities.
AVAILABILITY OF PROPOSED BUDGET	After it is presented to the Board and prior to adoption, a copy of the proposed budget shall be available upon request from the business office or Superintendent. The Superintendent or designee shall be available to answer questions arising from inspection of the budget.
BUDGET MEETING	The annual public meeting to discuss the proposed budget and tax rate shall be conducted as follows: <ol style="list-style-type: none"><li>1. The Board President shall request at the beginning of the meeting that all persons who desire to speak on the proposed budget and/or tax rate sign up on the sheet provided.</li><li>2. Prior to the beginning of the meeting, the Board may establish time limits for speakers.</li><li>3. Speakers shall confine their remarks to the appropriation of funds as contained in the proposed budget and/or the tax rate.</li><li>4. No officer or employee of the District shall be required to respond to questions from speakers at the meeting.</li></ol>
AUTHORIZED EXPENDITURES	The adopted budget provides authority to expend funds for the purposes indicated and in accordance with state law, Board policy, and the District's approved purchasing procedures. The expenditure of funds shall be under the direction of the Superintendent or designee who shall ensure that funds are expended in accordance with the adopted budget.
BUDGET AMENDMENTS	The budget shall be amended when a change is made in the fund balance.

ACCOUNTING  
FINANCIAL REPORTS AND STATEMENTS

CFA  
(LEGAL)

ACCOUNTING SYSTEM	The Board must adopt and install a standard school fiscal accounting system that meets the minimum requirements prescribed by the Commissioner and conforms with generally accepted accounting principles. <i>Education Code 44.007(a),(b); 19 TAC 109.1, 109.41</i>
REPORT OF REVENUES AND EXPENDITURES	A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. The report shall include management, cost accounting, and financial information that will enable the State Board to monitor the funding process and determine educational costs by district, campus, and program. <i>Education Code 44.007(c),(d)</i>
FINANCIAL STATEMENT	<p>The Board shall prepare an annual financial statement that shows the following for each fund subject to its authority during the fiscal year:</p> <ol style="list-style-type: none"><li>1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived.</li><li>2. The total disbursements of the fund, itemized by the nature of the expenditure.</li><li>3. The balance in the fund at the close of the fiscal year.</li></ol> <p><i>Local Gov't Code 140.005</i></p>
PUBLICATION	The Board President shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the District. If a daily, weekly, or biweekly newspaper is not published within the boundaries of the District, the financial statement shall be published in a newspaper in each county in which the District or any part of the District is located. The statement shall be published in accordance with the accounting method required by TEA not later than the 120th day after the date the fiscal year ends. <i>Local Gov't Code 140.006</i>

North East ISD  
015910

ACCOUNTING  
INVENTORIES

CFB  
(LOCAL)

CAPITALIZATION  
THRESHOLD

The capitalization threshold for purposes of classifying capital as-  
sets shall be \$5,000.

FISCAL ACCOUNTS

The Board shall have the District's fiscal accounts audited annually at District expense by a Texas certified or public accountant holding a permit from the State Board of Public Accountancy.

The audit shall be completed following the close of each fiscal year, and shall meet at least the minimum requirements and be in the format prescribed by the State Board of Education, subject to review and comment by the state auditor. The audit shall include an audit of the accuracy of the fiscal information provided by the District through the Public Education Information Management System (PEIMS).

*Education Code 44.008(a), (b)*

FINANCIAL  
ACCOUNTABILITY  
SYSTEM  
RESOURCE GUIDE  
(FASRG)

The rules for financial accounting, including the selection of an auditor and the requirements for the audit, are described in the official TEA publication, *Financial Accountability System Resource Guide*, as amended, which is adopted as the State Board of Education's official rule. *19 TAC 109.41*

FILING OF REPORT

A copy of the annual audit report, approved by the Board, shall be filed with TEA not later than the 150th day after the end of the fiscal year for which the audit was made. If the Board does not approve the audit report, it shall nevertheless file a copy of it with TEA, accompanied by a statement detailing its reasons for failing to approve the report. *Education Code 44.008(d)*

FINANCIAL RECORDS

Each treasurer receiving or having control of any school fund shall keep a full and separate itemized account of each of the different classes of school funds received, and these records shall be available to audit. *Education Code 44.008(c)*

ANNUAL AUDIT OF  
DROPOUT RECORDS

The Commissioner shall develop a process for auditing District dropout records electronically. The Commissioner shall also develop a system and standards for review of the audit or use systems already available at TEA. The system must be designed to identify districts that are at high risk of having inaccurate dropout records and that, as a result, require on-site monitoring of dropout records.

If the electronic audit of the District's dropout records indicates that the District is not at high risk of having inaccurate dropout records, the District may not be subject to on-site monitoring. If the risk-based system indicates that the District is at high risk of having inaccurate dropout records, the District is entitled to an opportunity to respond to the Commissioner's determination before on-site monitoring may be conducted. The District must respond not later than the 30th day after the date the Commissioner notifies the District of the Commissioner's determination. If the District's response does

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ACCOUNTING  
AUDITS

CFC  
(LEGAL)

not change the Commissioner's determination that the District is at high risk of having inaccurate dropout records or if the District does not respond in a timely manner, the Commissioner shall order TEA staff to conduct on-site monitoring.

*Education Code 39.055(a)*

STUDENT FUNDS	The Superintendent or designee shall ensure that a student activities account is maintained to manage all class funds, organization funds, and any other funds collected from students for a school-related purpose. Receipts shall be issued by the principal or designee for all funds prior to their deposit into the appropriate District account at the District depository on the same day if possible.
FIDUCIARY RESPONSIBILITY	<p>The principal and sponsor shall be responsible for the proper administration of student funds, including the depositing and withdrawing such funds, in accordance with state and local law, District-approved accounting practices and procedures, and the TEA <i>Financial Accountability System Resource Guide</i>. Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]</p> <p>Excess funds available for investing shall be placed in District-approved investment alternatives, as established at CDA(LOCAL).</p>
USE AND EXPENDITURE	Funds collected by student groups shall be used only for purposes authorized by the organization or upon approval of the sponsor. The principal or designee shall approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.
CAMPUS ACTIVITY FUND	The principal shall be authorized to expend funds from the campus administrative activity fund to be used for activities of the students, faculty, staff, or campus.
APPROVAL	Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to the principal.
CARRYOVER FUNDS	All funds shall be left in the appropriate account and each sponsoring group shall retain the carryover funds for the next fiscal year. If an organization ceases to function or exist, the unexpended funds of the organization shall be credited to the appropriate administrative activity account.



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. <i>26 U.S.C. 3401–3402</i>  |
| MEDICARE TAX  | 2. The amount of Medicare tax required by law (only those employees hired after March 31, 1986). <i>26 U.S.C. 3121(u)</i>   |
| TEACHER<br>RETIREMENT SYSTEM                        | 3. The required contribution to the Teacher Retirement System of Texas in accordance with applicable law and rules. <i>Gov't Code Title 8; 34 TAC 25</i>  |
| RETIRED SCHOOL<br>EMPLOYEES GROUP<br>INSURANCE FUND | 4. The required contribution to the retired school employees group insurance fund in accordance with applicable law and rules. <i>Insurance Code 1575</i>   |
| CHILD SUPPORT<br>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. <i>Family Code 158</i>   |
|   | 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. <i>Family Code 158.204</i>   |
| SPOUSAL<br>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. <i>Family Code 8</i>  |
|   | 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. <i>Family Code 8.204</i>  |
| 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 |

PAYROLL PROCEDURES  
SALARY DEDUCTIONS AND REDUCTIONS

CFEA  
(LEGAL)

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*

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|--|---|
| SOCIAL SECURITY                          | 8. The amount of social security tax required by federal law (only designated employees). <i>26 U.S.C. 3101–3102, 3121(b)(7); 26 CFR 31.3121(b)(7)-2</i>  |
| 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. <i>20 U.S.C. 1095(a)(6)</i> |
| 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. <i>Education Code 54.626</i>  |
| 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. <i>Education Code 54.708</i>  |
| 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. <i>Education Code 22.002; Atty. Gen. Op. 0-3474 (1941)</i>   |
| INSURANCE                                | 13. Contributions for participation in approved insurance programs. <i>Insurance Code 1579.253; Education Code 22.005</i> [See CRD]   |
| DEFERRED COMPENSATION                    | 14. Amounts designated by employees for participation in approved deferred compensation or annuity programs. <i>Art. 6228a-5, V.A.T.S.; Gov't Code 609</i> [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. <i>26 U.S.C. 125</i>   |
| 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*

PAYROLL PROCEDURES  
SALARY DEDUCTIONS AND REDUCTIONS

CFEA  
(LOCAL)

ADDITIONAL  
AMOUNTS

In addition to legally required deductions, the Board shall permit voluntary deductions [see CFEA(LEGAL)] for:

1. Approved insurance programs;
2. Annuities/deferred compensation programs;
3. Other cafeteria plan options authorized by the Internal Revenue Service; and
4. Area teachers' credit unions.

Employees may request additional voluntary salary deductions or change the amount(s) of those deductions in accordance with administrative procedures.

EXCESS LEAVE

Deductions shall be made for unauthorized or excess personal leave or sick leave. [See DEC]

PURCHASING AND ACQUISITION

CH  
(LEGAL)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i>
PURCHASES VALUED AT OR ABOVE \$25,000	<p>All District contracts, except contracts for the purchase of produce or vehicle fuel, valued at \$25,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for the District:</p> <ol style="list-style-type: none"><li>1. Competitive bidding.</li><li>2. Competitive sealed proposals.</li><li>3. A request for proposals for services other than construction services.</li><li>4. A catalog purchase as provided by Government Code Chapter 2157, Subchapter B.</li><li>5. An interlocal contract.</li><li>6. The reverse auction procedure as defined by Government Code 2155.062(d).</li><li>7. The formation of a political subdivision corporation under Local Government Code 304.001.</li></ol> <hr/> <p><b>Note:</b> Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC for design/build contracts; CVD, CVE for contracts using a construction manager; and CVF for job order contracts for minor repairs/alterations.</p> <hr/>

*Education Code 44.031(a)*

FACTORS

In awarding a contract, the District may consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods and services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the District's needs.
5. The vendor's past relationship with the District.
6. The impact on the ability of the District to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the District to acquire the goods or services.
8. Any other relevant factor specifically listed in the request for bids or proposals.

*Education Code 44.031(b)*

In awarding a contract by competitive sealed bid under Education Code 44.031(b), a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.031(b-1)*

The factors listed above are the only criteria that may be considered by the District in its decision to award a contract. The District may apply one, some, or all of the criteria, but it may not completely ignore them. *R.G.V. Vending v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—Corpus Christi 1999, no pet.)*.

CONTRACT WITH  
PERSON INDEBTED  
TO DISTRICT

The Board may, by resolution, establish regulations permitting the District to refuse to enter into a contract or other transaction with a person indebted to the District. The District may refuse to award a contract to or enter into a transaction with an apparent low bidder or successful proposer that is indebted to the District.

The term "person" includes an individual, sole proprietorship, corporation, nonprofit corporation, partnership, joint venture, limited liability company, and any other entity that seeks to enter into a contract or other transaction with the District requiring Board approval.

*Education Code 44.044*

PURCHASING AND ACQUISITION

CH  
(LEGAL)

NOTICE  
PUBLICATION

Notice of when and where bids or proposals or the responses to a request for qualifications will be received and opened shall be published in the county where the District's central administrative office is located, once a week for at least two weeks prior to the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g)*

PERSONAL  
PROPERTY  
PURCHASES VALUED  
\$10,000 TO \$25,000

When the District seeks to purchase personal property of a value of at least \$10,000 but less than \$25,000, in the aggregate, for a 12-month period, the District may either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described below. *Education Code 44.033(a)*

NOTICE

For each 12-month period, the District shall publish a notice in two successive issues of any newspaper of general circulation in the county in which the school is located. If there is no newspaper in the county in which the school is located, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the school is located, specifying the categories of personal property to be purchased and soliciting the names, addresses, and telephone numbers of vendors that are interested in supplying any of the categories to the District. *Education Code 44.033(b)*

VENDOR LIST

For each category, the District shall create a vendor list consisting of each vendor that responds to the published notice and any additional vendors the District elects to include. Before the District makes a purchase from a category of personal property, it must obtain written or telephone price quotations from at least three vendors from the list for that category. If fewer than three vendors are on the list, the District shall contact each vendor. Whenever possible, telephone quotes should be confirmed in writing by mail or facsimile. The bidding records shall be retained with the District's competitive bid records and are subject to audit. Purchases shall be made from the lowest responsible bidder, except as provided by Education Code 44.033(f). *Education Code 44.033(b), (c)*

LOCATION OF BIDDER

In awarding a contract by competitive sealed bid under Education Code 44.033(b) and (c), a district that has its central administrative office located in a municipality with a population of less than 250,000 may consider a bidder's principal place of business in the

PURCHASING AND ACQUISITION

CH  
(LEGAL)

manner provided by Local Government Code 271.9051. This section does not apply to the purchase of telecommunications services or information services, as those terms are defined by 47 U.S.C. Section 153. *Education Code 44.033(f)*

PRODUCE OR FUEL  
PURCHASES

When the District purchases produce or fuel valued at \$10,000 or more in the aggregate, for a 12-month period, the District must either purchase those items in accordance with Education Code 44.031(a) and (b) described above or follow the vendor list procedures described immediately above. *Education Code 44.033(a), (d)*

PROFESSIONAL  
SERVICES

The purchasing requirements of Education Code Section 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agent.

The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031.

*Education Code 44.031(f)*

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, 2254.003(a)* [See also CV]

EMERGENCY DAMAGE  
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

COMPUTERS

The District may acquire computers and computer-related equipment, including computer software, through the Texas Building and Procurement Commission (BPC) under contracts with the BPC in accordance with Government Code Chapter 2157. *Education Code 44.031(i)*

SOLE SOURCE

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:



PURCHASING AND ACQUISITION

CH  
(LEGAL)

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.
3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

*Education Code 44.031(j), (k)*

IMPERMISSIBLE  
PRACTICES

A Trustee, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

“Component purchases” means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. “Separate purchases” means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. “Sequential purchases” means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A Trustee who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

*Education Code 44.032*

INSURANCE

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031 or 44.033. *Education Code 44.031, 44.033; Atty. Gen. Op. DM-347 (1995)*

MULTIYEAR  
CONTRACTS

The District may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at COMMITMENT OF CURRENT REVENUE, below. If the District executes a multiyear insurance contract, it need

not advertise for insurance vendors until the 12-month period during which the District will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

COMPETITIVE  
BIDDING

If the District receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of the District, that bidder shall be selected. If two or more such bidders are residents of the District, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

The Board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

*Local Gov't Code 271.901*

REVERSE AUCTION

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the District and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

*Gov't Code 2155.062(d)*

OUT-OF-STATE  
BIDDERS

The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. *Gov't Code 2252.001, 2252.002*

This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the BPC in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003, 2252.004*

INTERLOCAL  
AGREEMENTS

To increase efficiency and effectiveness, the District may contract or agree with other local governments and with state agencies, including the BPC, to perform some of its purchasing functions. *Gov't Code 791.001, 791.011, 791.025*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed annually.

*Gov't Code 791.011(d)-(f)*

The District may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the BPC, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply to services provided by firefighters, police officers, or emergency medical personnel.

A district that purchases goods and services by agreement with another local government or with the state or state agency satisfies the requirement to seek competitive bids for the purchase of goods and services.

*Gov't Code 791.025(b), (c); Atty. Gen. Op. JC-37 (1999)*

STATE PURCHASING  
PROGRAM

Purchasing services performed for the District by the BPC shall include:

1. The extension of state contract prices to the District when the BPC considers it feasible.
2. Solicitation of bids on items desired by the District if the solicitation is considered feasible by the BPC and is desired by the District.
3. Provision of information and technical assistance to the District about the purchasing program.

The BPC may charge the District its actual costs in providing purchasing services.

*Local Gov't Code 271.082*

DISTRICT  
REQUIREMENTS

The District may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the BPC a resolution adopted by the Board requesting that the District be allowed to participate on a voluntary basis, to the extent the BPC deems feasible, and stating that the Board shall:

1. Designate an official to act for the District in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:
  - a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
  - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the BPC reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

ELECTRONIC  
MARKETPLACE

If the District has the ability to electronically send purchase orders and information, it may participate in the Department of Information Resources' electronic procurement system, as described in Government Code Chapter 2177.

*Local Gov't Code 271.083*

MULTIPLE AWARD  
CONTRACT  
SCHEDULE

The BPC shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state.

The District may purchase goods or services directly from a vendor under a contract listed on a schedule. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals and satisfies any applicable requirements of Government Code 2157 (catalog purchase method).

The price listed for a good or service under a multiple award contract is a maximum price. The District may negotiate a lower price for goods or services under a contract listed on a schedule.

*Gov't Code 2155, Subchapter I*

COOPERATIVE  
PURCHASING  
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative stating that the District will:

1. Designate a person to act on behalf of the District in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

If the District participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

*Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)*

STATE COUNCIL ON  
COMPETITIVE  
GOVERNMENT

As approved by the State Council on Competitive Government, the District may voluntarily participate in a contract awarded by the council or a state agency under Government Code 2162. A district that purchases goods or services under this type of contract is considered to have satisfied any state law requiring competitive purchasing. *Gov't Code 2162.102(d)*

COMMITMENT OF  
CURRENT REVENUE

A contract for the acquisition, including lease, of real or personal property is a commitment of the District's current revenue only, provided the contract contains either or both of the following provisions:

1. Retains to the Board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.
2. Is conditioned on a best efforts attempt by the Board to obtain and appropriate funds for payment of the contract.

*Local Gov't Code 271.903*

ENERGY OR WATER  
CONSERVATION  
MEASURES

The District may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004. *Education Code 44.901* [See policy CL for legal requirements pertaining to such contracts]

PURCHASING AND ACQUISITION

CH  
(LEGAL)

RECYCLED  
PRODUCTS

The District shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. The District shall regularly review and revise its purchasing procedures and specifications for purchase of goods, supplies, equipment, and materials in order to:

1. Eliminate procedures and specifications that explicitly discriminate against products made of recycled materials.
2. Encourage the use of products made of recycled materials.
3. Ensure to the maximum extent economically feasible that the District purchase products that may be recycled when they have served their intended use.

The District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the Water Commission that compliance would work a hardship on the District.

*Health and Safety Code 361.426*

AGRICULTURAL  
PRODUCTS

If the cost and quality are equal, the District shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, the District shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

The District may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

VEGETATION FOR  
LANDSCAPING

If cost is equal and the quality is not inferior, the District shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

*Education Code 44.042*

BUS PURCHASE OR  
LEASE

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)* [See CNB]

CRIMINAL HISTORY

Before entering into a contract with the District, a person or business must give notice to the District if the person or an owner or operator of the business has been convicted of a felony. The Dis-

trict may terminate a contract with a person or business if the District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The District must compensate the person for services performed before the contract terminated. *Education Code 44.034*

The District may obtain criminal history record information that relates to an employee of or applicant for employment by a person that contracts with the District to provide services if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The duties are or will be performed on school property or at another location where students are regularly present.

*Education Code 22.083(b)*

RIGHT TO WORK

While engaged in procuring goods and services or awarding a contract, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

*Education Code 44.043*

LOBBYING  
RESTRICTION:  
TOBACCO EDUCATION  
GRANT FUNDS

The District may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the District;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission.
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2);
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

*Gov't Code 403.1067*

PURCHASING AND ACQUISITION

CH  
(LOCAL)

PURCHASING AUTHORITY	The Board delegates to the Superintendent or designee the authority to make budgeted purchases for goods or services. However, any single, budgeted purchase of goods or services that costs \$50,000 or more, regardless of whether the goods or services are competitively purchased, shall require Board approval before a transaction may take place.
PURCHASING METHOD	The Board delegates to the Superintendent or designee the authority to determine the method of purchasing in accordance with CH (LEGAL).
COMPETITIVE BIDDING	<p>If competitive bidding is chosen as the purchasing method, the Superintendent or designee shall prepare bid specifications. All bids shall be submitted in sealed envelopes, plainly marked with the name of the bidder and the time of opening. All bidders shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.</p> <p>The District may reject any and all bids.</p>
COMPETITIVE SEALED PROPOSALS	<p>If competitive sealed proposals are chosen as the purchasing method, the Superintendent or designee shall prepare the request for proposals and/or specifications for items to be purchased. All proposals shall be submitted in sealed envelopes, plainly marked with the name of the proposer and the date scheduled for receipt of proposals. Proposals received after the specified time shall not be considered. Proposals shall be opened at a time specified by the District. Proposals may be withdrawn prior to the formal scheduled time for receipt of proposals. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened.</p> <p>The District may reject any and all proposals.</p>
RESPONSIBILITY FOR DEBTS	The Board shall assume responsibility for debts incurred in the name of the District so long as those debts are for purchases made in accordance with adopted Board policy and current administrative procedures. The Board shall not be responsible for debts incurred by persons or organizations not directly under Board control; persons making unauthorized purchases shall assume full responsibility for all such debts.
PURCHASE COMMITMENTS	All purchase commitments shall be made by the Superintendent or designee using a District-authorized procurement encumbrance or payment method, in accordance with administrative procedures.
PERSONAL PURCHASES	District employees shall not be permitted to purchase supplies or equipment for personal use through the District's business office.



PURCHASING AND ACQUISITION  
VENDOR RELATIONS

CHE  
(LEGAL)

REQUIRED VENDOR  
DISCLOSURE

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

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

1. Begins contract discussions or negotiations with the District; or
2. Submits to the District an application, response to a request for proposals or bids, correspondence, or another writing related to a potential agreement with the District.

*Local Gov't Code 176.006*

ELECTRONIC FILING

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

LIST OF LOCAL  
GOVERNMENT  
OFFICERS

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

INTERNET POSTING

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

PURCHASING AND ACQUISITION  
PAYMENT PROCEDURES

CHF  
(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. The rate of interest that accrues on an overdue payment is the rate in effect on September 1 of the fiscal year in which the payment becomes overdue. The rate in effect on September 1 is equal to the sum of one percent and the prime rate as published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

Interest on an overdue payment 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*

North East ISD  
015910

PURCHASING AND ACQUISITION  
PAYMENT PROCEDURES

CHF  
(LEGAL)

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*

PURCHASING AND ACQUISITION  
REAL PROPERTY AND IMPROVEMENTS

CHG  
(LEGAL)

CASH PURCHASES  
WITH AVAILABLE  
FUNDS

The requirements of the Public Property Finance Act (Local Government Code 271.001 and following) do not apply to cash purchases of real property made with moneys from available funds. *Bandera v. Hamilton*, 2 S.W.3d 367 (Tex. App.—San Antonio 1999)

DEFINITIONS

For purposes of this policy, “contract” means an agreement entered under the authority of the Public Property Finance Act, but does not mean a contract solely for the construction of improvements to real property. “Improvements” means a permanent building, structure, fixture, or fence that is erected on or affixed to land, but does not include a transportable building or structure whether or not it is affixed to land. “Real property” means land, improvement, or an estate or interest in real property, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation in real property. *Local Gov’t Code 271.003(2), (10), (11)*

PROPOSED  
CONTRACT

The Board may execute, perform, and make payments under a contract for the use or purchase or other acquisition of real property or an improvement to real property. If the Board proposes to enter into such a contract, it shall publish notice of that intent not less than 60 days before the date set to approve execution of the contract. Publication shall be in a newspaper of general circulation in the District. The notice must summarize the major provisions of the proposed contract. The notice shall estimate the construction and other costs, but the Board shall not publish the first advertisement for bids for construction of improvements until 60 days after publication of the notice of intent. *Local Gov’t Code 271.004(a)*

PETITION AND  
REFERENDUM

Within 60 days of the date of publication of notice of intent, a written petition signed by a least five percent of the registered voters of the District may be filed with the Board, requesting the Board to order a referendum on the question of whether the contract should be approved. If a petition is filed, the Board may not approve the contract or publish the first advertisement for bids for construction of improvements unless the question is approved by a majority of the votes received in a referendum ordered and held on the question. The referendum shall be held in accordance with the applicable provisions of the Election Code, except that it is not required to be held on a uniform election date. *Local Gov’t Code 271.004(b), (c)*

SUBMISSION TO  
ATTORNEY GENERAL

A lease-purchase contract entered into for the use, purchase, or other acquisition of real property or an improvement to real property and the records relating to its execution shall be submitted to the attorney general for examination as to their validity. If the attorney general finds that the contract has been authorized in accordance with the law, the attorney general shall approve them,

PURCHASING AND ACQUISITION  
REAL PROPERTY AND IMPROVEMENTS

CHG  
(LEGAL)

and the comptroller of public accounts shall register them. Following approval and registration, the contract is incontestable and is a binding obligation according to its terms. *Local Gov't Code 271.004(g)-(i)*

DISTRICT OBLIGATION A contract under this provision is a special obligation of the District if ad valorem taxes are not pledged to the payment of the contract. If the contract provides that payments by the District are to be made from maintenance taxes previously approved by voters of the District and are subject to annual appropriation or are paid from a source other than ad valorem taxes, the payments under the contract shall not be considered indebtedness under Tax Code 26.04(c). All or part of the District's obligation may be evidenced by one or more promissory notes. *Local Gov't Code 271.004 (d)-(f)*

STATE ASSISTANCE—  
INSTRUCTIONAL  
FACILITIES The District may receive financial assistance from the state when the District lease-purchases an instructional facility under the terms set out in Chapter 46, Education Code, and Commissioner's rules implementing that chapter. *Education Code 46.004; 19 TAC 61.1032*

EMINENT DOMAIN The District may, by the exercise of the right of eminent domain, acquire title to real property for the purpose of securing sites on which to construct school buildings or for any other purpose necessary for the District. *Education Code 11.155*

SCHOOL PROPERTIES DISPOSAL

CI  
(LEGAL)

All rights and titles to District property, whether real or personal, shall be vested in the Board and its successors in office.

The Board may, in an appropriate manner, dispose of property that is no longer necessary for District operations.

*Education Code 11.151(c)* [See also CDB(LEGAL)]

SCHOOL PROPERTIES DISPOSAL

CI  
(LOCAL)

PERSONAL  
PROPERTY

District personal property may be disposed of when the property becomes obsolete, irreparable, or of no use to the District. The Superintendent or designee shall be responsible for the disposal of any equipment so designated in the following manner:

1. Public auction or sealed bids.
2. Salvage for parts.
3. Trade for equipment or services.
4. Sell for scrap.
5. Destroy.

Equipment purchased for externally funded programs shall be disposed of in keeping with prescribed guidelines for such programs. Items obtained as federal surplus shall be handled in accordance with federal regulations.

Monies collected from the sale of obsolete materials, equipment, and supplies shall be deposited to either the general fund or the proprietary fund.



SAFETY PROGRAM/RISK MANAGEMENT

CK  
(LOCAL)

COMPREHENSIVE  
SAFETY PROGRAM

The District shall take every reasonable precaution regarding the safety of its students, employees, visitors, and all others with whom it conducts business. The Superintendent or designee shall be responsible for developing, implementing, and promoting a comprehensive safety program.

The general areas of responsibility include, but are not limited to, the following:

EMERGENCY  
STRATEGIES

1. Guidelines and procedures for responding to emergencies.

LOSS PREVENTION  
STRATEGIES

2. Program activities intended to reduce the frequency of accident and injury, including:

a. Inspecting work areas and equipment.

b. Training frontline and supervisory staff.

c. Establishing safe work procedures and regulations.

d. Reporting, investigating, and reviewing accidents.

e. Promoting responsibility for District property on the part of students, employees, and the community.

LOSS CONTROL  
STRATEGIES

3. Program activities intended to reduce the ultimate cost of accidents and injuries through investigation and documentation.

LOSS FINANCING  
STRATEGIES

4. Program activities that identify and develop prudent methods of financing loss costs on an annual basis, including the purchase of commercial insurance, self-insured retentions, and risk pooling.

VEHICULAR SAFETY  
STRATEGIES

5. Driver education programs, when available.

6. Vehicle safety programs.

7. Traffic safety programs and studies related to employees, students, and the community.

INFORMATION  
MANAGEMENT

The Superintendent or designee shall be responsible for the collection, storage, and analysis of relevant operational and historical data required to develop sound procedures for implementation and operation of the comprehensive safety program.

SAFETY PROGRAM/RISK MANAGEMENT  
INSPECTIONS

CKA  
(LEGAL)

ASBESTOS HAZARD  
EMERGENCY  
RESPONSE ACT  
(AHERA)  
DUTIES

Under AHERA, the District shall identify asbestos-containing materials and implement an appropriate management plan in a timely manner. *40 CFR 763.80*

The District shall ensure that:

1. All persons who perform inspections, reinspections, and periodic surveillance, who develop and update management plans, and who develop and implement response actions comply with federal and state law.
2. All custodial and maintenance employees are properly trained as required by law.
3. Workers and building occupants, or their legal guardians, are informed annually about inspections, response actions, and post-response action activities.
4. Short-term workers who may come in contact with asbestos in a school are informed of the locations of "asbestos-containing building material" (ACBM) and suspected ACBM assumed to be "asbestos-containing material" (ACM).
5. Proper warning labels are posted.
6. Management plans are available for inspection, and notice of their availability has been properly provided.
7. A properly trained asbestos coordinator is designated to ensure that legal requirements are met.
8. Any conflict of interest that may arise among accredited asbestos personnel is considered, especially when selecting accredited personnel.

*40 CFR 763.84*

MANAGEMENT  
PLAN

An asbestos management plan shall be developed for each school and submitted to the Texas Department of State Health Services (DSHS) for approval. This plan shall be developed by an accredited management planner who may be required to sign a statement that the plan is in compliance with federal asbestos regulations.

The plan shall include:

1. A list of the name and address of each school building and whether it contains friable ACBM, nonfriable ACBM, and friable and nonfriable suspected ACBM assumed to be ACM.
2. Specified information about inspections conducted before December 14, 1987.

3. Specified information about required inspections and re-inspections.
4. The name, address, and telephone number of the designated asbestos coordinator and details of his or her required training. The plan must also contain a true and correct statement signed by the coordinator certifying that the general District responsibilities have been met.
5. The written recommendations on response actions from the District's accredited asbestos management planner(s), including the name, signature, state of accreditation, and accreditation number, if applicable, of each planner.
6. A detailed description of preventive measures and response actions to be taken.
7. In regard to asbestos inspectors and persons who design or carry out response actions, a statement that the District uses or will use person(s) who have been accredited by an Environmental Protection Agency (EPA)-approved course.
8. A detailed description of any material described in item 1 of this list that remains after the response actions are taken. The description shall be updated when response actions are completed.
9. A reinspection plan for operations and maintenance activities, a plan for periodic surveillance, a description of the management planner's recommendation regarding additional cleaning, and the District's response.
10. A description of steps taken to inform workers and building occupants or their legal guardians about inspections, re-inspections, response actions, post-response action activities, and the availability of management plans.
11. An evaluation of resources needed to complete the response actions successfully and carry out reinspection, operations and maintenance activities, periodic surveillance, and training.
12. The name of each consultant contributing to the plan and a statement that the consultant is accredited under another state's accreditation plan or accredited by an EPA-approved course.

PLAN AVAILABILITY

A copy of the plan submitted to DSHS shall be kept in the District's administrative office and be available for inspection by the EPA, the state, and the public, including teachers, school personnel, employee representatives, and parents.

SAFETY PROGRAM/RISK MANAGEMENT  
INSPECTIONS

CKA  
(LEGAL)

Updated management plans for each school shall also be available for inspection during normal business hours in the administrative office and at the school itself. Individual school plans shall be made available for inspection within at least five working days after a request is received.

NOTICE                      Annually, the District shall notify in writing parent, teacher, and employee organizations of the availability of the management plans.

*40 CFR 763.93*

INSPECTIONS              Each building leased, owned, or used as a school building shall be inspected to determine the locations of friable and nonfriable ACBM. At least once every three years after a management plan is in effect, the District shall conduct reinspections. Inspectors shall collect samples of suspected ACBM material for analysis. The inspector shall provide a written assessment of all friable known or assumed ACBM in the school building for each inspection or reinspection. The assessment shall meet all legal requirements and shall be signed and dated, with the inspector's accreditation information. A copy shall be sent to the coordinator for inclusion in the management plan within 30 days. *40 CFR 763.85, 763.88*

PERIODIC SURVEILLANCE      At least once every six months after the management plan is in effect, the District shall conduct and document periodic surveillance on any school building containing ACBM or assumed to contain ACBM. A record of this surveillance shall be submitted to the coordinator for inclusion in the management plan. *40 CFR 763.92(b)*

RESPONSE ACTIONS              The District shall select and implement, consistent with the assessment, the least burdensome method of appropriate response actions from those that protect human health and the environment. *40 CFR 763.90*

ASBESTOS-RELATED ACTIVITY      An "asbestos-related activity" means the removal, encapsulation, or enclosure of asbestos; the performance of asbestos surveys; the development of management plans or response actions; the collection or analysis of asbestos samples; sponsorship of training courses necessary for asbestos licensure or registration; the transportation of ACMs from any facility for purposes of disposal; and any other activity required to be licensed under the Texas Asbestos Health Protection Act. *Occupations Code 1954.002, 1954.101*

An asbestos-related activity shall be performed by a person (an individual, organization, or other legal entity recognized by law as the subject of rights and duties) licensed by DSHS. DSHS shall be notified not less than ten working days before an asbestos-related

activity is initiated. *Occupations Code 1954.252, 1954.101; 25 TAC 295.61*

RECORDS

A district licensed to perform asbestos-related activities shall keep an appropriate record or records of each activity it performs in public buildings and shall make the record(s) available to DSHS at any reasonable time. It shall also keep a copy of any violations issued against the District by the EPA or DSHS. Records shall be maintained for at least 30 years, or as long as required by federal law or regulation. *Occupations Code 1954.251; 25 TAC 295.58(d)*

For each area where all ACBM has been removed, the required records shall be maintained for at least three years after each required reinspection or its equivalent in both the school and the central administration office. *40 CFR 763.94*

WARNING LABELS

Proper warning labels shall be attached adjacent to any friable and nonfriable ACBM and suspected ACBM assumed to be ACM located in routine maintenance areas until it is removed. *40 CFR 763.95*

OPERATIONS /  
MAINTENANCE  
TRAINING

Members of the maintenance and custodial staff in buildings containing ACBM shall receive required training, including at least two hours of awareness training and an additional 14 hours of required training if their work activities may result in the incidental disturbance of ACBM. *40 CFR 763.92*

SAFETY PROGRAM/RISK MANAGEMENT  
ACCIDENT PREVENTION AND REPORTS

CKB  
(LOCAL)

EYE-PROTECTIVE  
DEVICES

Eye-protective devices meeting the standards of the State Department of Health shall be worn by every teacher and student participating in shop or laboratory activities involving any of the following:

1. Hot molten metals
2. Milling, sawing, turning, shaping, cutting, or stamping of any solid materials
3. Heat treatment, tempering, or kiln firing of any metal or other materials
4. Gas or electric arc welding
5. Caustic or explosive materials
6. Caustic or explosive chemicals or hot liquids or solids

SAFETY PROGRAM/RISK MANAGEMENT  
EMERGENCY PLANS

CKC  
(LEGAL)

EMERGENCY  
OPERATIONS PLAN

Each district shall adopt and implement a multihazard emergency operations plan for use in District schools. The plan must address mitigation, preparedness, response, and recovery as defined by the Commissioner in conjunction with the governor's office of homeland security. The plan must provide for:

1. District employee training in responding to an emergency;
2. Mandatory school drills to prepare District students and employees for responding to an emergency;
3. Measures to ensure coordination with local emergency management agencies, law enforcement, and fire departments in the event of an emergency; and
4. The implementation of a required security audit.

SECURITY AUDIT

At least once every three years, the District shall conduct a security audit of the District's facilities. To the extent possible, the District shall follow security audit procedures developed by the Texas School Safety Center or a comparable public or private entity. The District shall report the results of the security audit to the Board.

*Education Code 37.108.*

North East ISD  
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SAFETY PROGRAM/RISK MANAGEMENT  
EMERGENCY PLANS

CKC  
(LOCAL)

EMERGENCY  
OPERATIONS PLAN

The Superintendent shall ensure updating of the District's Emergency Operations Plan and ongoing staff training.



SAFETY PROGRAM/RISK MANAGEMENT  
SECURITY PERSONNEL/PEACE OFFICERS

CKE  
(LEGAL)

PEACE OFFICERS            The Board may employ security personnel and commission peace officers to carry out the provisions of Chapter 37, Subchapter C, Education Code, relating to law and order. If the Board authorizes security personnel to carry weapons, they must be commissioned peace officers. Any peace officer commissioned under Education Code 37.081 must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE).

JURISDICTION            The Board shall determine the jurisdiction of its commissioned peace officers, which may include all territory in the boundaries of the District and all property outside the boundaries of the District that is owned, leased, or rented by or otherwise under the control of the District.

*Education Code 37.081(a)*

SCOPE OF POWERS  
AND DUTIES

In a commissioned peace officer's jurisdiction, a peace officer:

1. Has the powers, privileges, and immunities of peace officers.
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws.
3. May take a juvenile into custody in accordance with Chapter 52 of the Family Code.

*Education Code 37.081(b); Family Code 52.01(a)*

The Board shall determine the scope of the on-duty and off-duty law enforcement activities of its peace officers, and the District must authorize in writing any off-duty law enforcement activities performed by a District peace officer. A District peace officer shall perform administrative and law enforcement duties as determined by the Board, which shall include protecting the safety and welfare of any person in the officer's jurisdiction and protecting property of the District. *Education Code 37.081(d)(e)*

A peace officer may provide assistance to another law enforcement agency, and the District may contract with a political subdivision for the jurisdiction of District peace officers to include all territory in the jurisdiction of the political subdivision. *Education Code 37.081(c)*

MEMORANDUM OF  
UNDERSTANDING

A District police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies. *Education Code 37.081(g)*

CHIEF OF POLICE

A District's chief of police is accountable to the Superintendent and shall report to the Superintendent or designee. District police offi-

SAFETY PROGRAM/RISK MANAGEMENT  
SECURITY PERSONNEL/PEACE OFFICERS

CKE  
(LEGAL)

	<p>cers shall be licensed by TCLEOSE and be supervised by the District chief of police or the chief's designee. <i>Education Code 37.081(f)</i></p>
BONDING	<p>A commissioned and assigned peace officer shall take and file the oath required of peace officers and execute and file the required \$1,000 bond, payable to the Board, conditioned on the officer's performance of his or her duties. <i>Education Code 37.081(h)</i></p>
CONTINUING EDUCATION	<p>If the District employs peace officers, it shall provide each officer with a continuing education program as required by Occupations Code Title 10, Chapter 1701, Subchapter H. <i>Occupations Code 1701, Subch. H</i></p>
COMPLAINT AGAINST PEACE OFFICER	<p>In order for a complaint against a District peace officer to be considered by the head of the District's police department, the complaint must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed and no disciplinary action shall be taken against the officer as a result of the complaint unless a copy is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. <i>Gov't Code Ch. 614, Subch. B; Atty. Gen. Op. GA-251 (2004)</i></p>
NOTICE OF EXPOSURE TO COMMUNICABLE DISEASE	<p>A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice in the form specified by administrative rule, in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. <i>28 TAC 110.108</i></p>

SAFETY PROGRAM/RISK MANAGEMENT  
SECURITY PERSONNEL/PEACE OFFICERS

CKE  
(LOCAL)

BOARD  
RESPONSIBILITY

The Board, to ensure that sufficient security is provided to protect the students, employees, and property of the District, hereby authorizes the formation of the District police department. Pursuant to Educational Code 37.081, the Board authorizes the employment of police officers.

The Board also authorizes the chief of police, as an agent of the Board, to commission police officers who meet at least the minimum standards required by the Texas Commission on Law Enforcement Officer Standards and Education.

POLICE AUTHORITY  
AND JURISDICTION

District police officers shall have jurisdiction anywhere in the territory contained within 1,000 feet of real property owned, leased, rented, or otherwise under the control of the District or the Board in areas within the geographical limits of the District. District police jurisdiction shall also include all property both real and personal, outside the boundaries of the District, that is owned, leased, rented, or otherwise under the control of the District or the Board. District police officers are empowered to enforce all laws, including municipal ordinances, county ordinances, state laws, and federal laws. This authority is granted by the Board as authorized by Educational Code 37.081. District police officers shall limit the general enforcement of laws and ordinances within the stated jurisdiction to areas, situations, and cases that involve the safety and welfare of District students, employees, and visitors. District police officers shall limit any actions and responses to situations affecting persons other than students, staff, and employees, within the geographical limits of the District, to an immediate need to protect persons and/or property from harm. In such instances, District police officers shall contain the situation, summon police authority with jurisdiction and then immediately relinquish responsibility to the responding police agency.

OTHER FUNCTIONS

Other functions of the District police force will include:

1. District police, in addition to their normal duties, shall assist the Board, agents of the Board, and the District and/or campus administrators with matters that do not concern the application of law but that facilitate the orderly conduct of District business.
2. District police, when assigned to campus duties, shall assist campus administrators in promoting and ensuring the safety, well-being, and general welfare of students, District employees, and campus visitors.

DEPARTMENTAL  
REGULATIONS

The District police chief shall institute departmental regulations pertaining to weapons, ammunition, use of force or deadly force, hot pursuit, arrest procedures, training, and other topics as may be

SAFETY PROGRAM/RISK MANAGEMENT  
SECURITY PERSONNEL/PEACE OFFICERS

CKE  
(LOCAL)

necessary and prudent to the orderly operation of the police department.

ADDITIONAL TRAINING      Commissioned peace officers working for the District shall receive additional training in the areas of limitation of powers, confidentiality regulations, child abuse requirements, and school policy.

OFF-DUTY  
EMPLOYMENT      Police officers shall not work in an off-duty law enforcement or security-related job without first obtaining the approval of the chief of police. To seek permission the requesting officer shall execute an off-duty request form, listing the place of employment, dates of employment, and the rules under which the officer is allowed to perform the off-duty employment. If the off-duty request is approved, the officer shall deliver a copy of the approval to the off-duty work supervisor in order to inform the off-duty employer of the terms under which the approval is granted. While performing off-duty employment, the officer shall not represent the District, perform duties for the District, or use District-owned uniforms, equipment, or supplies. Officers working off-duty law enforcement or security-related jobs shall use generic uniform patches and badges that do not reflect their primary employment with the District.

LIMITATIONS      District police officers, while in an on-duty or an off-duty status, shall protect and not violate the civil rights of any person. District police officers shall not violate nor misapply the provisions of Chapter 9 of the Penal Code with respect to the use of force or deadly force. District police officers shall not violate or misapply the provisions of Chapter 14 of the Code of Criminal Procedure, with respect to the powers of arrest. Any violation of the contents or intent of this paragraph shall be cause for disciplinary action and may result in criminal charges and/or civil action.

All police officers, employed and commissioned by the District, shall take and file the oath required of police officers and shall execute and file a good and sufficient bond in the minimum sum of \$1,000 payable to the Board with two or more good and sufficient sureties, conditioned that the officer will fairly, impartially, and faithfully perform all the duties that may be required by law.

MEMORANDUM OF  
UNDERSTANDING      A memorandum of understanding will be developed in cooperation with each of the law enforcement agencies with which the police department shares jurisdiction. This memorandum shall outline reasonable communication and coordination of law enforcement matters between the District police department and the concerned agencies.

ENERGY OR WATER  
CONSERVATION  
MEASURES

The Board may enter into an energy savings performance contract for energy or water conservation measures to reduce energy or water consumption or operating costs of school facilities.

An energy savings performance contract includes a contract for the installation or implementation of:

1. Insulation of a building structure and systems within the building;
2. Storm windows or doors, caulking or weatherstripping, multi-glazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, or other window or door system modifications that reduce energy consumption;
3. Automatic energy control systems, including computer software and technical data licenses;
4. Heating, ventilating, or air-conditioning system modifications or replacements that reduce energy or water consumption;
5. Lighting fixtures that increase energy efficiency;
6. Energy recovery systems;
7. Electric systems improvements;
8. Water-conserving fixtures, appliances, and equipment or the substitution of nonwater-using fixtures, appliances, and equipment;
9. Water-conserving landscape irrigation equipment;
10. Landscaping measures that reduce watering demands and capture and hold applied water and rainfall, including:
  - a. Landscape contouring, including the use of berms, swales, and terraces; and
  - b. The use of soil amendments that increase the water-holding capacity of the soil, including compost;
11. Rainwater harvesting equipment and equipment to make use of water collected as part of a storm-water system installed for water quality control;
12. Equipment for recycling or reuse of water originating on the premises or from other sources, including treated municipal effluent;

13. Equipment needed to capture water from nonconventional, alternate sources, including air conditioning condensate or graywater, for nonpotable uses;
14. Metering equipment needed to segregate water use in order to identify water conservation opportunities or verify water savings; or
15. Other energy or water conservation-related improvements or equipment, including improvements or equipment relating to renewable energy or nonconventional water sources or water reuse.

Each energy or water conservation measure shall comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. Notwithstanding the list above, an energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The Board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

PERFORMANCE  
BOND

Before entering an energy savings performance contract, the Board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. The Board may also require a separate bond to cover the value of the guaranteed savings on the contract.

FINANCING

An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 15 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing.
2. With the proceeds of bonds.
3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed 15 years from the final date of installation.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the

amount of the savings to be realized by the District under the contract. If the term of an energy savings performance contract exceeds one year, the District's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the District, divided by the number of years in the contract term.

CONTRACT  
PROCUREMENT

An energy savings performance contract for energy or water conservation measures shall be let according to the procedures established for professional services by Government Code 2254.004. Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

COST SAVINGS  
REVIEW

Before entering an energy savings performance contract, the Board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who is not an officer or employee of an offeror for the contract under review or otherwise associated with the contract or the offeror. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

*Education Code 44.901*

RECYCLING  
PROGRAM

In cooperation with the Texas Building and Procurement Commission or the Texas Commission on Environmental Quality (TCEQ), the District shall establish a program for the separation and collection of all recyclable materials generated by the District's operations, including at a minimum, aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard. "Recyclable materials" includes materials in the District's possession that have been abandoned or disposed of by the District's officers or employees or by any other person.

The District shall also:

1. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

The District may seek an exemption from compliance if it has a population of less than 5,000 within its geographic boundaries and demonstrates to the TCEQ that compliance would work a hardship on the District.

*Health and Safety Code 361.425*

CERTIFICATE OF  
MOLD REMEDIATION

When the District sells property, the District shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*



BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
SECURITY

CLA  
(LEGAL)

SAFETY RULES

The Board may adopt rules for the safety and welfare of students, employees, and property and other rules it considers necessary to protect and govern the District, including rules providing for the operation and parking of vehicles on school property. *Education Code 37.102(a)* [See also CLC]

IDENTIFICATION AND  
RIGHT TO REJECT

Identification may be required of any person on school property. The Board or its designee may refuse to allow persons having no legitimate business to enter school property, and may eject any undesirable person from the property upon his or her refusal to leave peaceably on request. *Education Code 37.105* [See also CKE]

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

CLB  
(LEGAL)

BUILDINGS	Every school building shall be located on grounds that are well-drained and maintained in a sanitary condition. All buildings shall be properly ventilated and provided with an adequate supply of drinking water, an approved sewage disposal system, handwashing facilities, a heating system, and lighting facilities, all of which shall conform with established standards of good public health engineering practices.
LUNCHROOMS	All school lunchrooms shall be maintained in accordance with state food and drug regulations.
CUSTODIAL SERVICES	All school buildings and appurtenances to buildings shall be maintained in a sanitary manner, and all full-time building custodians and janitors shall know the fundamentals of safety and school sanitation.  <i>Health and Safety Code 341.065</i>
STRUCTURAL PEST CONTROL	When necessary, the District shall obtain pest control services for school buildings either by:  <ol style="list-style-type: none"><li>1. Contracting with a business that has a structural pest control business license; or</li><li>2. Requiring the District employee who is licensed as a certified noncommercial applicator or technician to perform the services.</li></ol> <i>Occupations Code 1951.459</i>  Before treating a school building for pest control, the District shall ensure that the necessary signs and information for employees and parents of students are posted or made available. <i>Occupations Code 1951.455</i> [See DI, FD]
INTEGRATED PEST CONTROL PROGRAM	The District shall adopt an integrated pest control program for the use of pesticides, herbicides, and other chemical agents to control pests, rodents, insects, and weeds at school buildings and other school facilities.
PEST CONTROL POLICY REQUIREMENTS	The District shall develop a written pest management policy for all structural pest control activities conducted on school property based on the most current <i>Structural Pest Control Board Integrated Pest Management</i> document.  The pest management policy must be adopted by the Board and kept on file by the Superintendent and the Integrated Pest Management (IPM) coordinators. The policy shall be based on generally accepted tenets of integrated pest management, as defined by the Environmental Protection Agency (EPA), including but not limited to:

1. Strategies that rely on the best combination of pest management tactics that are compatible with human health and environmental protection;
2. Proper identification of pest problems;
3. Monitoring programs to determine when pests are present or when pest problems are severe enough to justify corrective action;
4. Use of nonchemical management strategies whenever practical; and
5. Preferential use of least toxic chemical controls when pesticides are needed.

For specific requirements regarding the application and classification of pesticides, refer to the *Structural Pest Control Board Law and Regulations Manual*.

IPM COORDINATOR

The District shall designate an IPM coordinator(s). The IPM coordinator must implement the District's IPM policy. The person(s) designated as the District's IPM coordinator(s) shall attend a Texas Structural Pest Control Board (TSPCB)-approved IPM coordinator training course within 12 months of designation as IPM coordinator. The IPM coordinator shall oversee and be responsible for the following:

1. Assisting in the coordination of pest management personnel and ensuring that all school employees who perform pest control have the necessary training, are equipped with the appropriate personal protective equipment, and have the necessary licenses for their pest management responsibilities;
2. Maintaining a prioritized list of needed structural and landscape improvements;
3. For a district that conducts some or all pest management work through independent contractors, working with administrators to ensure that local pest control proposal specifications are compatible with IPM principles, and that pest control contractors work under the guidelines of the District's IPM policy;
4. Ensuring that all pesticides used on District property are in compliance with this policy and keeping current pesticide labels and Material Safety Data Sheets (MSDS);
5. Authorizing and reviewing least hazardous, effective emergency treatments with the approval of the certified applicator;

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

CLB  
(LEGAL)

6. Handling requests and inquiries relating to pest problems and maintaining records of any pesticide-related complaints;
7. Ensuring that files are maintained regarding pesticide application records and that incidental use reports are in compliance with 19 TAC 595.17;
8. Informing District administrators and other personnel about IPM requirements (training, notice and posting, sanitation, pesticide storage); and
9. Maintaining a copy of the District's IPM policy.

CONTRACTS

All pest control services must be consistent with this pest management policy.

NONCOMPLIANCE

A District or certified commercial applicator found not in compliance with the rules established by the TSPCB is subject to administrative penalties.

*Occupations Code 1951.212; 22 TAC 595.11*

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
MAINTENANCE

CLB  
(LOCAL)

INTEGRATED PEST  
MANAGEMENT  
PROGRAM (IPMP)  
STANDARDS

The District's integrated pest management program, developed in accordance with the requirements of the Texas Structural Pest Control Act and with the assistance of an advisory committee of knowledgeable persons, shall govern the District's use of pesticides, herbicides, and other chemical agents for the purpose of controlling pests, rodents, insects, and weeds in and around District facilities.

APPLICATION TIME  
FRAME

The IPM coordinator(s), in addition to the responsibilities set out in CLB(LEGAL), shall coordinate with appropriate District administrators or other designated and trained employees pesticide or herbicide applications in accordance with law. The IPM coordinator(s) shall determine when an emergency situation exists and an exception to the 48-hour notice requirement may be made.

NO UNAUTHORIZED  
APPLICATION

No other employee or other person or entity shall be permitted to apply a pesticide or herbicide at a school facility without the prior approval of the IPM coordinator and other than in the manner prescribed by law and the District's integrated pest management program.

North East ISD  
015910

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
TRAFFIC AND PARKING CONTROLS

CLC  
(LEGAL)

OPERATION OF  
VEHICLES

The Board may adopt rules concerning the operation and parking of vehicles on school grounds. *Education Code 37.102(a)*

All laws regulating traffic on highways and streets apply to the operation of vehicles within school property. *Education Code 37.102(b)*

VEHICLE  
IDENTIFICATION  
INSIGNIA

The Board may provide for the issuance and use of suitable vehicle registration and identification insignia. The Board may suspend the permit or bar any vehicle from driving or parking on any school property for the violation of any rule or regulation promulgated by the Board. Reinstatement of the privilege may be permitted and a reasonable fee assessed. *Education Code 37.106*

North East ISD  
015910

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT  
FLAG DISPLAYS

CLE  
(LEGAL)

Every public school shall fly the United States and Texas flags on all regular school days. *Education Code 1.003*

NATIONAL MOTTO

A public school may display the national motto, "In God We Trust," in each classroom, auditorium, and cafeteria. *Education Code 1.004*

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

TEXTBOOKS	<p>Textbooks selected for use in the public schools shall be furnished without cost to the students attending those schools. All textbooks purchased in accordance with Education Code Chapter 31 are the property of the state of Texas. <i>Education Code 31.001, 31.102(a)</i> [See EFAA for provisions addressing Textbook Selection and Adoption]</p>
DELEGATION OF POWER	<p>The Board may delegate the power to requisition, distribute, and manage the inventory of books, consistent with Education Code Chapter 31. <i>Education Code 31.104(a)</i></p>
REQUISITIONS, USE, AND DISTRIBUTION	<p>Not later than the seventh day after the first school day in April, each principal shall report the maximum attendance for a 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. <i>Education Code 31.103; 19 TAC 66.104(l)</i> [See BJA]</p> <p>Once instructional materials have been requisitioned and delivered, including nonadopted materials, 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. <i>19 TAC 66.104 (f), (j)</i></p> <p>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. <i>Education Code 31.102(c)</i></p>
ORDER QUANTITIES	<p>When placing orders for instructional materials, the District shall report enrollments as follows:</p> <ol style="list-style-type: none"><li>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</li><li>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, adjusted for students reported as working above or below grade level.</li></ol> <p><i>19 TAC 66.107(d)</i></p>



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)*

SURPLUS

After the beginning of every school year, each school district shall determine if it has surplus instructional materials for any subject area/grade level, based on its current enrollment for the subject area/grade level. In accordance with the Educational Materials and Textbooks (EMAT) online ordering system, surplus is defined as follows:

For courses that use textbooks that are in the first year of adoption, any textbook in excess of 110 percent of enrollment shall be considered surplus. For courses that use textbooks that are in the second or later years of adoption, any textbook in excess of 120 percent of enrollment shall be considered surplus. Overages that exceed these definitions should be entered into the EMAT Online Adjust Surplus Screen, except that instructional materials that are needed for the following school year are not considered surplus and should not be entered into the Adjust Surplus Screen. Instructional materials determined by the District to be surplus-to-quota shall be reported to TEA by October 1 of each year in accordance with instructions provided by TEA. The District is entitled to retain surplus-to-quota instructional materials only when data approved by TEA indicate that students will be enrolled in the subject and a need for the surplus-to-quota instructional materials exists. *19 TAC 66.107(c)*

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 notifying TEA of the surplus and posting the surplus in accordance with instructions provided by TEA. If prior approval is received, surplus instructional materials may be returned to the publisher's approved depository or placed into statewide surplus inventory in accordance with instructions from TEA. A school district that fails to notify TEA of surplus instructional materials for more than six months after the beginning of the school year shall reimburse the state at the full price for the surplus instructional materials. <i>19 TAC 66.107(g)</i>
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. <i>19 TAC 66.104(m)</i>
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. <i>Education Code 31.104(c)</i>
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.  <i>Education Code 31.104(d); 20 U.S.C. 1232g; Gov't Code 552.114(b)(2) [See also EF]</i>

EQUIPMENT AND SUPPLIES MANAGEMENT  
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

CMD  
(LEGAL)

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); 19 TAC 66.107(i)*

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 BBFB 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*

DEFINITIONS

For purposes of this policy:

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

*Education Code 34.003; Trans. Code 541.201*

AUTHORITY

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

TRANSPORTATION  
FUNDING FOR  
ELIGIBLE STUDENTS

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

transportation is provided within the approved routes of the District for the school the student attends. *Education Code 42.155*

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

HAZARDOUS  
CONDITIONS

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

TRANSPORTING  
STUDENTS TO  
SCHOOL

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

DESIGNATION OF  
CHILD-CARE  
FACILITY OR  
GRANDPARENT'S  
RESIDENCE

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

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

TRANSPORTATION  
TO A HIGHER  
PERFORMING  
SCHOOL

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

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

1. Has been identified for school improvement;
2. Has failed to make adequate yearly progress by the end of the first full school year after identification for school improvement;
3. Has had corrective action implemented by the District for failure to make adequate yearly progress by the end of the second full school year after identification for school improvement; or
4. Has failed to make adequate yearly progress after one full school year of corrective action.

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

TRANSPORTATION  
OF HOMELESS  
STUDENTS

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

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

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

SCHOOL  
ACTIVITIES

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

1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

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

The operator of a passenger car or passenger van used to transport students to school or to a school activity shall ensure that the

TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

	<p>number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt. <i>Education Code 34.003(c)</i></p>
WIRELESS COMMUNICATION DEVICES	<p>A person may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus except in case of emergency or if the passenger bus is not in motion. <i>Trans. Code 545.425</i></p>
ACCELERATED INSTRUCTION PROGRAMS	<p>The District shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. <i>Education Code 28.0211(j)</i></p>
STANDEES	<p>The District may not require or allow a child to stand on a moving bus or passenger van. <i>Education Code 34.004</i></p>
DISRUPTION OF TRANSPORTATION	<p>Any person who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school or activities sponsored by a school on a vehicle owned and/or operated by the District shall be guilty of a misdemeanor. <i>Education Code 37.126</i></p> <p>If the illegal act is conducted through use or exhibition of a firearm, the person shall be guilty of a felony. <i>Education Code 37.125</i></p>
TRANSPORTATION COMPANY OR SYSTEM	<p>The Board may contract for all or any part of its public school transportation with a mass transit authority or commercial transportation company, provided that the authority or commercial transportation company:</p> <ol style="list-style-type: none"><li>1. Requires its school bus drivers to have the qualifications required by and be certified in accordance with standards established by the Department of Public Safety;</li><li>2. Transports 15 or more students only in school buses or mass transit authority buses that meet or exceed safety standards for school buses established under Education Code 34.002;</li><li>3. Conducts all the following education programs with Board approval:<ol style="list-style-type: none"><li>a. A program to inform the public that public school students will be riding on the authority's or company's buses;</li><li>b. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and</li></ol></li></ol>

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

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

*Education Code 34.008*

CRIMINAL HISTORY  
RECORD

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

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

COMMERCIAL  
TRANSPORTATION  
COMPANY

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



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TRANSPORTATION MANAGEMENT  
STUDENT TRANSPORTATION

CNA  
(LEGAL)

CAREER AND  
TECHNOLOGY  
PROGRAM

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

TRANSPORTATION MANAGEMENT  
DISTRICT VEHICLES

CNB  
(LEGAL)

AUTHORIZATION TO  
PURCHASE OR LEASE  
VEHICLES

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

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

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

PAYMENT

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

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

SAFETY  
STANDARDS

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

NEW VAN  
PURCHASES OR  
LEASES

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

MAINTENANCE

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

CONTRACTS FOR  
USE, ACQUISITION,  
OR LEASE OF  
SCHOOL BUS

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

TRANSPORTATION MANAGEMENT  
DISTRICT VEHICLES

CNB  
(LEGAL)

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)*

TRANSPORTATION MANAGEMENT  
DISTRICT VEHICLES

CNB  
(LEGAL)

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. <i>7 CFR 210.11, 220.12</i>
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. <i>Texas Department of Agriculture, Texas Public School Nutrition Policy (<a href="http://www.agr.state.tx.us">http://www.agr.state.tx.us</a>); 7 CFR 210</i>
EXCEPTIONS	<p>The District may not adopt any rule, policy, or program under Education Code 28.002 that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:</p> <ol style="list-style-type: none"><li>1. Children in the classroom of the child on the occasion of the child's birthday; or</li><li>2. Children at a school-designated function.</li></ol> <p><i>Education Code 28.002 (1-3)(1)</i></p>

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FOOD SERVICES MANAGEMENT  
FOOD PURCHASING

COA  
(LEGAL)

PRODUCE	Produce purchases valued at \$10,000 or more in the aggregate, for a 12-month period, must be made in accordance with applicable law. <i>Education Code 44.031, 44.033</i> [See CH]
DAIRY PRODUCTS	The Board shall not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items that has been imported from outside the United States. However, imported milk powder may be purchased if domestic milk powder is not readily available in the normal course of business. <i>Health &amp; Safety Code 435.021</i>
IMPORTED BEEF	The District shall not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. <i>Agriculture Code 150.012</i>

FOOD SERVICES MANAGEMENT  
FREE AND REDUCED-PRICE FOOD PROGRAM

COB  
(LEGAL)

BREAKFAST  
PROGRAM

If at least ten percent of the students enrolled in one or more schools in the District are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C.A. 1773), the District shall participate in the program and extend its benefits to all eligible students in said school or schools. *Education Code 33.901*

SUMMER LUNCH  
PROGRAM

The primary purpose of the Summer Food Service Program is to provide food service to children from needy areas during periods when area schools are closed for vacation. *7 CFR 225.1 et seq.*

In accordance with the Texas Health and Human Services Commission (HHSC) and Texas Department of Agriculture's (TDA) plan, children residing in districts in which 60 percent or more children are eligible for free or reduced-price meals will have access to the summer program. *Human Resources Code 33.024; 1 TAC 378.612*

WAIVERS

The District may obtain a waiver from the requirement to provide a summer lunch program if the District works with field offices to identify other persons and agencies in the District who were contacted as potential providers or sites for the summer program and the District demonstrates to HHSC and TDA one of the following:

1. There are fewer than 100 children in the District currently eligible for free or reduced-price meals.
2. Transportation remains an insurmountable obstacle despite consultation by the District with public transit providers.
3. The District is unable to operate a summer program due to renovation or construction within the District and an appropriate alternative provider or site is not available.
4. The District is unable to operate a summer program due to other extenuating circumstances and an appropriate alternative provider or site is not available.

*Human Resources Code 33.024*

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;
2. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
3. Appears on an Internet Web site.

*Election Code 251.001(16); 1 TAC 20.1(13)(A)*

"Political advertising" does not include a communication made by e-mail. *1 TAC 20.1(13)(B)*



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OFFICE COMMUNICATIONS  
MAIL AND DELIVERY

CPAB  
(LOCAL)

USE OF INTERNAL  
MAIL SYSTEM

The District mail system for delivering items between District buildings shall not be available for use other than official school business. With the permission of the Superintendent or designee, internal mailboxes at an individual campus may be used by campus employees and school-sponsored or school support groups affiliated with that campus. [See also GKD]

DEFINITION

A "local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the District or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by District officers or employees.
2. Notes, journals, diaries, and similar documents created by a District officer or employee for his or her own personal convenience.
3. Blank forms, stocks or publications, and library and museum materials acquired solely for the purposes of reference or display.
4. Copies of documents in any media furnished to the public under the Open Records Act or other state law.

*Local Gov't. Code 201.003(8)*

BOARD'S  
RESPONSIBILITIES

In implementing the Local Government Records Act, the Board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all District records.
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer.
3. Facilitate the creation and maintenance of District records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the District and designed to furnish the information necessary to protect the District's legal and financial rights, the state, and persons affected by the District's activities.
4. Facilitate the identification and preservation of District records that are of permanent value.
5. Facilitate the identification and protection of essential District records.

6. Cooperate with the State Library and Archives Commission in its conduct of statewide records management surveys.

*Local Gov't. Code 203.021*

CUSTODIANS OF  
RECORDS

In implementing the Local Government Records Act, school personnel who are custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by the District for the efficient and economical management of records and in carrying out the requirements of the Act.
2. Adequately document the transaction of District business and the services, programs, and duties for which they and their staff are responsible.
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records in accordance with the policies and procedures of the District's records management program.

*Local Gov't. Code 203.022*

RECORDS  
MANAGEMENT  
OFFICER

In implementing the Local Government Records Act, the records management officer shall:

1. Assist in establishing and developing policies and procedures for the District's records management program.
2. Administer the records management program and provide assistance to the custodians in order to reduce costs and improve record-keeping efficiency.
3. In cooperation with the custodians of records, prepare and file records control schedules, amended schedules, and lists of obsolete records, as required by the Local Government Records Act.
4. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act.
5. In cooperation with the custodians of records, identify and take adequate steps to preserve District records of permanent value.
6. In cooperation with the custodians of records, identify and take adequate steps to protect essential District records.

7. In cooperation with the custodians of records, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with the District's records management program and legal requirements.
8. Disseminate to the Board and custodians of records information concerning state laws, administrative rules, and government policies relating to the District's records.
9. In cooperation with the custodians of records, establish procedures to ensure that the handling of records is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

*Local Gov't. Code 203.023*

RETENTION  
SCHEDULES

In developing the District's records retention schedule, the records management officer shall ensure it is consistent with the applicable minimum retention schedules adopted by the State Library and Archives Commission, i.e., Local Schedule GR—Records Common to All Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule SD—Records for Public School Districts.  
*13 TAC 7.125*

DESTRUCTION OF  
RECORDS

A District record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with the State Library and Archives Commission and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal standards.
2. The record appears on a list of obsolete records approved by the State Library and Archives Commission.
3. A destruction request is filed with and approved by the State Library and Archives Commission for a record not listed on an approved control schedule.
4. The district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by the State Library and Archives Commission.

*Local Gov't Code 202.001*

EXCEPTIONS	A District record the subject matter of which is known by the custodian to be the subject of litigation shall not be destroyed until the litigation is settled. A District record that is subject to a request under Chapter 552, Government Code, shall not be destroyed until the request is resolved. <i>Local Gov't Code 202.002</i>
PRESERVATION OF RECORDS	<p>The Board shall determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of local government records or public information. <i>Gov't Code 552.004</i></p> <p>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 an action involving the meeting is brought within that period, the certified agenda or tape recording shall be preserved while the action is pending. <i>Gov't Code 551.104(a)</i></p>
MICROFILMING	District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204 of the Local Government Code and rules adopted by the State Library and Archives Commission. <i>Local Gov't Code 204.002</i>
ELECTRONIC STORAGE	District records may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205 of the Local Government Code and rules adopted by the State Library and Archives Commission. <i>Local Gov't. Code 205.002</i>
FEDERAL INVESTIGATIONS AND BANKRUPTCY	Anyone who knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. <i>18 U.S.C. 1519</i>

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

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

DOCUMENT  
DESTRUCTION  
PRACTICES

The District shall follow its records management program regarding document destruction. However, the District shall preserve documents, including electronically stored information, and suspend routine record destruction practices as applicable according to procedures developed by the records management officer:

1. In the event of pending or reasonably anticipated litigation;
2. In the event of an investigation by a federal agency or department or any bankruptcy case; or
3. In the event of a public information request.

Notification shall be given to appropriate staff of any applicable obligations to suspend routine record destruction practices.

WEB SITE POSTINGS

The District's records management program shall address the length of time documents will be posted on the District's Web site when the law does not specify a posting period.

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

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(LEGAL)

PEIMS	<p>The District shall participate in the Public Education Information Management System (PEIMS) and through that system shall provide information required for the administration of the Foundation School Program and of other appropriate provisions of the Education Code. The PEIMS data standards, established by the Commissioner of Education, shall be used by the District to submit information. <i>Education Code 42.006; 19 TAC 61.1025</i></p>
CHILDREN'S INTERNET PROTECTION ACT	<p>Under the Children's Internet Protection Act (CIPA), the District must, as a prerequisite to receiving universal service discount rates, implement certain Internet safety measures and submit certification to the Federal Communications Commission (FCC). <i>47 U.S.C. 254</i> [See UNIVERSAL SERVICE DISCOUNTS, below, for details]</p> <p>Districts that do not receive universal service discounts but do receive certain federal funds under the Elementary and Secondary Education Act (ESEA) must, as a prerequisite to receiving these funds, implement certain Internet safety measures and submit certification to the Department of Education (DOE). <i>20 U.S.C. 6777</i> [See ESEA FUNDING, below, for details]</p>
DEFINITIONS	<p>"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:</p> <ol style="list-style-type: none"><li>1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;</li><li>2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and</li><li>3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.</li></ol> <p><i>47 U.S.C. 254(h)(7)(G); 20 U.S.C. 6777(e)(6)</i></p> <p>"Technology protection measure" means a specific technology that blocks or filters Internet access. <i>47 U.S.C. 254(h)(7)</i></p>
UNIVERSAL SERVICE DISCOUNTS	<p>An elementary or secondary school having computers with Internet access may not receive universal service discount rates unless the District implements an Internet safety policy, submits certifications to the FCC, and ensures the use of computers with Internet access in accordance with the certifications. <i>47 U.S.C. 254(h)(5)(A); 47 CFR 54.520</i></p> <p>"Universal service" means telecommunications services including Internet access, Internet services, and internal connection services</p>

and other services that are identified by the FCC as eligible for federal universal service support mechanisms. *47 U.S.C. 254(c)(3), (h)(5)(A)(ii)*

INTERNET SAFETY  
POLICY

The District shall adopt and implement an Internet safety policy that addresses:

1. Access by minors to inappropriate matter on the Internet and the World Wide Web;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access, including "hacking," and other unlawful activities by minors on-line;
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and
5. Measures designed to restrict minors' access to materials harmful to minors.

*47 U.S.C. 254(l)*

PUBLIC HEARING

The District shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed Internet safety policy. *47 U.S.C. 254(h)(5)(A), (l)(1)*

'INAPPROPRIATE  
FOR MINORS'

A determination regarding what matter is inappropriate for minors shall be made by the Board or designee. *47 U.S.C. 254(l)(2)*

TECHNOLOGY  
PROTECTION  
MEASURE

In accordance with the appropriate certification, the District shall operate a technology protection measure that protects minors against access to visual depictions that are obscene, child pornography, or harmful to minors; and protects adults against access to visual depictions that are obscene or child pornography. *47 U.S.C. 254(h)(5)(B), (C)*

MONITORED USE

In accordance with the appropriate certification, the District shall monitor the on-line activities of minors. *47 U.S.C. 254(h)(5)(B)*

CERTIFICATIONS  
TO THE FCC

To be eligible for universal service discount rates, the District shall certify to the FCC, in the manner prescribed at 47 CFR 54.520, that:

1. An Internet safety policy has been adopted and implemented.
2. With respect to use by minors, the District is enforcing the Internet safety policy and operating a technology protection measure during any use of the computers.



3. With respect to use by adults, the District is enforcing an Internet safety policy and operating a technology protection measure during any use of the computers, except that an administrator, supervisor, or other person authorized by the District may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose.

*47 U.S.C. 254(h)(5); 47 CFR 54.520*

ESEA FUNDING

Federal funds made available under Title II, Part D of the ESEA for an elementary or secondary school that does not receive universal service discount rates may not be used to purchase computers used to access the Internet, or to pay for direct costs associated with accessing the Internet unless the District:

1. Has in place a policy of Internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors and enforces the operation of the technology protection measure during any use by minors of its computers with Internet access; and
2. Has in place a policy of Internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with Internet access.

The District may disable the technology protection measure to enable access to bona fide research or for another lawful purpose.

CERTIFICATION TO  
DOE

The District shall certify its compliance with these requirements to the Department of Education as part of the annual application process for each program funding year under the ESEA.

*20 U.S.C. 6777*

STATE FUNDING

A public school that provides a computer used to access the Internet is not eligible for a loan or grant under Subchapter C, Chapter 57, Utilities Code (Telecommunications Infrastructure Fund), unless the school adopts and implements an Internet safety policy under Chapter 32, Subchapter E, of the Education Code or under the federal Children's Internet Protection Act (CIPA). *Education Code 32.202*

"Internet safety policy" in Chapter 32, Subchapter E, of the Education Code means a policy that addresses:

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ  
(LEGAL)

1. Measures designed to restrict access by minors to obscene material on the Internet;
2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;
3. Unauthorized access and other unlawful activities by minors online; and
4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors.

“Obscene” has the meaning assigned by Section 43.21 of the Penal Code.

*Education Code 32.201*

TRANSFER OF  
EQUIPMENT TO  
STUDENTS

The District may transfer to a student enrolled in the District:

1. Any data processing equipment donated to the District, including equipment donated by a private donor, a state eleemosynary institution, or a state agency under Government Code 2175.128;
2. Any equipment purchased by the District; and
3. Any surplus or salvage equipment owned by the District.

*Education Code 32.102(a)*

Before transferring data processing equipment to a student, the District must:

1. Adopt rules governing transfers, including provisions for technical assistance to the student by the District;
2. Determine that the transfer serves a public purpose and benefits the District; and
3. Remove from the equipment any offensive, confidential, or proprietary information, as determined by the District.

*Education Code 32.104*

DONATIONS

The District may accept:

1. Donations of data processing equipment for transfer to students; and
2. Gifts, grants, or donations of money or services to purchase, refurbish, or repair data processing equipment.

*Education Code 32.102(b)*

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ  
(LEGAL)

USE OF PUBLIC FUNDS	<p>The District may spend public funds to:</p> <ol style="list-style-type: none"><li>1. Purchase, refurbish, or repair any data processing equipment transferred to a student; and</li><li>2. Store, transport, or transfer data processing equipment under this policy.</li></ol> <p><i>Education Code 32.105</i></p>
ELIGIBILITY	<p>A student is eligible to receive data processing equipment under this policy only if the student does not otherwise have home access to data processing equipment, as determined by the District. The District shall give preference to educationally disadvantaged students. <i>Education Code 32.103</i></p>
RETURN OF EQUIPMENT	<p>Except as provided below, a student who receives data processing equipment from the District under this policy shall return the equipment to the District not later than the earliest of:</p> <ol style="list-style-type: none"><li>1. Five years after the date the student receives the equipment;</li><li>2. The date the student graduates;</li><li>3. The date the student transfers to another district; or</li><li>4. The date the student withdraws from school.</li></ol> <p>If, at the time the student is required to return the equipment, the District determines that the equipment has no marketable value, the student is not required to return the equipment.</p> <p><i>Education Code 32.106</i></p>
UNIFORM ELECTRONIC TRANSACTIONS ACT	<p>The District may agree with other parties to conduct transactions by electronic means. Any such agreement or transaction must be done in accordance with the Uniform Electronic Transactions Act. <i>Business and Commerce Code 43</i></p>

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ  
(LOCAL)

The Superintendent or designee shall implement, monitor, and evaluate electronic media resources for instructional and administrative purposes.

AVAILABILITY OF  
ACCESS

Access to the District's electronic communications system, including the Internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with administrative regulations. Limited personal use of the system shall be permitted if the use:

1. Imposes no tangible cost on the District;
2. Does not unduly burden the District's computer or network resources; and
3. Has no adverse effect on an employee's job performance or on a student's academic performance.

USE BY MEMBERS  
OF THE PUBLIC

Access to the District's electronic communications system, including the Internet, shall be made available to members of the public, in accordance with administrative regulations. Members of the public who are granted access shall be required to comply with District rules, regulations, and policies governing appropriate use of the system. Such use shall be permitted so long as the use:

1. Imposes no tangible cost on the District; and
2. Does not unduly burden the District's computer or network resources.

ACCEPTABLE USE

The Superintendent or designee shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.

Access to the District's electronic communications system is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the system and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.

INTERNET SAFETY

The Superintendent or designee shall develop and implement an Internet safety plan to:

1. Control students' access to inappropriate materials, as well as to materials that are harmful to minors;

ELECTRONIC COMMUNICATION AND DATA MANAGEMENT

CQ  
(LOCAL)

2. Ensure student safety and security when using electronic communications;
3. Prevent unauthorized access, including hacking and other unlawful activities; and
4. Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students.

FILTERING

Each District computer with Internet access shall have a filtering device or software that blocks access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal Children's Internet Protection Act and as determined by the Superintendent or designee.

The Superintendent or designee shall enforce the use of such filtering devices. Upon approval from the Superintendent or designee, an administrator, supervisor, or other authorized person may disable the filtering device for bona fide research or other lawful purpose.

MONITORED USE

Electronic mail transmissions and other use of the electronic communications system by students and employees shall not be considered private. Designated District staff shall be authorized to monitor such communication at any time to ensure appropriate use.

INTELLECTUAL  
PROPERTY RIGHTS

Students shall retain all rights to work they create using the District's electronic communications system.

As agents of the District, employees shall have limited rights to work they create using the District's electronic communications system. The District shall retain the right to use any product created in the scope of a person's employment even when the author is no longer an employee of the District.

DISCLAIMER OF  
LIABILITY

The District shall not be liable for users' inappropriate use of electronic communication resources or violations of copyright restrictions or other laws, users' mistakes or negligence, and costs incurred by users. The District shall not be responsible for ensuring the accuracy, age appropriateness, or usability of any information found on the Internet.

INSURANCE AND ANNUITIES MANAGEMENT

CR  
(LEGAL)

COMMERCIAL  
INSURANCE PLANS

The District may procure contracts with any insurance company authorized to do business in Texas to insure its employees. Policies may include group health, accident, accidental death and dismemberment, disability income replacement, and hospital, surgical, and/or medical expense insurance, or a group contract providing for annuities. Dependents of employees may be insured under group policies which provide hospital, surgical, and/or medical expense insurance. *Insurance Code 3.51*

EXCEPTION

A district that participates in the uniform group coverage program established under Insurance Code Article 3.50-7 may not procure or renew commercial health insurance coverage after the uniform group coverage is implemented in the district. *Insurance Code 3.51(b)* [See CRD]

PREMIUM PAYMENTS

Any portion of the commercial insurance premiums paid by the District shall be from local, not state, funds. *Insurance Code 3.51(b)*

Contributions made by employees may be deducted from salary payments when the employee has authorized such deduction. *Insurance Code 1131.303*

SELF-INSURANCE  
BONDS

The District may issue bonds, certificates, notes, and other obligations, the proceeds of which shall be used for all or any portion of a self-insurance fund to protect the District and its officers, employees, and agents from any insurable risk or hazard, or use any funds or money available to the District for the self-insurance fund. If the District desires to issue bonds payable from ad valorem taxes for this purpose, it shall comply with the requirements of Education Code 45.003. *Gov't Code 2259.031*

DESIGNATED BROKER  
OF RECORD

The District may not use a designated broker of record to purchase insurance contracts with premiums of an aggregate value of \$10,000 or more for each 12-month period. If the District expends less than \$10,000, in the aggregate, on insurance premiums for each 12-month period, the District may use a designated broker of record to purchase insurance contracts, but the Board shall ensure that the use of a designated broker of record is in the District's best interest and select a designated broker of record in a manner it determines is consistent with good business management. *Atty. Gen. Op. JC-0205 (2000)*

RISK-RETENTION  
GROUPS

The District may become a member of a risk retention group or purchasing group created under the Federal Liability Risk Retention Act of 1986 for the purpose of obtaining insurance against any insurable risk. *Gov't Code 2259.061*

INSURANCE AND ANNUITIES MANAGEMENT  
LIABILITY INSURANCE

CRB  
(LEGAL)

BOARD MEMBER  
LIABILITY INSURANCE

The District may purchase insurance to protect itself and its Trustees from the cost and expense of defending litigation brought against them individually for acts or omissions committed by them in the good faith discharge of their official duties. The District may also purchase insurance to indemnify its Trustees from awards of damages only where the District was or might have been held liable for the same damages. The Board may not purchase insurance to indemnify its Trustees in situations where it is not itself exposed, actually or potentially, to a similar liability. *Atty. Gen. Op. H-70 (1973)*

EMPLOYEE LIABILITY  
INSURANCE

As an element of District employees' compensation, the District may purchase necessary liability insurance in the name of such employees who are exposed to individual liability by virtue of their official duties. *Atty. Gen. Op. M-989 (1971)*

CAREER AND  
TECHNOLOGY  
INSURANCE

The Board may provide insurance to protect a business that contracts with the District under Education Code 29.187(e) against liability for a bodily injury sustained by or the death of a District student while working for the business as part of a career and technology education program.

The Board shall notify the parent or guardian of each student working for a business if the Board provides insurance to the business. The amount of insurance the District provides must be reasonable considering the financial condition of the District. The insurance must be obtained from a reliable insurer authorized to engage in business in Texas and must be submitted on a form approved by the commissioner of insurance.

If a contracting business obtains any insurance related to the student other than liability insurance, any proceeds of the insurance must be used for the benefit of the student and the student's family. The Board must submit a proposed program to the commissioner in accordance with criteria established by the commissioner.

*Education Code 29.187(f), (g), (h) [See EEL]*

TORT CLAIMS ACT  
LIABILITY INSURANCE

The District may purchase insurance protection against claims for property damage, personal injury, or death proximately caused by the negligence, wrongful act, or omission of the District's officers or employees, acting within the scope of their employment or office, and arising from the operation or use of a motor vehicle under circumstances where such officers or employees would be personally liable to the claimant in accordance with the laws of this state. *Civ. Prac. & Rem. Code 101.021, 101.027(a)*

TORT CLAIMS  
PAYMENTS

The District may pay actual damages, court costs, and attorney's fees awarded against an employee or officer if the damages result

INSURANCE AND ANNUITIES MANAGEMENT  
LIABILITY INSURANCE

CRB  
(LEGAL)

from an act or omission by the employee or officer in the course and scope of his or her employment or duties and arise from a cause of action for negligence. The District shall not pay damages awarded against an employee or officer that arise from a willful or wrongful act or omission, an act or omission constituting gross negligence, or official misconduct.

DEFENSE COUNSEL

The District may provide counsel to represent a defendant for whom the District may pay damages. Counsel may be an attorney regularly employed by the District, unless there is a potential conflict of interest between the defendant and the District, in which case the District may employ other counsel to defend the suit.

*Civ. Prac. & Rem. Code 102.002, 102.004*

MOLD REMEDIATION

A person is not liable in a civil lawsuit for damages related to a decision to allow occupancy of a property after mold remediation has been performed if a certificate of mold remediation has been issued for the property, the property is owned or occupied by a school and the decision to occupy was made by the Board or any person authorized by the Board. *Occupations Code 1958.304; 25 TAC 295.338(b)*

FOR LAW  
ENFORCEMENT  
MOTOR VEHICLES

The Board shall insure each law enforcement officer appointed or employed by the District against liability to third persons arising out of the officer's operation of a motor vehicle owned, leased, or otherwise controlled by the District at any time the officer is authorized to operate the vehicle, including times that the officer is authorized to operate the vehicle while off duty. The motor vehicle liability coverage must be in amounts not less than those required by Transportation Code Chapter 601, Subchapter D, to establish financial responsibility. The District may satisfy this requirement by:

1. Electing to be self-insured;
2. Entering into a risk retention group, risk management pool, or interlocal contract with other political subdivisions; or
3. Providing for coverage by an insurance company authorized to write motor vehicle liability insurance coverage.

The policy may exclude coverage for operation of a motor vehicle in the commission of a criminal offense other than a traffic offense.

*Gov't Code 612.005*

[See also FFD]



INSURANCE AND ANNUITIES MANAGEMENT  
LIABILITY INSURANCE

CRB  
(LOCAL)

TRUSTEES AND  
EMPLOYEES

The District shall purchase insurance as provided in CRB(LEGAL) to fund the cost of litigation to protect the District, its employees, and Trustees who are exposed to individual liability by virtue of their official duties. [See CRB(LEGAL)]

TORT CLAIMS

In addition, the District shall purchase insurance to protect the District and employees from liability under the Tort Claims Act. [See CRB(LEGAL)]

EMPLOYEE  
ELIGIBILITY TO DRIVE  
DISTRICT OR  
PERSONAL VEHICLES  
IN PERFORMANCE OF  
OFFICIAL DUTIES

In order to meet the requirements of the District's insurance liability carrier, the District shall establish a grading system for driver eligibility to be published annually for those employees who drive District or personal vehicles in the performance of official duties.

Drivers who have an excessive number of violations on their motor vehicle driving record at the Texas Department of Public Safety in Austin, TX, shall be considered a poor risk to the District and, if they do not meet established criteria, will be subject to reassignment, transfer, or disciplinary action.

INSURANCE AND ANNUITIES MANAGEMENT  
HEALTH AND LIFE INSURANCE

CRD  
(LEGAL)

COVERAGE  
REQUIREMENTS

Unless an exemption applies, a district with 500 or fewer employees is required to participate in the uniform group coverage program established under Insurance Code 1579 (TRS-Active Care). A district with more than 500 employees may elect to participate in the program. *Insurance Code 1579.151; Education Code 22.004(a), (c)* [See UNIFORM GROUP COVERAGE PROGRAM, below]

UNIFORM  
PROGRAM  
(TRS-ACTIVE  
CARE)

The Teacher Retirement System (TRS) shall implement and administer the uniform group coverage program. 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.

A part-time employee who is not a participating member in the TRS 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.

A participating employee may select coverage in any coverage plan offered by TRS. If the combined state and District contributions [see COST OF COVERAGE, below] 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.

*Insurance Code 1579, Subch. E*

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)*

OTHER PROGRAMS

Districts that do not participate in the uniform group coverage program shall make available to their employees group health coverage provided by a risk pool established by one or more districts under Local Government Code Chapter 172, or under a policy of group insurance or group contract issued by an insurer, a company subject to Insurance Code Chapter 842, or a health maintenance organization under Insurance Code Chapter 843.

COMPARABILITY

The coverage must be comparable to the basic health coverage provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act) and must meet the substantive coverage re-

quirements set forth in Education Code 22.004(b). TRS shall adopt rules to determine whether the District's group health coverage is comparable to that provided to state employees.

FINANCIAL  
STATEMENT

The District may not contract with an insurer, company, or health maintenance organization to issue a policy or contract for group health insurance, or with any person to assist the District in obtaining or managing the policy or contract unless the insurer, company, organization, or person provides the District with an audited financial statement.

*Education Code 22.004(b), (c)*

SMALL  
EMPLOYER  
MARKET  
ELECTION

A district that does not participate in the uniform group coverage program 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 may not renew a health insurance contract obtained in accordance with Article 1501 after the date on which the program of coverages provided under the uniform group coverage program is implemented. This provision does not affect a contract for the provision of optional coverages. *Insurance Code 1501.009*

EMPLOYEE  
ELECTION —  
SPOUSES

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

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*

COMPARABILITY  
COMPLIANCE  
REPORT

TRS shall, for each district that does not participate in the uniform group coverage program, certify whether the District's coverage is comparable to the basic health coverage provided to state employees.

The District shall report its compliance to TRS not later than March 1 of each even-numbered year. 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)*

COST OF COVERAGE  
UNIFORM GROUP  
COVERAGE  
PROGRAM

The cost of coverage under the uniform group coverage program shall be shared by the state, the District, and the employees, as set forth below.

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*

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*

OTHER PROGRAMS

If the District does not participate in the uniform group coverage program, the cost of coverage shall be shared by the employees and the District, using the contributions by the state described at Insurance Code Chapter 1579, Subchapter F. [See STATE CONTRIBUTION, above] *Education Code 22.004(c)*

INSURANCE AND ANNUITIES MANAGEMENT  
HEALTH AND LIFE INSURANCE

CRD  
(LEGAL)

DISTRICT  
CONTRIBUTION

The District shall, for each fiscal year, pay an amount equal to the number of participating employees multiplied by \$1,800.

MINIMUM  
EFFORT

MAXIMUM  
EFFORT

Subject to the minimum effort requirement, a district that paid amounts for the 2000–01 school year for employees' health coverage shall, for each fiscal year, continue to pay at least the same amounts for each participating employee, 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.

*Insurance Code 1581.052*

EXCESS FUNDS

If the amount the District is required to pay for maintenance of effort exceeds \$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*

HEALTH  
INSURANCE  
CONTRIBUTIONS  
FOR REHIRED  
RETIREEES

Each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), the District shall contribute to the TRS Care trust fund any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. [See DEA]

EXCEPTION

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

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

*Gov't Code 825.4092; Insurance Code 1575.204*

DESIGNATION OF  
COMPENSATION FOR  
BENEFITS

An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. [See DEA]

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan.

*Education Code 21.103, 21.106*

CONTINUATION  
COVERAGE

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:

DURING MILITARY  
LEAVE

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*

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]

UPON  
TERMINATION OR  
OTHER QUALIFYING  
EVENT (COBRA)

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

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

coverage shall be offered up to 29 months of continuation coverage.

2. To dependents of the covered employee for 36 months after the employee becomes eligible for Medicare benefits.
3. To dependents of the covered employee for 36 months after the employee's death or the divorce or legal separation of the employee from a spouse.
4. To a dependent child for 36 months after the child ceases to be a dependent under the terms of the plan.

*42 U.S.C. 300bb-1, 300bb-2, 300bb-3*

PREMIUM

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

NOTICE

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

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

*42 U.S.C. 300bb-6*

TERMINATION OF  
COVERAGE

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

1. The required period of coverage expires.
2. The District ceases to provide any group health plan to any employee.
3. Coverage ceases for failure to pay the premium.
4. The qualified beneficiary becomes covered under any other group plan.

5. The qualified beneficiary becomes entitled to Medicare benefits.

*42 U.S.C. 300bb-2(2)*

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

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COVERAGE OF  
PRE-EXISTING  
CONDITIONS

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

UNIFORM GROUP  
COVERAGE  
PROGRAM

Coverage provided under the uniform group coverage program may not be made subject to a pre-existing condition limitation during the initial period of eligibility. *Insurance Code 1579.105*

FEDERAL LAW

In addition, a group health plan may not impose a preexisting condition exclusion unless:

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)*



INSURANCE AND ANNUITIES MANAGEMENT  
HEALTH AND LIFE INSURANCE

CRD  
(LEGAL)

HEALTH INSURANCE  
PORTABILITY AND  
ACCOUNTABILITY ACT  
(HIPAA)  
  
CERTIFICATE OF  
CREDITABLE  
COVERAGE

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.

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

OTHER HIPAA  
REQUIREMENTS

HIPAA requires plan sponsors to observe certain coverage requirements and restrictions, including:

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.

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).

FORM OF  
ELECTION

The 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.

*42 U.S.C. 300gg-21; 45 CFR 146.180*

PRIVACY OF HEALTH  
INFORMATION

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

'COVERED ENTITY'  
DEFINED

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

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

*45 CFR 160.103*

'PROTECTED  
HEALTH  
INFORMATION'  
DEFINED

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

1. Education records covered by the Family Educational Rights and Privacy Act (FERPA), as amended.
2. Medical treatment records, as described at 20 U.S.C. 1232g(a)(4)(B)(iv), on a student who is at least 18 years of age.

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

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

SPONSORS OF  
GROUP HEALTH  
PLANS

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

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

1. Summary health information, consistent with the requirements of the Privacy Rule; and
2. Enrollment and disenrollment information relating to an individual participating in the plan.

*45 CFR 164.504(f)*

'PLAN SPONSOR'  
DEFINED

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

SELF-FUNDED  
PLANS

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

INSURANCE AND ANNUITIES MANAGEMENT  
HEALTH AND LIFE INSURANCE

CRD  
(LOCAL)

BOARD APPROVAL	The District's employee group health insurance program and any additional health or life insurance program shall be approved by the Board on recommendation of the Superintendent. Any insurance programs may be made available on a payroll deduction basis.
DISTRICT CONTRIBUTION	The Board annually shall determine the District's contribution to employee health insurance premiums as part of the budget development and adoption process. For purposes of the District's contribution to employees' health insurance premiums, the Board may distinguish between full-time and part-time employees, as those terms are defined for other benefits.
CONTINUATION COVERAGE	<p>The District shall continue its contribution toward the cost of the employee's group health insurance coverage while the employee is on paid leave or, if applicable, while the employee is on family and medical leave. [See DEC]</p> <p>The District shall not otherwise expend public funds for group health insurance coverage of an employee who is not on paid leave status. However, an employee who is not on paid leave status or FMLA leave shall be allowed to continue group health insurance coverage, at his or her own expense, for the period specified in the District's group health insurance plan.</p>
PROTECTED HEALTH INFORMATION	<p>The District is a hybrid entity as that term is defined by the Health Insurance Portability and Accountability Act's (HIPAA) Privacy Rule. To the extent any component part of the District is a covered entity under HIPAA, the District must maintain the privacy of individually identifiable health information in accordance with HIPAA's Privacy Rule.</p> <p>Covered entities within the District are required to maintain the confidentiality of individually identifiable health information and must adopt reasonable safeguards to protect against the intentional and inadvertent disclosure of such information.</p>
CONFIDENTIALITY	Covered entities within the District may use or disclose individually identifiable health information to permissible parties for treatment, payment or health care operations as those terms are defined by HIPAA. Uses or disclosures of such information for reasons other than treatment, payment or health care operations may require that the covered entity obtain an authorization permitting disclosure.
INDIVIDUAL HIPAA RIGHTS	When a covered entity within the District maintains an individual's individually protected health information, that individual may have certain additional rights relating to their protected health information under HIPAA, including the following:

1. The right to restrict the use or disclosure of individually identifiable health information.
2. The right of access to individually identifiable health information contained within designated record sets of the covered entity.
3. The right to amend individually identifiable health information contained within designated record sets of the covered entity.
4. The right for an accounting of certain disclosures of individually identifiable health information made by the covered entity.

EDUCATION  
RECORDS

When individually identifiable health information is contained in an "education record" as that term is defined under the Family Educational Rights and Privacy Act (FERPA), an individual's rights to access and amendment under FERPA will apply.

Each covered entity within the District shall implement its own procedures for handling individually identifiable health information.

COMPLAINTS

Individuals complaining of an unauthorized use or disclosure of protected health information by a covered entity within the District may file a complaint. The individual shall submit the complaint to the privacy officer in writing on a form provided by the covered entity within ten business days of the time the individual first knew or should have known of the event or series of events giving rise to the complaint. The privacy officer or designee shall meet with the individual for presentation of the complaint. An individual may be represented in the complaint presentation by an attorney or through any other person or organization that does not claim the right to strike. However, in the event the individual will be represented by legal counsel in the complaint presentation, the individual must provide written notice of representation to the privacy officer no less than three business days before the scheduled time for the complaint presentation. Failure to provide timely written notice may result in the rescheduling of the hearing at a mutually agreeable time and may delay a ruling on the complaint. The privacy officer may set reasonable time limits for presentation of the complaint. The privacy officer will provide a written response to the complaint within 30 days of submission of the complaint form to the privacy officer. The privacy officer or designee may consolidate complaints or take other reasonable steps necessary to expeditiously address an individual's complaint(s). The privacy officer's or designee's decision is final and cannot be appealed.

RETALIATION  
PROHIBITED

No disciplinary action or retaliation will be taken against any employee who makes a good faith report of a violation of these procedures or HIPAA's Privacy Rule. Any employee who retaliates

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HEALTH AND LIFE INSURANCE

CRD  
(LOCAL)

against an individual for reporting a violation shall be subject to disciplinary action up to and including termination.

INSURANCE AND ANNUITIES MANAGEMENT  
WORKERS' COMPENSATION

CRE  
(LEGAL)

OPTIONS	<p>The District shall extend workers' compensation benefits to its employees by choosing one of the following options:</p> <ol style="list-style-type: none"><li>1. Becoming a self-insurer.</li><li>2. Providing insurance under workers' compensation insurance contracts or policies.</li><li>3. Entering into interlocal agreements with other political subdivisions providing for self-insurance.</li></ol> <p><i>Labor Code 504.011</i></p>
DEFINITION	<p>For the purposes of this policy, "employee" means every person in the service of the District who has been employed as provided by law or for whom the District provides optional coverage. No person paid on a basis other than by the hour, day, week, month, or year shall be considered an "employee." <i>Labor Code 504.001, 504.014</i></p>
NOTICE	<p>The District shall notify the Texas Department of Insurance (TDI) of the method by which District employees shall receive benefits, the approximate number of employees covered, and the estimated amount of payroll. Notice of the provision for workers' compensation benefits and the effective date of the coverage shall be given to the District's employees. <i>Labor Code 504.018</i></p>
REPORT TO CARRIER FIRST REPORT OF INJURY	<p>The District shall provide to the District's insurance carrier a report on each:</p> <ol style="list-style-type: none"><li>1. Death;</li><li>2. On-the-job injury that results in an employee's absence from work for more than one day; and</li><li>3. Occupational disease of which the District has received notice of injury or has knowledge. "Knowledge" means receipt of written or verbal information regarding diagnosis or diagnosis through examination or testing by a doctor employed by the District.</li></ol> <p>The report shall contain the information and be in the form, format, and manner prescribed by the TDI, and be filed no later than the eighth day after the employee's absence from work for more than one day or upon first knowledge of absence for more than one day. The District shall maintain a record of the date the report of injury is filed with the insurance carrier.</p>
COPY TO EMPLOYEE	<p>A copy of the report of injury, including a summary of the employee's rights and responsibilities under the Texas Labor Code, shall be sent to the injured employee at the time the report is filed with the insurance carrier. The summary shall be written in plain</p>

language in English and Spanish, or in English and any other language common to the employee, and shall contain the words prescribed by the TDI.

NOTICE OF  
MODIFIED DUTY  
PROGRAM

The District shall, on the written request of the employee, a doctor, the insurance carrier, or the TDI, notify the employee, the employee's treating doctor if known to the District, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the District. If those opportunities or that program exists, the District shall identify the District's contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options.

SUPPLEMENTAL  
REPORT OF INJURY

A supplemental report shall be filed with the District's insurance carrier and provided to the employee within ten days after:

1. The end of each pay period in which the employee has a change in earnings, including all post-injury earnings as defined in 28 TAC 129 [see OFFSETTING PAID LEAVE AGAINST TIBS, below], as a result of the injury; or
2. The employee resigns or is terminated.

The District's duty to file supplemental reports continues until the employee reaches "maximum medical improvement" or is no longer employed by the District and the District has made the required report.

For injuries that require the filing of a first report of injury, the District shall file the supplemental report with the District's insurance carrier and provide a copy to the employee within three days after:

1. The employee begins losing time from work as a result of the injury;
2. The employee returns to work; or
3. The employee, after returning to work, experiences an additional day of disability as a result of the injury.

The District shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee.

*Labor Code 409.005; 28 TAC 120.2, 120.3*

INJURY AND  
OCCUPATIONAL  
DISEASE REPORT

The District's report of injury filed in accordance with Texas Labor Code 409.005 [FIRST REPORT OF INJURY, above] shall satisfy the District's requirement to file an injury and occupational disease report under Texas Labor Code 411.032. *28 TAC 160.3*



WAGE REPORTS

The District is required to timely file a complete wage statement on a form prescribed by the TDI.

The wage statement shall be filed with the carrier, the claimant, and any claimant representative. The wage statement should be filed and received within 30 days of the earliest of:

1. The date the District is notified that the employee is entitled to income benefits; or
2. The date of the employee's death as a result of a compensable injury.

A subsequent wage statement shall be filed with the carrier, the claimant, and any claimant representative within seven days of a change in any wage information provided on the previous wage statement. A wage statement shall also be filed with TDI within seven days of receiving a request from TDI.

*28 TAC 120.4(a)*

OMBUDSMAN  
PROGRAM

The District shall notify its employees, in the manner prescribed by the TDI, of the ombudsman program to assist injured workers and persons claiming death benefits in obtaining benefits under the Texas Workers' Compensation Act. *Labor Code 404.153*

REPORTS OF SAFETY  
VIOLATIONS

The District shall notify its employees, in the manner prescribed by the TDI, of the 24-hour-a-day toll-free telephone system for reporting violations of an occupational health or safety law. The District shall not suspend, terminate, or otherwise discriminate against an employee for making a good faith report of a violation of an occupational health or safety law. *Labor Code 411.081, 411.082*

RELATION TO PAID  
LEAVE

Once temporary income benefits (TIBs) accrue, an injured employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the employee has a disability and has not reached maximum medical improvement.

"Lost wages" are the difference between the employee's gross average weekly wage (AWW) and the employee's gross post-injury earnings (PIE). If the employee's PIE equals or exceeds the employee's AWW, the employee has no lost wages.

"Post-injury earnings" include, among several other components:

1. The value of any full days of accrued sick or annual leave that the employee voluntarily elects to use after the date of injury; and
2. The value of any partial days of accrued or annual leave that the employee has voluntarily elected to use after the date of

injury that, when combined with the employee's TIBs, exceeds AWW.

*28 TAC 129.2*

OFFSETTING PAID  
LEAVE AGAINST  
WORKERS'  
COMPENSATION  
INCOME BENEFITS

The Board may provide that while an employee is receiving workers' compensation benefits, the employee may elect to receive previously accrued sick leave benefits in an amount equal to the difference in the workers' compensation benefits and the weekly compensation the employee was receiving before the injury that resulted in the claim, with a proportionate deduction in the employee's sick leave balance. *Labor Code 504.052*

Unless the Board adopts the option provided by Labor Code 504.052, sick leave benefits and annual leave benefits shall not be offset against benefits paid under the Workers' Compensation Law. *Atty. Gen. Op. JC-0040 (1999)*

PROHIBITED  
DISCRIMINATION

A person may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

*Labor Code 451.001*

A person who violates the above provision is liable for reasonable damages incurred by the employee as a result of the violation, and an employee discharged in violation of the above provision is entitled to reinstatement in the former position of employment. The burden of proof in a proceeding alleging violation of the above provision is on the employee. *Labor Code 451.002*

LEAVES OF  
ABSENCE

The District shall not terminate an employee who is on an unpaid leave of absence and receiving workers' compensation benefits, except when the termination is for a legitimate reason independent from the employee's workers' compensation claim. *Atty. Gen. Op. JM-227 (1984)*

A district that terminates an employee for violating a reasonable absence-control policy cannot be liable for prohibited discrimination as long as the rule is uniformly enforced. *Continental Coffee Products Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996)* [See DEC (LEGAL) at ABSENCE CONTROL]

RELATION TO PAID  
LEAVE

The Board has adopted the offset option provided by law [see CRE(LEGAL)] whereby an employee absent because of a job-related illness or injury may choose to:

1. Receive workers' compensation wage benefits only; or
2. Use available paid leave in proportional amounts to supplement workers' compensation wage benefits, up to the regular pre-injury weekly wage.

The employee shall indicate if he or she chooses to use available paid leave in this circumstance and, if so, may choose to discontinue use at any time.

An employee absent because of a job-related illness or injury shall be placed on family and medical leave, if applicable. [See DEC(LOCAL)]

INSURANCE AND ANNUITIES MANAGEMENT  
UNEMPLOYMENT INSURANCE

CRF  
(LEGAL)

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*

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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.

INSURANCE AND ANNUITIES MANAGEMENT  
DEFERRED COMPENSATION AND ANNUITIES

CRG  
(LEGAL)

DEFERRED  
COMPENSATION

The District, either alone or by contract with other political subdivisions, may create and administer a deferred compensation plan, the federal income tax treatment of which is governed by Section 457 of the Internal Revenue Code of 1986, and its subsequent amendments, for its employees and may assess a fee on each participating employee for administering the plan.

The organization and implementation of such a deferred compensation plan shall be in accordance with Chapter 609, Subchapter B, Government Code.

*Gov't Code 609*

ANNUITIES

The District may enter into a salary reduction agreement with an employee only if the qualified investment product is an eligible qualified investment. *Art. 6228a-5, Sec. 5, V.A.T.S.*

DEFINITIONS

“Eligible qualified investment” means a qualified investment product offered by a company that:

1. Is certified to TRS under V.A.T.S. Article 6228-5, Section 5; or
2. Is eligible to certify to TRS under V.A.T.S. Article 6228-5, Section 8.

A “certified company” is a company that meets all TRS certification requirements. Certified companies shall be placed on the TRS list of certified companies as long as the certification has not expired or been rejected or revoked. *34 TAC 53.1(3)*

“Qualified investment product” means an annuity or investment that:

1. Meets the requirements of Section 403(b), Internal Revenue Code of 1986, and its subsequent amendments;
2. Complies with applicable federal insurance and securities laws and regulations; and
3. Complies with applicable state insurance and securities laws and rules.

“Salary reduction agreement” means an agreement between the District and an employee to reduce the employee’s salary for the purpose of making direct contributions to or purchases of a qualified investment product.

*Art. 6228a-5, Sec. 4 (3), (5), (7), V.A.T.S.*

EMPLOYEE  
DESIGNATION

An employee is entitled to designate any agent, broker, or company through which a qualified investment product may be purchased or contributions may be made.

INSURANCE AND ANNUITIES MANAGEMENT  
DEFERRED COMPENSATION AND ANNUITIES

CRG  
(LEGAL)

PAYROLL  
DEDUCTION

To the greatest degree possible, the District shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts.

*Art. 6228a-5, Sec. 5(e), (f), V.A.T.S.*

PROHIBITIONS ON  
DISTRICT

The District may not:

1. Refuse to enter into a salary reduction agreement with an employee if the qualified investment product that is the subject of the salary reduction is an eligible qualified investment;
2. Require or coerce an employee's attendance at any meeting at which qualified investment products are marketed;
3. Limit the ability of an employee to initiate, change, or terminate a qualified investment product at any time the employee chooses;
4. Grant exclusive access to an employee by discriminating against or imposing barriers to any agent, broker, or company that provides qualified investment products;
5. Grant exclusive access to information about an employee's financial information, including information about an employee's qualified investment products, to a company or agent offering qualified investment products unless the employee consents in writing to the access;
6. Accept any benefit from a company or from an agent or affiliate of a company that offers qualified investment products; or
7. Use public funds to recommend a qualified investment product offered by a company or an agent of a company that offers a qualified investment product.

*Art. 6228a-5, Sec. 9, V.A.T.S.*

FACILITY STANDARDS

CS  
(LEGAL)

APPLICABILITY OF  
STATE STANDARDS  
AFTER JANUARY 1,  
2004

All new facilities and major space renovations approved by the Board after January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61.1036. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards.  
*Education Code 46.008; 19 TAC 61.1036*

DEFINITIONS

After January 1, 2004, a "major space renovation" means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration or function. *19 TAC 61.1036(a)(8)*

"Educational program" means a written document, developed and provided by the District, that includes the following information:

1. A summary of the District's educational philosophy, mission, and goals; and
2. A description of the general nature of the District's instructional program in accordance with the Texas Administrative Code Title 19, Chapter 74.1 (relating to Essential Knowledge and Skills). The written educational program should describe:
  - a. The learning activities to be housed, by instructional space;
  - b. How the subject matter will be taught (methods of instructional delivery);
  - c. The materials and equipment to be used and stored;
  - d. Utilities and infrastructure needs; and
  - e. The characteristics of furniture needed to support instruction.

*19 TAC 61.1036(a)(1)*

"Educational specifications" means a written document for a proposed new school facility or major space renovation that includes a description of the proposed project, expressing the range of issues and alternatives. School districts that do not have personnel on staff with experience in developing educational specifications shall utilize the services of a design professional or consultant experienced in school planning and design to assist in the development of the educational specifications. The District shall allow for input



from teachers, other school campus staff, and District program staff in developing the educational specifications. The following information should be included in the educational specifications:

3. The instructional programs, grade configuration, and type of facility;
4. The spatial relationships—the desired relationships for the functions housed at the facility:
  - a. Should be developed by the District to support the District's instructional program;
  - b. Should identify functions that should be:
    - (1) Adjacent to, immediately accessible;
    - (2) Nearby, easily accessible; and
    - (3) Removed from or away from; and
  - c. Should relate to classroom/instructional functions, instructional support functions, building circulation, site activities/functions, and site circulation.

*19 TAC 61.1036(a)(2)*

“Major space renovation” means renovations to all or part of the facility's instructional space where the scope of the work in the affected part of the facility involves substantial renovations to the extent that most existing interior walls and fixtures are demolished and then subsequently rebuilt in a different configuration and/or function. Other renovations associated with repair or replacement of architectural interior or exterior finishes; fixtures; equipment; and electrical, plumbing, and mechanical systems are not subject to the requirements of this section, but shall comply with applicable building codes as required by this section. *19 TAC 61.1036(a)(8)*

APPLICABILITY OF  
STATE STANDARDS  
BEFORE JANUARY 1,  
2004

All new facilities and major space renovations approved by the Board before January 1, 2004, shall meet the facility standards established by the Commissioner as set out in Texas Administrative Code Title 19, Chapter 61.1033. Other renovations associated with repair or replacement of architectural interior or exterior finishes, fixtures, equipment, and electrical, plumbing, and mechanical systems are not subject to space or educational adequacy requirements, but must meet construction quality standards. *Education Code 46.008; 19 TAC 61.1033(a)(5), (b)*

FIRE ESCAPES

The Board shall ensure that each school building that is two or more stories shall have such fire escapes as are required by law. *Health and Safety Code 791.002, 791.035, 791.036*

FACILITY STANDARDS

CS  
(LEGAL)

**SECURITY CRITERIA** A district that constructs a new instructional facility or conducts a major renovation of an existing instructional facility using Instructional Facilities Allotment funds shall consider, in the design of the instructional facility, security criteria developed by the Texas School Safety Center. *Education Code 46.0081*

**READILY ACCESSIBLE PROGRAMS** No qualified individual with a disability shall, because the District's facilities are inaccessible to or unusable by individuals with disabilities, be excluded from participation in, or be denied the benefits of, the services, programs, and activities of the District or be subject to discrimination. *42 U.S.C. 12132; 28 CFR 35.149; 29 U.S.C. 794; 34 CFR 104.21*

The District shall operate each program, service, or activity so that when viewed in its entirety, it is readily accessible to and usable by individuals with disabilities. The District is not, however, required to make each existing facility or every part of a facility accessible to and usable by individuals with disabilities.

Compliance with these requirements may be achieved by:

1. Redesigning equipment.
2. Reassigning classes or other services to accessible buildings.
3. Assigning aides to qualified individuals with disabilities.
4. Home visits.
5. Delivery of services at alternate accessible sites.
6. Alteration of existing facilities.
7. Constructing new facilities that comply with 34 CFR 104.23 and 28 CFR 35.151.
8. Any other methods that would result in making services, programs, and activities accessible to individuals with disabilities.

Structural changes in existing facilities need not be made when other methods will achieve compliance with Title II of the Americans with Disabilities Act and its implementing regulation. In choosing among available alternatives for meeting these requirements, the Board shall give priority to methods that offer services, programs, and activities to qualified individuals with disabilities in the most integrated setting appropriate.

*28 CFR 35.150; 34 CFR 104.22*

**REVIEW OF PLANS** All plans and specifications for construction or for the substantial renovation, modification, or alteration of a building or facility that has an estimated construction cost of \$50,000 or more shall be

submitted to the Department of Licensing and Regulation for review and approval. The District as owner of the building or facility may not allow an application to be filed with a local governmental entity for a building construction permit related to the plans and specifications or allow construction, renovation, modification, or alteration of the building or facility to begin before the date the plans and specifications are submitted to the Department by the architect, interior designer, landscape architect, or engineer.

The District as owner of each building or facility that has an estimated construction, renovation, modification, or alteration cost of at least \$50,000 is responsible for having the building or facility inspected for compliance with the standards and specifications adopted by the Commission of Licensing and Regulation not later than the first anniversary of the date that construction or substantial renovation, modification, or alteration of the building or facility is completed. The inspection must be performed by the Department, an entity with whom the Commission contracts, or a person who holds a certificate of registration to perform inspections.

*Gov't Code 469.101, 469.102(c), 469.105*

NOTICE	The District shall adopt and implement procedures to ensure that interested persons, including those with impaired vision or hearing, can obtain information as to the existence and location of services, activities, and facilities that are accessible to and usable by persons with disabilities. <i>34 CFR 104.22(f)</i>
PLAYGROUNDS	Public funds may not be used to purchase playground equipment or surfacing for the area under and around the equipment if either purchase does not substantially comply with each applicable provision of the Handbook for Public Playground Safety, published by the U.S. Consumer Product Safety Commission.
EXCEPTION	Public funds may be used to maintain playground equipment or surfacing that was purchased before September 1, 1997, even if they do not comply with the Playground Safety Handbook. <i>Health and Safety Code 756.061</i>
OUTDOOR LIGHTING FIXTURES	An outdoor lighting fixture that is designed, installed, or replaced on or after September 1, 1999, may be installed, replaced, maintained, or operated using state funds only if the fixture meets the specific energy conservation and light pollution standards in Health and Safety Code Chapter 425.
EXCEPTIONS	The standards for state-funded outdoor lighting fixtures do not apply when: <ol style="list-style-type: none"><li>1. Preempted by federal law, rule, or regulation;</li></ol>

2. Emergency personnel temporarily require additional illumination for emergency procedures;
3. The lighting fixture is used temporarily for nighttime work;
4. Special events or circumstances\* require additional illumination;
5. The fixture is used solely to enhance the aesthetic beauty of an object; or
6. A compelling safety interest cannot be addressed by another method.

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**\*Note:** Special events or situations that may require additional illumination include sporting events and illumination of monuments, historic structures, or flags. Illumination for special events or situations must be installed to shield the outdoor lighting fixtures from direct view and to minimize upward lighting and light pollution.

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*Health and Safety Code 425.002*

TESTING OF NATURAL  
GAS PIPING

At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, the District shall pressure test the natural gas piping system in each District facility. The testing may be performed on a two-year cycle under which the District pressure tests the natural gas piping system in approximately one-half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities shall be conducted and reported not later than July 1 of the year in which the pressure test is performed. *Utilities Code 121.502; 16 TAC 8.230(c)(4)*

RAILROAD  
COMMISSION  
RULES

The Railroad Commission of Texas has adopted rules to enforce this policy. Each District facility described in Commission rules shall be tested in accordance with the procedures and timetables implemented by Commission rules. *16 TAC 8.230*

STANDARDS AND  
PROCEDURE

A test performed under a municipal code in compliance with Railroad Commission rules shall satisfy the pressure testing requirements. *Utilities Code 121.502(d); 16 TAC 8.230(c)(1)*

The pressure test shall determine whether the natural gas piping downstream of a District facility meter holds at least normal operating pressure over a specified period determined by the Railroad Commission. During the pressure test, each system supply inlet and outlet in the facility must be closed. The pressure test shall be

performed by a person qualified in accordance with the testing procedures established by Railroad Commission rules. At the District's request, the Railroad Commission shall assist the District in developing a procedure for conducting the test. *Utilities Code 121.503; 16 TAC 8.230(c)(2), (3)*

NOTICE

The District shall provide written notice to the District's natural gas supplier specifying the date and result of each pressure test or other inspection. The supplier shall develop procedures for receiving such written notice from the District. *Utilities Code 121.504(a); 16 TAC 8.230(c)(1)*

TERMINATION OF SERVICE

The supplier shall terminate service to a District facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous natural gas leakage in the facility piping system; or
2. A test or other inspection is not performed as required.

*Utilities Code 121.505(a)*

The supplier shall develop procedures for terminating service to the District if:

1. The natural gas supplier receives notification of a hazardous natural gas leak in the school facility piping system; or
2. The natural gas supplier does not receive written notification from the District specifying the completion date and results of the testing.

*16 TAC 8.230(b)(2)*

REPORTING LEAKS

An identified natural gas leakage in a District facility must be reported to the Board. The firm or individual conducting the natural gas piping test shall immediately report any hazardous natural gas leak in a District facility to the Board and to the District's natural gas supplier. *Utilities Code 121.506; 16 TAC 8.230(c)(6)*

LP-GAS SYSTEMS TESTING

At least biennially, the District shall perform pressure tests for leakage on the LP-gas piping system in each District facility before the beginning of the school year. The District may perform the pressure tests on a two-year cycle under which the tests are performed for the LP-gas piping systems of approximately half of the facilities each year. If the District operates one or more District facilities on a year-round calendar, the pressure test in each of those facilities must be conducted and reported not later than July 1 of the year in which the test is performed.

A test performed under a municipal code satisfies the pressure testing requirements.

*Natural Resources Code 113.352; 16 TAC 9.41*

REQUIREMENTS OF  
TEST

The District shall perform the pressure test to determine whether the LP-gas piping system holds at least the amount of pressure specified by the National Fire Protection Association 54, National Fuel Gas Code. The pressure test must be conducted in accordance with National Fire Protection Association 54.

The Railroad Commission, upon request, shall assist the District in providing for the certification of a District employee to conduct the test and in developing a procedure for conducting the test.

*Natural Resources Code 113.353*

Before the introduction of any LP-gas into the LP-gas piping system, the District shall provide verification to its supplier that the piping has been tested.

NOTICE

The District shall provide written notice to the Railroad Commission specifying the date and the result of each pressure test or other inspection of the LP-gas piping system within one week of the date each test is performed.

*Natural Resources Code 113.354; 16 TAC 9.41*

TERMINATION OF  
SERVICE

A supplier shall terminate service to a District facility if:

1. The supplier receives official notification from the firm or individual conducting the test of a hazardous leakage in the facility LP-gas piping system; or
2. A test at the facility is not performed as required.

*Natural Resources Code 113.355*

REPORTING LEAKS

An identified LP-gas leakage in a District facility shall be reported to the Board and the LP gas system shall be removed from LP gas service until repairs are made and another test passed. *Natural Resources Code 113.356; 16 TAC 9.41(b)(3)*

INTRASTATE PIPELINE  
EMERGENCY  
RESPONSE PLAN

The Railroad Commission shall require the owner or operator of each intrastate hazardous liquid or carbon dioxide pipeline facility, any part of which is located within 1,000 feet of a public school building containing classrooms, or within 1,000 feet of another public school facility where students congregate, to:

1. On written request from the District, provide in writing the following parts of a pipeline emergency response plan that are relevant to the school:
  - a. A description and map of the pipeline facilities that are within 1,000 feet of the school building or facility;

- b. A list of any product transported in the segment of the pipeline that is within 1,000 feet of the school facility;
  - c. The designated emergency number for the pipeline facility operator;
  - d. Information on the state's excavation one-call system; and
  - e. Information on how to recognize, report, and respond to a product release; and
2. Mail a copy of the requested items by certified mail, return receipt requested, to the Superintendent of the District in which the school building or facility is located.

A pipeline operator or the operator's representative shall appear at a regularly scheduled meeting of the Board to explain the above items if requested by the Board or District.

The Railroad Commission may not require the release of parts of an emergency response plan that include security sensitive information, including maps or data. Security sensitive information shall be made available for review by but not provided to the Board.

*Natural Resources Code 117.012(k), (l), (m); 16 TAC 8.315*

FACILITIES CONSTRUCTION

CV  
(LEGAL)

BOARD AUTHORITY	The Board may adopt rules and procedures for the acquisition of goods and services. <i>Education Code 44.031(d)</i>
DELEGATION OF AUTHORITY	<p>The Board may delegate its authority regarding an action authorized or required to be taken by the District by Education Code Chapter 44, Subchapter B to a designated person, representative, or committee.</p> <p>The Board may not delegate the authority to act regarding an action authorized or required to be taken by the Board by Education Code Chapter 44, Subchapter B.</p> <p>In procuring construction services, the District shall provide notice of the delegation and the limits of the delegation in the request for bids, proposals, or qualifications or in an addendum to the request. If the District fails to provide that notice, a ranking, selection, or evaluation of bids, proposals, or qualifications for construction services other than by the Board in an open public meeting is advisory only.</p> <p><i>Education Code 44.0312</i></p>
INJUNCTION	A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which the District is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. <i>Education Code 44.032(f)</i>
IMPERMISSIBLE PRACTICES	A trustee, employee, or agent of the District who knowingly or with criminal negligence violates the purchasing laws is subject to criminal penalties. <i>Education Code 44.032</i> [See CH]
CONTRACTS VALUED AT OR ABOVE \$25,000	<p>All District contracts valued at \$25,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for the District [see also CH]:</p> <ol style="list-style-type: none"><li>1. Competitive bidding. [See CVA]</li><li>2. Competitive sealed proposals. [See CVB]</li><li>3. A catalog purchase as provided by Government Code Chapter 2157, Subchapter B.</li><li>4. An interlocal contract.</li><li>5. A design/build contract. [See CVC]</li><li>6. A contract to construct, rehabilitate, alter, or repair facilities that involves using a construction manager. [See CVD, CVE]</li></ol>



FACILITIES CONSTRUCTION

CV  
(LEGAL)

7. A job order contract for the minor construction, repair, rehabilitation, or alteration of a facility. [See CVF]
8. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

*Education Code 44.031(a)*

SELECTING A CONTRACTING METHOD	When the District is considering awarding a construction contract using a method specified by Education Code 44.031(a), the Board shall, before advertising, determine which purchasing method provides the best value for the District. <i>Education Code 44.035(a)</i>
PUBLIC NOTICE	Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which the District's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. <i>Education Code 44.031(g)</i>
CONTRACT SELECTION CRITERIA	The District shall base its selection among offerors on criteria authorized in Education Code 44.031(b). [See CH] The District shall publish in the request for bids, proposals, or qualifications the criteria that will be used to evaluate the offerors and the relative weights given to the criteria. <i>Education Code 44.035(b)</i>
MAKING EVALUATIONS PUBLIC	The District shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. <i>Education Code 44.035(c)</i>
PROFESSIONAL SERVICES	<p>The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect, attorney, or fiscal agents. The District may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. <i>Education Code 44.031(f)</i></p> <p>Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate appraiser, or registered nurse. Contracts for these professional services shall be made on the basis of demonstrated competence and</p>

qualifications to perform the services and for a fair and reasonable price. *Gov't Code 2254.002, 2254.003(a)* [See PROCURING ARCHITECTURAL, ENGINEERING, AND LAND-SURVEYING SERVICES, below]

EMERGENCY DAMAGE  
OR DESTRUCTION

If school equipment, a school facility, or a part of a school facility or personal property is destroyed or severely damaged or, as a result of an unforeseen catastrophe or emergency, undergoes major operational or structural failure, and the Board determines that the delay posed by the methods provided for in Education Code 44.031 would prevent or substantially impair the conduct of classes or other essential school activities, then contracts for the replacement or repair of the equipment, school facility, or the part of the school facility may be made by methods other than those required by Education Code 44.031. *Education Code 44.031(h)*

CRIMINAL HISTORY

Before entering into a contract with the District, a person or business must give notice to the District if the person or an owner or operator of the business has been convicted of a felony. The District may terminate a contract with a person or business if the District determines that the person or business failed to give such notice or misrepresented the conduct resulting in the conviction. The District must compensate the person for services performed before the contract terminated. *Education Code 44.034*

RIGHT TO WORK

While engaged in awarding a contract or overseeing procurement or construction for a public work or public improvement, the District:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

*Education Code 44.043*

REGISTERED  
ARCHITECT

An architect registered in accordance with Occupations Code, Title 6, Chapter 1051, shall prepare architectural plans and specifications for:

1. A new building constructed and owned by the District that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed \$100,000.
2. Any alteration or addition to an existing building owned by the District that is, or will be, used for education, assembly, or of-

... fice occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed \$50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

The District may comply with this requirement by choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project.

*Occupations Code 1051.703; 22 TAC 1.212*

REGISTERED  
ENGINEER

Electrical or mechanical engineering plans, specifications, and estimates for all construction by the District that costs more than \$8,000 and involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053, Atty. Gen. Op. C-791 (1966)*

The District is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed \$20,000. *Occupations Code 1001.053*

PROCURING  
ARCHITECTURAL,  
ENGINEERING, AND  
LAND-SURVEYING  
SERVICES

In procuring architectural, engineering, or land-surveying services, the District shall [see PROFESSIONAL SERVICES above]:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, the District shall formally end negotiations with that provider, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. The District shall continue this process until a contract is entered into.

*Gov't Code 2254.004*

ACCESSIBILITY

Each facility or part of a facility constructed by, on behalf of, or for the use of the District shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum ex-

tent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities.  
*28 CFR 35.151, 34 CFR 104.23*

PAYMENT AND  
PERFORMANCE  
BONDS

When the Board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable to the Board and in a form approved by the Board. *Gov't Code 2253.021(a), (d), (e).*

For a contract in excess of \$100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of the District. *Gov't Code 2253.021(b)*

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov't Code 2253.021(c)*

FAILURE TO OBTAIN  
PAYMENT BOND

If the Board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

NO BOND FOR  
DESIGN SERVICES  
ONLY

A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. *Education Code 44.036(j)* [See CVC for more information on design/build contracts, including bond amounts]

BOND FOR  
INSURED LOSS

The Board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of the District, as described above; and
2. A payment bond, as described above. If the payment bond is not furnished, the District is subject to the same liability that a

surety would have if the surety had issued the payment bond and the District had required the bond to be provided.

These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

EXCEPTION TO  
BOND  
REQUIREMENT

The requirement that the District secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the District.

*Gov't Code 2253.022*

OUT-OF-STATE  
BIDDERS

The Board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located. *Gov't Code 2252.001, 2252.002*

This requirement shall not apply to a contract involving federal funds. The District shall rely on information published by the Texas Building and Procurement Commission in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003, 2252.004*

PREVAILING WAGE ON  
PUBLIC WORKS

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of the District shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with the District. *Gov't Code 2258.001, 2258.021*

The Board shall determine, as a sum certain, the general prevailing rate of per diem wages in the District for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, the Board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in the District or adopt the prevailing wage rate as determined by the U.S. Department of Labor, if the survey used to determine that rate has

been conducted within three years prior to the date the District calls for bids on the project. The Board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. The Board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, 2258.022*

ENFORCEMENT

The Board, and an agent or officer of the Board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, the Board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051, 2258.052*

RETAINAGE AND  
REIMBURSEMENT

The Board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, the Board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. The Board may adopt rules, orders, or ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), 2258.056*

PENALTY FOR  
NONCOMPLIANCE

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to the District \$60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. The Board must specify this penalty in the contract. If the District does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. The Board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

REQUIRED WORKERS'  
COMPENSATION  
COVERAGE

When the District enters into a building or construction contract on a project, it shall fulfill the following requirements regarding required workers' compensation coverages. A project includes the provision of all services related to a building or construction contract for the District. The District shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
2. As part of the contract, using the language required by 28 TAC 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverages. [See CV(EXHIBIT)]
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person's beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracts directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the contract. Services include, but are not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
  - a. Before the end of the coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
  - b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance upon request and to any person entitled to a copy by law.
7. Use the prescribed language for bid specifications and contracts without any additional words or changes, except those required to accommodate the specific document in which they

are contained or to impose stricter standards of documentation. [See CV(EXHIBIT) for prescribed language]

*Labor Code 406.096; 28 TAC 110.110(a)(7)(8), (c)*

EXCEPTION

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self insure. *Labor Code 406.097; 28 TAC 110.110(i)*



FACILITIES CONSTRUCTION

CV  
(LOCAL)

COMPLIANCE WITH  
LAW

The Superintendent shall be responsible for establishing procedures that ensure that all school facilities within the District comply with applicable laws and local building codes.

CONSTRUCTION  
CONTRACTS

Prior to advertising, the Board shall determine the project delivery/contract award method to be used for each construction contract valued at or above \$25,000. To assist the Board, the Superintendent shall recommend the project delivery/contract award method that he or she determines provides the best value to the District. [See CV series]

For construction contracts valued at or above \$50,000, the Superintendent or designee shall also submit the resulting contract to the Board for approval. Lesser expenditures for construction and construction-related materials or services shall be at the discretion of the Superintendent and consistent with law and policy. [See also CH]

The Superintendent is authorized to select architects and engineers for projects not to exceed \$50,000.

PROJECT  
ADMINISTRATION

All construction projects shall be administered by the Superintendent or designee.

The Superintendent shall keep the Board informed concerning construction projects and also shall provide information to the general public.

FINAL PAYMENT

Final payments for construction work and/or the supervision of such work in the District shall not be made until the work has been completed and accepted by the Board or its designee.

REQUIRED WORKERS' COMPENSATION COVERAGES  
28 TAC 110.110(c)(7), adopted to implement Texas Labor Code 406.096

The District shall use the following language for bid specifications and contracts for building or construction, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.

A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of the project.

Duration of the project includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in Texas Labor Code 406.096) include all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the project.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. Services do not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the contractor providing services on the project for the duration of the project.

The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

1. A certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

2. No later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.

The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.

The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

The contractor shall post on each project site a notice, in the text, form, and manner prescribed by the TDI, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The contractor shall contractually require each person with whom it contracts to provide services on a project, to:

1. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the project for the duration of the project;
2. Provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project for the duration of the project;
3. Provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
4. Obtain from each other person with whom it contracts, and provide to the contractor:
  - a. A certificate of coverage, prior to the other person beginning work on the project; and
  - b. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
5. Retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
6. Notify the governmental entity in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
7. Contractually require each person with whom it contracts to perform as required by items 1–6, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the TDI's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The contractor's failure to comply with any of these provisions is a breach of contract by the contractor that entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996.

*28 TAC 110.110(i)*

FACILITIES CONSTRUCTION  
COMPETITIVE BIDDING

CVA  
(LEGAL)

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)*

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

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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)*

North East ISD  
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FACILITIES CONSTRUCTION  
COMPETITIVE BIDDING

CVA  
(LEGAL)

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  
COMPETITIVE BIDDING

CVA  
(LOCAL)

SPECIFICATIONS	The Superintendent or designee shall ensure that detailed specifications are prepared for any construction project for which competitive bids are sought.
BID PROCESS	All bids shall be submitted in sealed envelopes, plainly marked with the name of the bid and the time of the bid opening. Bids shall be opened at the time specified. All interested parties shall be invited to attend the bid opening. Any bid may be withdrawn prior to the scheduled time for opening. Bids received after the specified time shall not be considered.
SAFETY RECORD	If the District considers the safety record of bidders in determining to whom to award a contract, the safety record shall be defined as a bidder's OSHA (Occupational Safety and Health Administration) inspection logs for the last three years, a loss analysis from the bidder's insurance carrier, and a loss history covering all lines of insurance coverage carried by the bidder.

FACILITIES CONSTRUCTION  
COMPETITIVE SEALED PROPOSALS

CVB  
(LEGAL)

If the District uses the competitive sealed proposals method as described in this policy, it 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.

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

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SELECTING  
CONTRACTOR  
THROUGH SEALED  
PROPOSALS

In selecting a contractor for construction, rehabilitation, alteration, or repair services for a facility through competitive sealed proposals, the District shall follow the procedures below:

ARCHITECT /  
ENGINEER

1. 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 Occupations Code Title 6, Chapter 1001, or Occupations Code Title 6, Chapter 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]

INSPECTION,  
TESTING, AND  
VERIFICATION

2. The District shall provide or contract for, independently of the contractor, 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 and shall identify them in the request for proposals. [See CV]

REQUEST FOR  
PROPOSALS

3. The District shall prepare a request for competitive sealed proposals that includes construction documents, selection criteria, estimated budget, project scope, schedule, and other information that contractors may require to respond to the request. The District shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

*Education Code 44.039*



FACILITIES CONSTRUCTION  
COMPETITIVE SEALED PROPOSALS

CVB  
(LEGAL)

If there is no newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which the District's central administrative office is located. *Education Code 44.031(g)*

OPENING  
PROPOSALS

4. The District shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. 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 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 with the selected offeror a contract. The District and its engineer or architect may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the District is unable to negotiate a contract with the selected offeror, the District shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

BEST VALUE  
DETERMINATION

6. In determining best value for the District, the District is not restricted to considering price alone, but may consider any other factor stated in the selection criteria.

*Education Code 44.039*

FACILITIES CONSTRUCTION  
COMPETITIVE SEALED PROPOSALS

CVB  
(LOCAL)

SPECIFICATIONS	The Superintendent or designee shall prepare a request for proposals for any construction project for which competitive sealed proposals are sought.
PROCESS	All proposals shall be submitted in sealed envelopes, plainly marked with the name of the proposal and the time of the deadline for submission. Proposals shall be opened at the time specified. All offerors shall be invited to attend the proposal opening. Changes in the content of a proposal, and in prices, may be negotiated after proposals are opened.
WITHDRAWAL AND LATE PROPOSALS	Any proposal may be withdrawn prior to the scheduled time for opening. Proposals received after the specified time shall not be considered.
PROPOSAL ACCEPTANCE	The District may reject any and all proposals.
SAFETY RECORD	If the safety record of offerors is considered in selecting a proposal, the record shall be defined as an offeror's OSHA (Occupational Safety and Health Administration) inspection logs for the last three years, a loss analysis from the offeror's insurance carrier, and a loss history covering all lines of insurance coverage carried by the offeror.

FACILITIES CONSTRUCTION  
DESIGN-BUILD CONTRACTS

CVC  
(LEGAL)

DESIGN-BUILD  
CONTRACT

The District may use the design-build 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.

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

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When entering into a contract for the services of a design-build firm, the contracting district and the design-build firm shall follow the procedures below:

ARCHITECT /  
ENGINEER

1. The District shall designate an engineer or architect independent of the design-build firm to act as its representative for the duration of the work on the facility. If the District's engineer or architect is not a full-time employee of the District, any engineer or architect designated shall be selected on the basis of demonstrated competence and qualifications in accordance with Government Code 2254.004. [See CV]

REQUEST FOR  
QUALIFICATIONS

2. The District shall prepare a request for qualifications that includes general information on the project site, project scope, budget, special systems, selection criteria, and other information that may assist potential design-build firms in submitting proposals for the project. The District shall also prepare the design criteria package that includes more detailed information on the project as described in Education Code 44.036(a)(3). If the preparation of the design criteria package requires engineering within the meaning of Occupations Code Title 6, Chapter 1001, or the practice of architecture within the meaning of Occupations Code Title 6, Chapter 1051, those services shall be provided in accordance with the applicable law.

EVALUATION

3. The District shall evaluate statements of qualifications and select a design-build firm in two phases:

PHASE ONE:  
QUALIFICATION

- a. In phase one, the District shall prepare a request for qualifications and evaluate each offeror's experience,

technical competence, capability to perform, the past performance of the offeror's team and members of the team, and other appropriate factors submitted by the team or firm in response to the request for qualifications, except that cost-related or price-related evaluation factors are not permitted. Each offeror shall certify to the District that each engineer or architect who is a member of its team was selected based on demonstrated competence and qualifications, in the manner provided by Government Code 2254.004. The District shall qualify a maximum of five offerors to submit additional information and, if the District chooses, to interview for final selection.

PHASE TWO:  
PROPOSALS

- b. In phase two, the District shall evaluate the information submitted by the offerors on the basis of the selection criteria stated in the request for qualifications and the results of any interview. The District may request additional information regarding demonstrated competence and qualifications, considerations of the safety and long-term durability of the project, the feasibility of implementing the project as proposed, the ability of the offeror to meet schedules, costing methodology, or other factors as appropriate. The District may not require offerors to submit detailed engineering or architectural designs as part of the proposal.

The District shall rank each proposal submitted on the basis of the criteria set forth in the request for qualifications. The District shall select the design-build firm that submits the proposal offering the best value for the District on the basis of the published selection criteria and on its ranking evaluations.

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.

DESIGN

4. Following selection of a design-build firm, the firm's engineers or architects shall complete the design, submitting all design elements for review and determination of scope compliance to the District or the District's engineer or architect before or concurrently with construction.

5. An engineer shall have responsibility for compliance with the engineering design requirements and all other applicable requirements of Occupations Code Title 6, Chapter 1001. An architect shall have responsibility for compliance with the requirements of Occupations Code Title 6, Chapter 1051.

INSPECTION,  
TESTING, AND  
VERIFICATION  
TESTING SERVICES

The District shall provide or contract for, independently of the design-build firm, 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]

COMPLETION OF  
PROJECT

The design-build firm shall supply a signed and sealed set of construction documents for the project to the District at the conclusion of construction.

PAYMENT OR  
PERFORMANCE BOND

A payment or performance bond is not required for, and may not provide coverage for, the portion of a design-build contract that includes design services only. [See CV for more information on payment and performance bonds]

AMOUNT

If a fixed contract amount or guaranteed maximum price has not been determined at the time a design-build 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 design criteria package. The design-build firm shall deliver the bonds not later than the tenth day after the date the design-build firm executes the contract, unless the design-build firm furnishes a bid bond or other financial security acceptable to the District to ensure that the design-build firm will furnish the required performance and payment bonds when a guaranteed maximum price is established.

*Education Code 44.036*

DEFINITION

A construction manager-agent is a sole proprietorship, partnership, corporation, or other legal entity that provides consultation to the District regarding construction, rehabilitation, alteration, or repair of the facility. The District using the construction manager-agent method may, under the contract between the District and the construction manager-agent, require the construction manager-agent to provide administrative personnel, equipment necessary to perform duties under this section, and on-site management and other services specified in the contract. A construction manager-agent represents the District in a fiduciary capacity.

The District may use the construction manager-agent 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.

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

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In entering into a contract for the services of a construction manager-agent, the District shall follow the procedures 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 or architect may not serve, alone or in combination with another person, as the construction manager-agent unless the engineer or architect is hired to serve as the construction manager-agent under a separate or concurrent procurement conducted in accordance with Education Code Chapter 44, Subchapter B. The District's engineer or architect is not prohibited by this policy from providing customary construction-phase services under the engineer's or

FACILITIES CONSTRUCTION  
CONSTRUCTION MANAGER-AGENT

CVD  
(LEGAL)

architect's original professional service agreement in accordance with applicable licensing laws.

SELECTION OF  
CONSTRUCTION  
MANAGER-AGENT

2. The District shall select a construction manager-agent on the basis of demonstrated competence and qualifications in the same manner as provided for the selection of engineers or architects under Government Code 2254.004. [See CV]

TESTING,  
INSPECTION, AND  
VERIFICATION  
SERVICES

3. The District or the construction manager-agent shall procure in accordance with Government Code 2254.004 all of the testing of construction materials engineering, the inspection services, and the verification testing services necessary for acceptance of the facility by the District.

OTHER  
CONTRACTORS

4. The District shall procure, in accordance with applicable law and in any manner authorized by Education Code Chapter 44, a general contractor, trade contractors, or subcontractors who will serve as the prime contractor for their specific portion of the work.

*Education Code 44.037*

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.

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

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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.



FACILITIES CONSTRUCTION  
CONSTRUCTION MANAGER-AT-RISK

CVE  
(LEGAL)

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.

FACILITIES CONSTRUCTION  
CONSTRUCTION MANAGER-AT-RISK

CVE  
(LEGAL)

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*

If the District uses the job order contracts method as described in this policy, it must comply with the 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.

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

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The District may award job order contracts for the minor construction, repair, rehabilitation, or alteration of a facility if the work is of a recurring nature, but the delivery times are indefinite and indefinite quantities and orders are awarded substantially on the basis of predescribed and prepriced tasks.

ESTABLISHING UNIT  
PRICES

The District may establish contractual unit prices for a job order contract by:

1. Specifying one or more published construction unit price books and the applicable divisions or line items; or
2. Providing a list of work items and requiring the offerors to bid or propose one or more coefficients or multipliers to be applied to the price book or work items as the price proposal.

TERM OF CONTRACT

The base term of a job order contract is for the period, and with any renewal option, that the District sets forth in the request for proposals. If the District fails to advertise that term, the base term may not exceed two years and is not renewable without further advertisement and solicitation of proposals.

ARCHITECT /  
ENGINEER

If job order contracts or orders issued under the contract require engineering or architectural services that are subject to Occupations Code Title 6, Chapters 1001 or 1051, those services shall be provided in accordance with applicable law.

ADVERTISING AND  
OPENING PROPOSALS

The District shall advertise for [see CV], receive, and publicly open sealed proposals for job order contracts. The District may require offerors to submit additional information besides rates, including experience, past performance, and proposed personnel and methodology. *Education Code 44.041(c), (d)*

FACILITIES CONSTRUCTION  
JOB ORDER CONTRACTS

CVF  
(LEGAL)

AWARDING  
CONTRACTS

The District may award job order contracts to one or more job order contractors in connection with each solicitation of bids or proposals.

An order for a job or project under the job order contract must be signed by the District's representative and the contractor. The order may be a fixed-price, lump-sum contract based substantially on contractual unit pricing applied to estimated quantities or may be a unit price order based on the quantities and line items delivered. The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order.

BONDS

The contractor shall provide payment and performance bonds, if required by law, based on the amount or estimated amount of any order. [See CV for more information on payment and performance bonds.]

*Education Code 44.041*

NEW FACILITIES

CW  
(LOCAL)

NAMING NEW  
FACILITIES

Names of new schools shall be chosen in the following manner:

1. New elementary schools shall be named for the street or neighborhood where the school is located.
2. New middle schools shall be named for prominent leaders who are/were historically important Texas citizens.
3. New high schools shall be named for prominent leaders who are/were historically important national figures.

To name a new elementary school, the Superintendent shall recommend one or more names to the Board for approval.

To name a middle school or high school, a committee shall be formed to bring recommendations to the Board for approval. The committee shall include the Board member representing the election district in which the school will be located, who shall be the committee chairperson; no more than one other Board member, appointed by the Board President; at least one parent and one student from the immediate geographic area in which the school is located, the student to be currently in a grade level that the school will serve; the principal of the school, if designated; and any number of interested persons from the North East community at large. If any election district is not otherwise represented on the committee, the Board member from that district shall appoint a person to represent it. Intent to form the committee shall be publicized. Board members designated to serve on the committee shall be nonvoting committee members.

Intent to form the committee shall be publicized and nominations of names shall be solicited through available media sources from all facets of the North East community, including students, teachers, staff, parents, and patrons. Each name submitted to the committee shall be accompanied, in writing, by a rationale and/or description of the named person's accomplishments. Each name nominated shall fulfill the following criteria:

1. The named person shall be identifiable to the general public.
2. The named person shall be widely respected, regardless of any partisan affiliation.
3. The named person shall be a positive role model for children and shall embody a wholesome image that would be expected to stand the test of time.
4. The named person must have a background of service to adults and children of Texas (middle school) and/or the United States (high school).

NEW FACILITIES

CW  
(LOCAL)

5. The name shall not have already been used for any other school in Bexar County that includes the same grade levels.

The final list of names recommended by the committee shall be posted with the notice of the Board meeting at which the school will be named.

NAMES ON BUILDINGS

The Superintendent, through the architect, shall provide an appropriate plaque for each major building project. The plaque shall include the following:

1. Project name.
2. Year completed.
3. Names and titles of Trustees, Superintendent, and the architectural firm and general contractor at the time the building contract is let.

The cover sheet of the architectural plans shall have the above-listed data at the time said plans are released for bidding purposes.

INSPECTION AND  
ACCEPTANCE

The Board shall formally accept completed projects after an on-site inspection and upon receiving a recommendation from the architect's engineers and the Superintendent as to the completeness and conformity to educational and architectural specifications.

The Superintendent may be authorized by the Board, upon the Superintendent's recommendation, to occupy and utilize new facilities prior to formal acceptance.

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

NONDISCRIMINATION  
— IN GENERAL

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

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

*42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12100 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); U.S. Const. Amend. I; Labor Code Chapter 21 (Texas Commission on Human Rights Act)*

JOB QUALIFICATION

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

EMPLOYMENT  
POSTINGS

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

HARASSMENT OF  
EMPLOYEES

The District has an affirmative duty to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e et seq.; 29 CFR 1606.8(a), 1604.11 [See DIA]*

RETALIATION

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

NOTICES

The District shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Oppor-



EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

tunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. *29 U.S.C. 627; 42 U.S.C. 2000e-10*

SECTION 504  
NOTICE

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

The notice shall state:

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

Methods of notification may include:

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

If the District publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

*34 CFR 104.8*

AGE DISCRIMINATION

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

SEX DISCRIMINATION  
PREGNANCY

The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. The District shall treat women affected by pregnancy, childbirth, or related medical conditions the same for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k)*

EQUAL PAY

The District may not pay an employee at a rate less than the rate the employer pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d); 34 CFR 106.54*

RELIGIOUS  
DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless the District demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the District's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 CFR 1605.2*

The District may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

DISABILITY  
DISCRIMINATION

The District shall make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability, unless the District can demonstrate that the accommodation would impose an undue hardship on the operation of the District. *42 U.S.C. 12112(b); 29 CFR 1630.9; 29 U.S.C. 794; 34 CFR 104.11; Labor Code 21.051* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

DISCRIMINATION  
BASED ON  
RELATIONSHIP

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

DEFINITIONS

"Disability" means a physical or mental impairment that substantially limits one or more of an individual's major life activities, a record of having such an impairment, or being regarded as having such an impairment. "Major life activities" are such functions as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. *42 U.S.C. 12102(2); 29 CFR 1630.2(g)-(l); 28 CFR 35.104; 34 CFR 104.3(j), (l); Labor Code 21.002(6)*

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. Consideration shall be given to the District's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

*42 U.S.C. 12111(8); 29 CFR 1630.2(m), (n); 34 CFR 104.3(l); Labor Code 21.105*

USE OF ILLEGAL DRUGS      The term “qualified individual with a disability” does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the District acts on the basis of such use.

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

*42 U.S.C. 12114(c), (d) [See DHE]*

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

REASONABLE ACCOMMODATION      “Reasonable accommodation” includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

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

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

DIRECT THREAT TO HEALTH OR SAFETY      As a qualification standard, the District may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. “Direct threat” means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 CFR 1630.2(q)*

COMMUNICABLE DISEASES      The District may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

handling of food. *42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D); 29 CFR 1630.16(e); Labor Code 21.002(6)(B)*

MILITARY SERVICE	The District shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The District shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). <i>38 U.S.C. 4311</i> [See also DEC]
GRIEVANCE POLICIES SECTION 504	A district that receives federal financial assistance 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. <i>34 CFR 104.7(b), 104.11</i>
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 Americans with Disabilities Act. <i>28 CFR 35.107, 35.140</i>
TITLE IX	A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. <i>34 CFR 106.8(b); <u>North Haven Board of Education v. Bell</u>, 456 U.S. 512 (1982)</i>  [See DGBA]
COMPLIANCE COORDINATOR	The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The District shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. <i>34 CFR 104.7(b), 104.11; 28 CFR 35.107, 35.140; 34 CFR 106.8(b)</i>

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LOCAL)

The Superintendent shall serve as coordinator for purposes of District compliance with antidiscrimination laws, except as provided below.

TITLE IX AND ADA /  
SECTION 504  
COORDINATOR

The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 as amended and Title II of the Americans with Disabilities Act of 1990, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973:

Name: Richard Smith

Position: Executive Director of Human Resources

Address: 8961 Tesoro Drive, San Antonio, TX 78217

Telephone: (210) 804-7025

COMPLAINTS

Allegations of unlawful discrimination shall be directed to the appropriate coordinator and shall be heard through DGBA (LOCAL). Reports regarding prohibited harassment, including sexual harassment, shall be made according to DIA(LOCAL).

RECORDS  
RETENTION

Copies of reports alleging discrimination or prohibited harassment, including sexual harassment; investigation reports; and related records shall be maintained by the District for a period of at least three years.

EMPLOYMENT OBJECTIVES  
OBJECTIVE CRITERIA FOR PERSONNEL DECISIONS

DAB  
(LOCAL)

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

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

NOTICE TO PARENTS:  
QUALIFICATIONS

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

1. Whether the teacher has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction.
2. Whether the teacher is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived.
3. The baccalaureate degree major of the teacher and any other graduate certification or degree held by the teacher, and the field of discipline of the certification or degree.
4. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

ADDITIONAL  
INFORMATION

A school that receives such federal funds shall also provide to each individual parent timely notice that the parent's child has been assigned, or has been taught for four or more consecutive weeks by, a teacher who is not highly qualified.

*20 U.S.C. 6311(h)(6)*

PROFESSIONAL  
PERSONNEL  
CERTIFICATE

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

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

FAILURE OF  
CERTIFICATION

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

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

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

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

LICENSE	A person may not be employed by the District as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, social worker, or speech language pathologist unless the person is licensed by the state agency that licenses that profession. A person may perform specific services within those professions for the District only if the person holds the appropriate credentials from the appropriate state agency. <i>Education Code 21.003(b)</i>
SCHOOL DISTRICT TEACHING PERMIT	The District may issue a school district teaching permit and employ as a teacher a person who does not hold a teaching certificate issued by SBEC, if the person holds a baccalaureate degree. A baccalaureate degree is not required for persons who will teach only career and technology education.
STATEMENT TO COMMISSIONER	<p>After employing a person under a school district permit, the District shall promptly send a written statement to the Commissioner. This statement must identify the person, the person's qualifications as a teacher, and the subject or class the person will teach. The person may teach the subject or class pending action by the Commissioner.</p> <p>Not later than the 30th day after the Commissioner receives the District's statement, the Commissioner may inform the District that the person is not qualified to teach. The person may not teach if the Commissioner finds that the person is not qualified. If the Commissioner fails to act before the 30th day after receiving the statement, the District may issue the school district teaching permit and the person may teach the subject or class identified in the statement sent to the Commissioner.</p>
DURATION OF PERMIT	<p>A school district teaching permit remains valid unless the district issuing the permit revokes it for cause. A person authorized to teach under a school district teaching permit issued by a particular district may not teach in another school district unless that other district complies with the permit-issuing provisions. [See DK for Emergency Permits]</p> <p><i>Education Code 21.055</i></p>

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**Note:** The assignment of a teacher to teach a class for which he or she is not properly certified triggers parent notifica-



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

tion requirements in accordance with state and federal laws. See DK.

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HIGHLY QUALIFIED  
STATUS

Pursuant to the No Child Left Behind Act of 2001, each district shall ensure that all teachers teaching in a program supported with funds under Title I, Part A of the ESEA (20 U.S.C. 6301 *et seq.*) are highly qualified.

'CORE ACADEMIC  
SUBJECTS'  
DEFINED

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

GENERAL  
EDUCATION  
PROGRAM  
CERTIFICATION

The term "highly qualified":

1. When used with respect to any public elementary school or secondary school teacher, means the teacher:
  - a. Has obtained full state certification as a teacher (including alternative certification); and
  - b. Has not had certification or licensure requirements waived on an emergency, temporary, or provisional basis.
2. When used with respect to an elementary school teacher who is new to the profession, means the teacher:
  - a. Holds at least a bachelor's degree; and
  - b. Has demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary school curriculum.
3. When used with respect to a middle or secondary school teacher who is new to the profession, means the teacher:
  - a. Holds at least a bachelor's degree; and
  - b. Has demonstrated a high level of competency in each of the academic subjects in which the teacher teaches by:
    - (1) Passing a rigorous state academic subject test in each of the academic subjects in which the teacher teaches; or
    - (2) Successful completion, in each of the academic subjects in which the teacher teaches, of an academic major, a graduate degree, coursework equivalent to an undergraduate academic major, or advanced certification or credentialing.

SUBJECT  
COMPETENCY  
NEW  
ELEMENTARY  
TEACHER

NEW MIDDLE OR  
SECONDARY  
TEACHER

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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(LEGAL)

EXISTING  
TEACHER

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

*20 U.S.C. 6319(a)(1), 7801(23)*

SPECIAL  
EDUCATION  
PROGRAM

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

CERTIFICATION  
AND EDUCATION

1. Has obtained full state certification as a special education teacher (including alternative certification);
2. Has not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Holds at least a bachelor's degree.

SUBJECT  
MATTER  
COMPETENCY

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

ALTERNATIVE  
ACHIEVEMENT  
STANDARDS

1. New and existing special education teachers who teach core academic subjects exclusively to children who are assessed against alternate achievement standards may:
  - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary teacher; or
  - b. In the case of instruction above the elementary level, demonstrate subject matter knowledge appropriate to the level of instruction being provided, as determined by the state, needed to effectively teach to those standards.

TWO OR MORE  
CORE ACADEMIC  
SUBJECTS

2. A special education teacher who teaches two or more core academic subjects exclusively to children with disabilities may either:
  - a. Meet the applicable requirements for any new or existing elementary, middle, or secondary school teacher;
  - b. In the case of an existing teacher, demonstrate competence in all core academic subjects in which the teacher

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
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teaches in the same manner as is required for any other existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects; or

- c. In the case of a new special education teacher who teaches multiple subjects and who is highly qualified in mathematics, language arts, or science, the teacher may demonstrate competence in the other core academic subjects in which the teacher teaches in the same manner as is required for an existing elementary, middle, or secondary school teacher. This may include a single, high objective uniform state standard of evaluation covering multiple subjects. The teacher must demonstrate competence under this section not later than two years after the date of employment.

*20 U.S.C. 1401(10)*

CPR AND FIRST AID  
CERTIFICATION

A District employee who serves as head director of a school marching band, head coach, or chief sponsor of an extracurricular athletic activity (including cheerleading) that is sponsored or sanctioned by the District or UIL must maintain and submit to the District proof of current certification in first aid and cardiopulmonary resuscitation issued by the American Red Cross, the American Heart Association, or another organization that provides equivalent training and certification. The District shall adopt procedures for administering this requirement, including procedures for the time and manner in which proof of current certification must be submitted. *Education Code 33.086*

PARAPROFESSIONAL  
EMPLOYEES  
CERTIFICATION

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

TITLE I PROGRAM

Each district receiving assistance under Title I, Part A of the ESEA shall ensure that all paraprofessionals working in a program supported with those funds shall:

DUTIES

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

HIGH SCHOOL  
DIPLOMA

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

HIGHER  
EDUCATION OR  
COMPETENCY TEST

- 3. If hired after January 8, 2002, have one of the following credentials:
  - a. Completed at least 2 years of study at an institution of higher education;

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

- b. Obtained an associate's (or higher) degree; or
- c. Met a rigorous standard of quality and can demonstrate, through a formal state or local academic assessment:
  - (1) Knowledge of, and the ability to assist in instructing, reading, writing, and mathematics; or
  - (2) Knowledge of, and the ability to assist in instructing, reading readiness, writing readiness, and mathematics readiness, as appropriate.

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

EXCEPTIONS

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

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

*20 U.S.C. 6319*

SCHOOL BUS  
DRIVERS  
CREDENTIALS

A school bus driver must:

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

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(LEGAL)

dents are transported unless the employment is approved by the Board or the Board's designee.

7. Possess a valid certificate stating that the driver is enrolled in, or has completed, a driver training course in school bus safety education approved by the DPS.

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

ANNUAL  
EVALUATION

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

EMPLOYEE RECORDS  
PROFESSIONAL  
EMPLOYEES

The following records on professional personnel must be readily available for review by the Commissioner:

1. Credentials (certificate or license);
2. Service record(s) and any attachments;
3. Contract;
4. Teaching schedule or other assignment record; and
5. Absence from duty reports.

SERVICE RECORD

The basic document in support of the number of years of professional service claimed for salary increment purposes and both the state's sick and personal leave program data for all personnel is the service record (form FIN-115) or a similar form containing the same information. It is the responsibility of the issuing district to ensure that service records are true and correct and that all service recorded on the service record was actually performed.

The service record must be validated by a person designated by the District to sign service records. The service record shall be kept on file at the District. When employment with the District is terminated, the original service record, signed by the employee, shall be given to the employee upon request or sent to the next employing district. The District must maintain a legible copy for audit purposes.

*19 TAC 153.1021(b), (d)*

ACCESS TO  
EMPLOYEE  
RECORDS

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

Information in a personnel file is excepted from the requirements of the Public Information Law if the disclosure would constitute a clearly unwarranted invasion of personal privacy.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LEGAL)

An employee of the District shall choose whether to allow public access to information in the District's custody that relates to the employee's home address, home telephone number, or Social Security number, or that reveals whether the person has family members.

*Gov't Code 552.024, 552.102(a)*

EMPLOYEE  
RIGHT OF  
ACCESS

All information in the personnel file of a District employee shall be made available to that employee or the employee's designated representative as public information is made available under the Public Information Law. An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the District that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

The District may not deny to the employee or his or her representative access to information relating to the employee on the grounds that the information is considered confidential by privacy principles under the Public Information Law. The District may assert as grounds for denial of access other provisions of the Public Information Law or other laws that are not intended to protect the employee's privacy interests.

If the District determines that information in the employee's records is exempt from disclosure under an exception of Government Code Chapter 552, Subchapter C, other than an exception intended to protect the privacy interest of the requestor or the person whom the requestor is authorized to represent, it shall submit a written request for a decision to the attorney general before disclosing the information. If a decision is not requested, the District shall release the information to the requestor not later than the tenth day after the request for information is received.

*Gov't Code 552.023, 552.102(a); 552.307*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CREDENTIALS AND RECORDS

DBA  
(LOCAL)

PARENT  
NOTIFICATION

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

Notification shall not be required, however, when:

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

UPDATING  
CREDENTIALS

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

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

CONTRACT  
PERSONNEL

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB  
(LEGAL)

SCHOOL BUS DRIVERS	A person shall not drive a school bus unless he or she is physically qualified to do so. Each school bus driver shall undergo and successfully complete an annual physical examination in compliance with the requirements of 37 TAC 14.12. The results of the examination shall be noted on the form published by the U.S. Department of Transportation in 49 CFR Part 391.41. A driver shall not operate a school bus unless he or she has on his or her person the original or photographic copy of the medical examiner's Certificate 391.43 stating that the driver is physically qualified to drive a commercial motor vehicle. <i>Trans. Code 521.022; 37 TAC 14.12</i>
DEFINITIONS	The definitions related to individuals with disabilities and exceptions to those definitions included in policy DAA shall be used in applying and interpreting this policy and any (LOCAL) policy adopted in conjunction with this policy.
BLOODBORNE PATHOGEN CONTROL	A district that employs employees who provide services in a public or private facility providing health care-related services, including a home health-care organization, or who otherwise have a risk of exposure to blood or other material potentially containing bloodborne pathogens in connection with exposure to sharps shall comply with the minimum standards set by the Texas Department of State Health Services (TDSHS). This includes a district that operates a public school health clinic.
'SHARPS' DEFINED	"Sharps" means an object used or encountered in a health-care setting that can be reasonably anticipated to penetrate the skin or any other part of the body and to result in an exposure incident, including a needle device, a scalpel, a lancet, a piece of broken glass, a broken capillary tube, an exposed end of a dental wire, or a dental knife, drill, or bur.
MINIMUM STANDARDS	<p>The minimum standards in the TDSHS Bloodborne Pathogens Exposure Control Plan require the District to:</p> <ol style="list-style-type: none"><li>1. Develop, review annually, update as necessary, and document its actions regarding a comprehensive exposure control plan appropriate to the District and its particular facilities;</li><li>2. Provide, at District expense, personal protective equipment and Hepatitis B vaccinations to affected employees, and if an employee declines to be vaccinated, maintain a record of the employee's written refusal;</li><li>3. Provide to affected employees pre-service and annual refresher training as described in the TDSHS Exposure Control Plan;</li></ol>



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB  
(LEGAL)

4. Record all exposure incidents (e.g., “sticks” by needles or other “sharps”) in a sharps injury log and report the sharps injury to TDSHS on a standardized form.
5. Provide a post-exposure evaluation and follow up with an employee who has a sharps injury.

*Health and Safety Code 81.301–.307; 25 TAC 96*

COST OF HEPATITIS  
TESTING AFTER  
ACCIDENTAL  
EXPOSURE

If certified emergency medical services personnel, a firefighter, a peace officer, or a first responder who renders assistance at the scene of an emergency or during transport to the hospital is accidentally exposed to blood or other body fluids of a patient, the hospital to which the patient is transported shall take reasonable steps to test the patient for hepatitis B or hepatitis C. A district that employs the person, or for which the person works as a volunteer in connection with rendering the assistance, is responsible for paying the costs of the test. *Health and Safety Code 81.095(B)*

PRE-EMPLOYMENT  
INQUIRIES AND  
EMPLOYMENT  
ENTRANCE  
EXAMINATIONS

The District shall not conduct a medical examination or make inquiries of a job applicant as to whether such applicant is an individual with a disability or as to the nature or severity of a disability, except as provided below. However, the District is permitted to make pre-employment inquiries into the ability of an applicant to perform job-related functions, such as asking an applicant to describe or demonstrate how, with or without reasonable accommodation, the applicant will be able to perform job-related functions. *42 U.S.C. 12112(c)(2); 29 CFR 1630.14(a)*

The District may require a medical examination (and/or inquiry) after an offer of employment has been made to a job applicant and prior to the beginning of employment duties and may condition the offer on the results of such examination (and/or inquiry), provided all entering employees in the same job category are subjected to such an examination (and/or inquiry) regardless of disability.

The results of an employment entrance medical examination shall be used only to determine the applicant’s ability to perform job-related functions.

*42 U.S.C. 12112(c)(3); 29 CFR 1630.14(b)*

CONFIDENTIALITY

Information obtained regarding the medical condition or history of the applicant shall be collected and maintained on separate forms and in separate medical files and shall be treated as confidential medical records. However, supervisors and managers may be informed regarding necessary restrictions on the employee’s work or duties and necessary accommodation; first aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment. *29 CFR 1630.14(b)(c)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB  
(LEGAL)

EXAMINATION DURING  
EMPLOYMENT

The District may require a medical examination (and/or inquiry) of an employee that is job related and consistent with business necessity and may make inquiries into the ability of an employee to perform job-related functions.

The Board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the Board's judgment and in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. Such a policy must reserve to the educator the right to present to the Board testimony or other information relevant to the educator's fitness to continue the performance of regular duties. [See also DEC]

The results of an employee's medical examination shall be used only to determine the employee's ability to perform job-related functions.

*42 U.S.C. 12112(c)(4); 29 CFR 1630.14(c); Education Code 21.409(c)*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB  
(LOCAL)

EMPLOYMENT  
ENTRANCE MEDICAL  
EXAMINATION

Employment entrance medical examinations that shall include drug screening shall be required for all auxiliary positions and the offer of employment shall be conditioned on the results of such examination. Auxiliary positions shall include bus drivers, maintenance workers, cafeteria workers, and custodians.

EXAMINATIONS  
DURING  
EMPLOYMENT

A medical or psychological examination may be required of any employee when, in the judgment of the immediate supervisor after consultation with the Superintendent or designee, the employee's condition interferes with the ability to perform job-related functions or may pose a direct threat to the health or safety of the employee or others. This physical or psychological examination may include a drug or alcohol test if the person's supervisor(s) determine that a reasonable suspicion exists to believe the person has used or is under the influence of a controlled substance as defined by the Texas Controlled Substances Act, Article 4476-15 (Vernon's Texas Civil Statutes), a dangerous drug as defined by the Dangerous Drug Act, Article 4476-14 (Vernon's Texas Civil Statutes), alcohol, or other drugs affecting the person's ability to physically or mentally attend to the duties and responsibilities of his or her position. The District may designate the physician or health care professional to perform the examination and, in that case, shall pay the cost of the examination. If in the Superintendent's discretion the circumstances so require, the employee may be placed on administrative leave with pay, pending the physician's report and the District's decision.

An employee who refuses to submit to a medical or psychological examination when required by the foregoing provision shall be subject to disciplinary action including termination.

HEALTH OR SAFETY  
CONSIDERATIONS

If it is determined that the employee poses a direct threat to health or safety within the District or that the employee's ability to perform job-related functions is affected, the Superintendent or designee shall determine under what circumstances the employee might continue to perform job-related functions without posing a direct threat to self or others.

EXCLUSION

If the employee cannot perform job-related functions without posing a threat to health or safety, the Superintendent or designee may exclude the employee from work. However, before being excluded from work, the employee shall be permitted to present evidence to the Superintendent or designee relevant to his or her fitness to continue regular duties.

USE OF LEAVE

Employees who are excluded from work because of a communicable disease or other medical condition may use any accrued paid leave to which they are entitled or request temporary disability leave, as appropriate. [See DEC]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
MEDICAL EXAMINATIONS AND COMMUNICABLE DISEASES

DBB  
(LOCAL)

PLACEMENT ON  
TEMPORARY  
DISABILITY

The Superintendent shall have authority to place an employee on temporary disability leave, as appropriate, when in the judgment of the Superintendent in consultation with the physician who has performed the medical examination, the employee's condition interferes with the performance of regular duties. [See DEC(LEGAL)]

OTHER  
REQUIREMENTS

Food service workers shall comply with health requirements established by city, county, and state health authorities. Bus drivers shall comply with legal requirements. [See DBA]

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees.

TERMINATION OF  
EMPLOYMENT

Employees who are excluded from work because of a communicable disease may have their employment terminated when all leave to which they are entitled has expired, in accordance with appropriate policies. [See DEC and DF series]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

RESTRICTION ON  
PUBLIC SERVANTS —  
PENAL CODE

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

BRIBERY

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

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

*Penal Code 36.01(3), 36.02*

ILLEGAL GIFTS

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

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

EXCEPTIONS

“Illegal Gifts to Public Servants” does not apply to:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
  - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

*Penal Code 36.10*

HONORARIA AND  
EXPENSES

- 3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

the extent those services are more than merely perfunctory.  
*Penal Code 36.07*

ABUSE OF PUBLIC  
EMPLOYMENT

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

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

"Misuse" means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

*Penal Code 39.01(2)*

TEXTBOOK  
VIOLATIONS —  
COMMISSIONS

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

TEXTBOOK  
VIOLATIONS —  
CONFLICT

An administrator or teacher commits a class B misdemeanor offense if the administrator or teacher accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of a textbook; and
3. Could not be lawfully purchased with funds from the state textbook fund.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

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

*Education Code 31.152(b)–(d)*

TEXTBOOK  
VIOLATIONS —  
PURCHASE AND  
DISTRIBUTION

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

HOLDING CIVIL  
OFFICE

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

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

CONFLICT  
DISCLOSURE  
STATEMENT

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

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

*Local Gov't Code 176.005*

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

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EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LOCAL)

DISCLOSURE —  
GENERAL STANDARD

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

SPECIFIC  
DISCLOSURES  
SUBSTANTIAL  
INTEREST

The Superintendent shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the Superintendent or any of his or her relatives in the first degree may have.

Any other employee who is in a position to affect a financial decision involving any business entity or real property in which the employee has a substantial interest as defined by Local Government Code 171.002 shall file an affidavit with the Superintendent; however, the employee shall not be required to file an affidavit for the substantial interest of a relative.

INTEREST IN  
PROPERTY

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

CONFLICTS  
DISCLOSURE  
STATEMENT

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

ANNUAL FINANCIAL  
MANAGEMENT  
REPORT

The Superintendent, as the executive officer of the District, shall provide in a timely manner to the District information necessary for the District's annual financial management report. [See BR]

[See BBFA]

GIFTS

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

ENDORSEMENTS

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

SALES

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

North East ISD  
015910

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(EXHIBIT)

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

- Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or in Real Property, as defined in Local Government Code 171.002 — 2 pages
- Exhibit B: Affidavit Disclosing Interest in Property, under Government Code Chapter 553, Subchapter A — 2 pages

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

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EXHIBIT A

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

STATE OF TEXAS  
COUNTY OF BEXAR

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

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

or

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

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

\_\_\_\_\_.

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

- Ownership of ten percent or more of the voting stock or shares of the business entity.
- Ownership of ten percent or more of the fair market value of the business entity.
- Ownership of \$15,000 or more of the fair market value of the business entity.
- Funds received from the business entity exceed ten percent of my gross income for the previous year.
- Real property is involved and I have an equitable or legal ownership with a fair market value of at least \$2,500.

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (*month*), \_\_\_\_\_ (*year*).

Signature of employee \_\_\_\_\_

Title \_\_\_\_\_

North East ISD  
015910

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(EXHIBIT)

ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF BEXAR

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

\_\_\_\_\_, Notary Public in and for the State of Texas

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

North East ISD  
015910

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(EXHIBIT)

EXHIBIT B

AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS  
COUNTY OF BEXAR

I, \_\_\_\_\_ (*name*), as Superintendent of North East ISD, make this affidavit and hereby on oath state the following:

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

The property is described as follows:

\_\_\_\_\_.

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

\_\_\_\_\_.

The interest was acquired on \_\_\_\_\_ (*date*).

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

Signed this \_\_\_\_\_ day of \_\_\_\_\_ (*month*), \_\_\_\_\_ (*year*).

Signature of Superintendent \_\_\_\_\_

ACKNOWLEDGEMENT

STATE OF TEXAS  
COUNTY OF BEXAR

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

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

\_\_\_\_\_, Notary Public in and for the State of Texas

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

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	<p>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:</p> <ol style="list-style-type: none"><li>1. The person is related to the public official by consanguinity (blood) within the third degree or by affinity (marriage) within the second degree [see below]; or</li><li>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.</li></ol> <p><i>Gov’t Code 573.002, 573.041; Atty. Gen. Op. JC-0184 (2000)</i></p>
INDEPENDENT CONTRACTOR	<p>The nepotism law governs the hiring of an individual, whether the employee is hired as an individual or an independent contractor. <i>Atty. Gen. Op. DM-76 (1992)</i></p>
SUPERINTENDENT	<p>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. <i>Atty. Gen. Op. GA-123 (2003)</i> [See BBFA]</p>
COMPENSATION OF PROHIBITED EMPLOYEE	<p>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. <i>Gov’t Code 573.083</i></p>
CONSANGUINITY	<p>Two persons are related to each other by consanguinity (blood) 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 for this purpose. <i>Gov’t Code 573.022</i></p> <p>An individual’s relatives within the third degree by consanguinity are the individual’s:</p> <ol style="list-style-type: none"><li>1. Parent or child (first degree);</li><li>2. Brother, sister, grandparent, or grandchild (second degree); and</li><li>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).</li></ol> <p><i>Gov’t Code 573.023</i> [See DBE(EXHIBIT)]</p>



EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

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. <i>Atty. Gen. Op. LO-90-30 (1990)</i>
AFFINITY	<p>Two persons are related to each other by affinity (marriage) if they are married to each other or if the spouse of one of the persons is related by consanguinity to the other person.</p> <p>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 or officer of the District only until the youngest child of the marriage reaches the age of 21 years.</p> <p><i>Gov't Code 573.024</i></p> <p>A husband and wife are related to each other in the first degree by affinity. For other relationships, the degree of 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.</p> <p>A person's relatives within the second degree by affinity are:</p> <ol style="list-style-type: none"><li>1. The person's spouse;</li><li>2. Anyone related by consanguinity to the person's spouse within the first or second degree; and</li><li>3. The spouse of anyone related to the person by consanguinity within the first or second degree.</li></ol> <p><i>Gov't Code 573.025</i></p>
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. <i>Tex. Const., Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945)</i>
EXCEPTIONS CONTINUOUS EMPLOYMENT (‘GRANDFATHER CLAUSE’)	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:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

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)*

RETIREEES

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*

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*

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

DBE  
(LEGAL)

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 REQUIREMENTS AND RESTRICTIONS  
NEPOTISM

These illustrations depict the relationships that violate the nepotism law.

CONSANGUINITY Board member is prospective employee's:  
(Blood) Kinship

First Degree	Parent	Child		
Second Degree	Grandparent	Grandchild	Sister/Brother	
Third Degree	Great-Grandparent	Great-Grandchild	Aunt/Uncle	Niece/Nephew

AFFINITY Board member's spouse is the prospective employee.  
(Marriage) Kinship

OR

Board member's spouse is prospective employee's:

OR

Prospective employee's spouse is the Board member's:

First Degree	Parent	Child	
Second Degree	Grandparent	Grandchild	Sister/Brother

NOTE: The spouses of two persons related by blood are not by that fact related. The affinity chart supposes only one affinity relationship between the Board member and prospective employee through either of their spouses.

EMPLOYMENT PRACTICES

DC  
(LEGAL)

EMPLOYMENT POLICIES	The Board shall adopt a policy providing for the employment and duties of District personnel. The policy shall provide that:
SELECTION OF PERSONNEL	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 [see SUPERINTENDENT RECOMMENDATIONS, below];
CAMPUS ASSIGNMENTS	2. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP]; and
JOB POSTINGS	3. Notice will be provided of vacant positions [see POSTING OF VACANCIES, below].  <i>Education Code 11.163</i>
CONTRACT POSITIONS	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. <i>Education Code 21.002(c)</i>
DELEGATION OF AUTHORITY	The District's employment policy may specify the terms of District employment or delegate to the Superintendent the authority to determine the terms of employment with the District. <i>Education Code 11.163(c)</i>
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. <i>Atty. Gen. Op. GA-123 (2003)</i> [See DBE]
INTERNAL AUDITOR	If the District employs an internal auditor, the Board shall select the internal auditor and the internal auditor shall report directly to the Board. <i>Education Code 11.163</i>
SUPERINTENDENT RECOMMENDATIONS	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. <i>Education Code 11.163</i>
POSTING OF VACANCIES	The District's employment policy must provide that not later than the tenth school day before the date on which the District fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the Board, the District must provide to each current District employee:

EMPLOYMENT PRACTICES

DC  
(LEGAL)

1. Notice of the position by posting the position on:
  - a. A bulletin board at:
    - (1) A place convenient to the public in the District's central administrative office, and
    - (2) The central administrative office of each campus during any time the office is open; and
  - b. The District's Internet Web site, if the District has a Web site; and
2. A reasonable opportunity to apply for the position.

*Education Code 11.163(d)*

EXCEPTION	If, during the school year, the District must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the District must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, the District is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. <i>Education Code 11.163(e)</i>
CONTRACT EMPLOYEES	The District shall employ each classroom teacher, principal, librarian, nurse, or counselor under a probationary contract, a continuing contract, or a term contract. The District is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. <i>Education Code 21.002</i>  "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. <i>Education Code 5.001(2)</i>
LENGTH OF CONTRACT	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. The Commissioner may reduce the number of days of service, but such a reduction by the Commissioner does not reduce an educator's salary. <i>Education Code 21.401</i>
EDUCATIONAL AIDES	The Board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. <i>Education Code 54.214(f); 19 TAC Chapter 21</i>
EMPLOYMENT OF RETIREES REPORT TO TRS	The District shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. The District shall inform TRS of changes in status of the District that affect the District's reporting responsibilities.
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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.

An administrator of the District who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

*Gov't Code 824.6022, 825.403(k); 34 TAC 31.2*

ACUTE SHORTAGE  
AREAS

For purposes of Government Code 824.602(a)(5) (permitting certain retirees to return to work in acute shortage areas) the Board shall determine by rule whether there are acute shortage areas in a District based on TEA's acute shortage area guidelines. The guidelines must include:

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)*

NEW HIRES  
I-9 FORMS

The District shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

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.

EMPLOYMENT PRACTICES

DC  
(LEGAL)

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)*

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, Subch. I*

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 a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or



EMPLOYMENT PRACTICES

DC  
(LEGAL)

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.

*Privacy Act of 1974, Pub. L. No. 93-579, sec. 7(b), 88 Stat. 1896, 1897 (1974)*

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 RECORD

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 TEA staff 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]

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*

EMPLOYMENT PRACTICES

DC  
(LOCAL)

PERSONNEL DUTIES	The Superintendent shall define the qualifications, duties, responsibilities, and classification of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.
POSTING VACANCIES	The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current District employees may apply for any vacancy for which they have appropriate qualifications.
APPLICATIONS	All applicants shall complete the application form supplied by the District. Information on applications shall be confirmed before a contract is offered for a contractual position and before hiring or as soon as possible thereafter for a noncontractual position.
CRIMINAL HISTORY RECORD	The District shall obtain criminal history record information on a person the District intends to employ and routinely on current employees.
EMPLOYMENT OF CONTRACTUAL PERSONNEL	<p>The Superintendent has sole authority to make recommendations to the Board regarding the selection of contractual personnel.</p> <p>The Board retains final authority for employment of contractual personnel. [See DCA, DCB, DCC, and DCE as appropriate]</p>
EMPLOYMENT OF NONCONTRACTUAL PERSONNEL	The Board delegates to the Superintendent final authority to employ and dismiss noncontractual employees on an at-will basis. [See DCD]
EXIT INTERVIEWS AND EXIT REPORTS	An exit interview shall be conducted, if possible, and an exit report shall be prepared for every employee who leaves employment with the District.
CHILD LABOR	The District shall adhere to the requirements set forth by the Fair Labor Standards Act (FLSA) in conjunction with the employment of minors between the ages of 14 through 17. Any supervisor wishing to employ a minor shall coordinate with the human resources department to ensure that the duties and responsibilities for that position are in compliance with FLSA restrictions related to hours worked and tasks performed.
BREAK IN SERVICE	If an employee has a break in service, the period of employment after the break is considered new employment, except for purposes of vesting in the attendance and retention incentive program. A break in service of less than five years would not be considered new employment for vesting purposes, while a break in service of five years or more would be considered new employment.

EMPLOYMENT PRACTICES  
PROBATIONARY CONTRACTS

DCA  
(LEGAL)

PERSONS UNDER  
PROBATIONARY  
CONTRACTS

Except as provided below, each of the following persons shall be employed under a probationary contract when the person is employed by the District for the first time or if the person has not been employed by the District for two consecutive school years subsequent to August 28, 1967:

1. Principal.
2. Supervisor.
3. Classroom teacher.
4. Counselor.
5. Other full-time professional employee who is required to hold a certificate issued under Education Code Chapter 21, Subchapter B.
6. Nurse.

EXCEPTIONS  
REHIRES

A person who previously was employed as a teacher by the District, and after at least a two-year lapse in District employment returns to District employment, may be employed under a probationary contract.

PRINCIPAL OR  
CLASSROOM  
TEACHER

The District may employ a person as a principal or classroom teacher under a term contract if the person has experience as a public school principal or classroom teacher, respectively, regardless of whether the person is being employed by the District for the first time or whether a probationary contract would otherwise be required under Section 21.102.

*Education Code 21.101, 21.102(a), 21.202(b)*

TERM OF CONTRACT

A probationary contract may not be for a term exceeding one school year.

MAXIMUM

A probationary contract may be renewed for two additional one-year periods, for a maximum permissible probationary contract period of three school years, except that the probationary period may not exceed one year for a person who has been employed as a teacher in public education for at least five of the eight years preceding employment by the District.

EXCEPTION

A probationary contract period may be extended beyond the third consecutive year of employment if, during the third year of the probationary period, the Board determines that it is doubtful whether a continuing contract or a term contract should be given. If the Board makes such a determination, the District may make a probationary contract for a term ending with the fourth consecutive school year.

*Education Code 21.102*

EMPLOYMENT PRACTICES  
EDUCATOR TERM CONTRACTS

DCB  
(LEGAL)

REQUIREMENTS CERTIFICATE	A person who desires to teach in a public school shall present the person's certificate for filing with the District before the person's contract with the Board is binding. <i>Education Code 21.053(a)</i> [See DCB(LOCAL) for listing of term contract positions]
PROBATIONARY CONTRACT PREREQUISITE EXCEPTION FOR PRINCIPAL OR CLASSROOM TEACHER	<p>Except as provided below, before a term contract may be issued, the employee must be employed under a probationary contract.</p> <p>The District may employ a person as a principal or classroom teacher under a term contract if the person has experience as a public school principal or classroom teacher, respectively, regardless of whether the person is being employed by the District for the first time or whether a probationary contract would otherwise be required under Section 21.102.</p> <p><i>Education Code 21.202</i> [See DCA]</p>
EMPLOYMENT POLICIES	Except as provided by Education Code 21.352(c), the Board's employment policies, which must include reasons for not renewing a term contract at the end of a school year, must require a written evaluation of each term contract employee at annual or more frequent intervals. <i>Education Code 21.203</i> [See DFBB and DN series]
CONTRACT TERMS	<p>A term contract must be in writing and include the terms of employment prescribed by Education Code Chapter 21, Subchapter E; the Board may include other provisions in a term contract that are consistent with that subchapter. Each term contract is subject to the approval of the Board.</p> <p>The Board shall provide each "teacher," as that term is defined in Education Code 21.201, with a copy of the teacher's contract.</p>
COPY OF POLICIES	<p>The Board shall also provide each teacher a copy of the Board's employment policies upon the teacher's request. If the District has an Internet Web site, the District shall place the Board's employment policies on that Web site. At each school in the District, the Board shall make a copy of the Board's employment policies available for inspection at a reasonable time on request.</p> <p><i>Education Code 21.204(a)-(d)</i></p>
MAXIMUM DURATION	Once the probationary period has been completed, the duration of a term contract may not exceed five school years. <i>Education Code 21.205</i>
PROPERTY INTEREST	There is no property interest in a term contract beyond its term. <i>Education Code 21.204(e)</i>

EMPLOYMENT PRACTICES  
EDUCATOR TERM CONTRACTS

DCB  
(LOCAL)

CERTIFICATION  
REQUIRED BY SBEC

Term contracts governed by Chapter 21 of the Education Code (educator term contracts) shall be provided to:

1. SBEC certified employees serving full-time as principals, assistant principals, teachers, counselors, diagnosticians, librarians, and athletic directors;
2. Full-time nurses; and
3. Educators who retired from the District, or educators who retired from another school district and who complete a one-year probationary contract.

NO CERTIFICATION  
REQUIREMENT

Any District employee the Board has chosen to employ under a term contract governed by Chapter 21 of the Education Code prior to July 1, 2002, shall continue to receive an educator term contract.

CONTINUING  
CONTRACTS  
RETAINED

Any District employee hired under a probationary contract on or before June 30, 2007, and eligible for a continuing contract after satisfactorily serving the required number of probationary contracts, shall receive a continuing contract and remain on a continuing contract until the employee relinquishes such contract. [See also DCC]

Policies relating to employment by educator term contract [see DCB and the DFB series] do not apply to employees currently on continuing contracts.

RETIRED  
PROFESSIONAL  
CERTIFIED  
EMPLOYEES

Beginning with the 2004–05 school year, a professional employee required to hold SBEC certification governed by Chapter 21 of the Texas Education Code, who returns to full-time employment after retiring from the District, shall be employed under a one-year Chapter 21 term contract. If the employee retired from another district, the employee shall be placed on a probationary contract for the first year and on a one-year Chapter 21 term contract in subsequent years.

APPLICABILITY

Each employee with whom a continuing contract has been made shall be entitled to continue in the employee's position or a position with the District for future school years without the necessity for annual nomination or reappointment, until such time as the person:

1. Resigns [see DFE];
2. Retires under the Teacher Retirement System;
3. Is released from employment by the District at the end of a school year because of necessary reduction of personnel [see DFCA];
4. Is discharged for good cause, as defined in Section 21.156 of the Education Code [see DFCA] and in accordance with the procedures provided [see DF and DFD];
5. Is discharged for a reason stated in the teacher's contract that existed on or before September 1, 1995, and pursuant to the procedures provided [see DFD]; or
6. Is returned to probationary status, as authorized in Section 21.106 of the Education Code [see DNB].

*Education Code 21.154*

FORMER  
ADMINISTRATORS

The Board may grant to a person who has served as a principal or in another administrative position for which certification is required, at the completion of service in such capacity, a continuing contract, if the person qualifies for that position under criteria adopted by the Board. The period of service in an administrative capacity shall be construed as contract service as an employee. *Education Code 21.155*

North East ISD  
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EMPLOYMENT PRACTICES  
CONTINUING CONTRACTS

DCC  
(LOCAL)

CONTINUING  
CONTRACTS  
RETAINED

Any District employee hired under a probationary contract on or before June 30, 2007, and eligible for a continuing contract after satisfactorily serving the required number of probationary contracts, shall receive a continuing contract and remain on a continuing contract until the employee relinquishes such contract.

Policies relating to employment by educator term contract [see DCB and the DFB series] do not apply to employees on continuing contracts.

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.



EMPLOYMENT PRACTICES  
AT-WILL EMPLOYMENT

DCD  
(LOCAL)

Personnel employed on an at-will basis include but are not limited to employees in the following categories: paraprofessional and auxiliary employees.

ASSIGNMENT AND  
EVALUATION

The Superintendent or designee has sole authority to notify employees of assignments, compensation rates, and conditions of employment.

Evaluation of at-will employees shall be conducted by the principal or supervisor in accordance with administrative procedures. [See DN]

REASONABLE  
ASSURANCE OF  
EMPLOYMENT

At-will employees in positions normally requiring less than 12 months of service annually and who are expected to report to work at the beginning of the following school session shall be provided a letter of reasonable assurance of employment. [See CRF]

DISMISSAL

At-will employees may be dismissed at any time for any reason not prohibited by law or for no reason, as determined by the needs of the District. At-will employees who are dismissed shall receive pay through the end of the last day worked.

APPEAL TO BOARD

A dismissed employee may request to be heard by the Board in accordance with DGBA(LOCAL).

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**Note:** *This policy applies only to employees whose contracts are not governed by Chapter 21 of the Education Code.*

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WRITTEN  
CONTRACT—  
NON-EDUCATOR

A contract of employment with the District creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sindermann, 408 U.S. 593 (1972); Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972)*

TERMINATION  
END OF CONTRACT

The Board may decide by vote or inaction not to offer any employee on a contract not governed by Chapter 21 of the Education Code further employment with the District beyond the term of the contract for any reason or no reason. *Perry v. Sindermann, 408 U.S. 593 (1972); Board of Regents of State Colleges v. Roth, 408 U.S. 564 (1972)*

MIDCONTRACT

An employee may be dismissed for good cause before the completion of the term fixed in his or her contract.

PROCEDURE

Before any employee on a contract not governed by Chapter 21 of the Education Code is dismissed, the employee shall be given reasonable notice of the cause or causes for the termination, set out in sufficient detail to fairly enable him or her to show any error that may exist and the names and the nature of the testimony of the witnesses against him.

*Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970)*

HEARING

The Board may conduct the hearing in open session or in closed session unless the employee requests a public hearing, in which case the hearing shall be open to the public. *Gov't Code 551.074*

SUSPENSION

The employee may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles, 466 F.2d 531 (5th Cir. 1972)*

The employee may be suspended without pay, so long as the suspension is temporary, and the employee receives a due process hearing. *Gilbert v. Homar, 524 U.S. 024 (1997)*

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

STATE FUNDING

Subject to Education Code 42.2516(g) and (h) (regarding reduction in state aid for certain districts), the District is entitled to state revenue necessary to provide the District with an amount equal to \$2,500 for each classroom teacher, full-time librarian, full-time counselor, and full-time school nurse employed by the District and entitled to the state minimum salary. *Education Code 42.2516(b)(2)*

The District is entitled to state aid in an amount equal to the sum of:

1. \$500 for each full-time District employee, other than administrators or employees subject to the minimum salary schedule; and
2. \$250 for each part-time District employee, other than administrators.

A determination by the Commissioner under this provision is final and may not be appealed.

*Education Code 42.2513*

MINIMUM SALARY  
SCHEDULE —  
EDUCATORS

The District shall pay each classroom teacher, full-time librarian, full-time counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 TAC 153.1021.

DEFINITIONS

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from SBEC. Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

"Counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

"Nurse" means an educator employed to provide full-time nursing and health care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

“Full-time” means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

*19 TAC 153.1022(a)*

PLACEMENT ON  
SALARY SCHEDULE

The Commissioner’s rules determine the experience for which a teacher, librarian, 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 21.402(a), 21.403(c); 19 TAC 153.1022*

EDUCATOR  
COMPENSATION  
FOR 2006–07

For the 2006–07 school year, a classroom teacher, full-time librarian, full-time counselor, or full-time school nurse is entitled to a monthly salary that is at least equal to the sum of:

1. The monthly salary the employee would have received for the 2006–07 school year under the District’s salary schedule for the 2005–06 school year, if that schedule had been in effect for the 2006–07 school year, including any local supplement and any money representing a career ladder supplement the employee would have received in the 2006–07 school year; and
2. \$250.

*Education Code 21.402(c-1)*

A classroom teacher, full-time librarian, full-time counselor, or full-time school nurse employed by the District in the 2006–07 school year is, as long as the employee is employed by the same district, entitled to a salary that is at least equal to the salary the employee received for the 2006–07 school year. *Education Code 21.402(c-2)*

Education Code 21.402(c-1) and (c-2) expire September 1, 2007.

SUPPORT STAFF  
COMPENSATION

The District shall pay each District employee, other than an administrator or an employee subject to the minimum salary schedule, an amount at least equal to:

1. \$500, for full-time employees.
2. \$250, for part-time employees.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

Such payment is in addition to wages the District would otherwise pay the employee during the school year.

*Education Code 22.107*

PAY INCREASES

The District shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53* [See CE(LEGAL)]

SALARY ADVANCES  
AND LOANS

The District shall not lend its credit or gratuitously grant public money or things of value in aid of any individual, association, or corporation. *Tex. Const. Art. III, Sec. 52; Brazoria County v. Perry, 537 S.W.2d 89 (Tex. Civ. App.-Houston [1st Dist.] 1976, no writ)*

DESIGNATION OF  
COMPENSATION FOR  
BENEFITS

An employee who is covered by a cafeteria plan or who is eligible to pay health care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 21.103*

USE

An employee may use the compensation designated for health care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan. *Education Code 21.106*

ANNUAL ELECTION

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 21.105*

DEFINITION

For purposes of the designation of compensation as health care supplementation, "employee" means an active, contributing member of TRS who:

1. Is employed by the District;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the District as an independent contractor.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

*Education Code 22.101(2)*

FAIR LABOR  
STANDARDS ACT

Unless an exemption applies, the District shall pay each of its employees not less than minimum wage. *29 U.S.C. 206(a)(1)*

MINIMUM WAGE

Unless an exemption applies, the District shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours in excess of forty in any workweek. *29 U.S.C. 207(a)(1); 29 CFR part 778*

COMPENSATORY  
TIME

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

ACCRUAL

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR  
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the District.

The Fair Labor Standards Act does not prohibit the District from compelling the use of accrued compensatory time.

*29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)*

EXEMPT  
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity, including academic administrative personnel or teachers in elementary or secondary schools. *29 U.S.C. 213(a)(1)*

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LEGAL)

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the district did not intend to pay employees on a salary basis.

SAFE HARBOR  
POLICY

If the District has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the District will not lose the deduction unless the District willfully violates the policy by continuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on the District's intranet.

*29 CFR 541.600, .602(a), .603*

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*

TRS CONTRIBUTIONS  
FOR NEW HIRES

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

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

On a monthly basis, the District shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate

COMPENSATION AND BENEFITS  
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compensation for the first 90 days of employment for new employees.

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

*Gov't Code 825.4041*

TRS SURCHARGE FOR  
REHIRED RETIREES

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

TRS FUND  
CONTRIBUTIONS

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

HEALTH  
INSURANCE  
CONTRIBUTIONS

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

EXCEPTION

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

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

*Gov't Code 825.4092; Insurance Code 1575.204*



COMPENSATION AND BENEFITS  
SALARIES AND WAGES

DEA  
(LOCAL)

The Superintendent shall recommend to the Board for approval compensation plans for all District employees. Compensation plans may include wage and salary structures, stipends, benefits, and incentives.

**PAY ADMINISTRATION** The Superintendent shall administer the compensation plans consistent with the budget approved by the Board. The Superintendent or designee shall classify each job title within the compensation plans based on the qualifications and duties of the position. Within these classifications, the Superintendent or designee shall determine appropriate pay for new employees and employees re-assigned to different positions.

**ANNUAL PAY INCREASES** The Superintendent shall recommend to the Board an amount for employee pay increases as part of the annual budget. The Superintendent or designee shall determine annual increases for individual employees, within budgeted amounts.

**MID-YEAR PAY INCREASES**  
**CONTRACT EMPLOYEES** A contract employee's pay shall not be increased after performance on the contract has begun unless there is a change in the employee's job assignment or duties that warrants additional compensation. Any such changes in pay during the term of the contract shall require Board approval.

**NONCONTRACT EMPLOYEES** The Superintendent may grant a pay increase to a noncontract employee after duties have begun only when there is a change in the employee's job assignment or duties, or when an adjustment in the market value of the job warrants additional compensation. The Superintendent shall report any such pay increases to the Board at the next regular meeting.

**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 (FLSA).

**EXEMPT** The District shall pay employees who are exempt from the overtime pay requirements of the 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.

COMPENSATION AND BENEFITS  
SALARIES AND WAGES

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(LOCAL)

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the FLSA, as needed. [See DK(LOCAL)] The employee shall be compensated for these assignments according to the District's compensation plans.

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 FLSA.

If no exempt employee is available to perform certain supplemental duties, the Superintendent may assign such duties to nonexempt personnel, who shall be paid in accordance with the FLSA and according to the District's compensation plans.

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.

COMPENSATORY  
TIME

In accordance with District administrative regulations, only nonexempt paraprofessional employees, with approval of the supervisor, may accrue compensatory time. Compensatory time for paraprofessionals shall be recorded in the automated time and attendance system in hours and minutes and shall be accumulated at either straight time or overtime based on the total hours actually worked during the workweek in accordance with the FLSA.

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INCENTIVES AND STIPENDS

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TEXAS EDUCATOR  
EXCELLENCE GRANT

The Texas Educator Excellence Grant is an annual grant program under which the District may receive a grant on behalf of an eligible campus as an award for student achievement. Funds from the program will be distributed to a district, on behalf of an eligible campus, that submitted an approved campus incentive plan developed in accordance with Education Code 21.654 and 19 TAC 102.1071(c).

SUBMISSION OF  
APPLICATION

The District must act pursuant to its local Board policy for submitting a campus incentive plan and grant application to TEA. The Board may either vote to submit a grant application or designate the Superintendent to submit the application on the Board's behalf. The Superintendent may act on previously delegated authority regarding the submission of the grant(s).

EXCLUSION OF  
CERTAIN  
TEACHERS

A campus or the District may choose to exclude from receiving an incentive award a teacher who has transferred or retired or who works part-time on a campus eligible to receive grant funds. In such instance, the campus incentive plan must reflect the campus/District policies with regard to such a teacher at the program start date.

AMOUNT OF  
AWARDS

Each individual incentive should be no less than \$3,000 and no more than \$10,000 per teacher to the extent practicable.

NO APPEALS

The following decisions of the Board relating to the program are not appealable to the Commissioner:

1. A decision to approve and/or submit an incentive plan and/or grant application;
2. A local grievance decision as to whether an award was made in compliance with the approved plan;
3. A decision as to whether award amounts between \$3,000 and \$10,000 per teacher are practicable.

*19 TAC 102.1071*

CONTRACT  
PROVISION

The District shall provide in employment contracts that qualifying employees may receive an incentive payment under the Educator Excellence Award Program and Student Achievement Awards Program if the District participates in one of these programs. The District shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. *Education Code 21.415*

MENTOR TEACHERS

The District may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience. A teacher assigned as a mentor must:

COMPENSATION AND BENEFITS  
INCENTIVES AND STIPENDS

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(LEGAL)

1. Teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by Commissioner's rules.

The Commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the Commissioner;
2. Complete a training program provided by the District; and
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

The District may apply to the Commissioner for funds for a mentor teacher program. The District may use the funds only for providing:

1. Mentor teacher stipends;
2. Scheduled time for mentor teachers to provide mentoring to assigned classroom teachers; and
3. Mentoring support through providers of mentor training.

*Education Code 21.458*

MASTER TEACHER  
GRANT PROGRAMS

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

TEACHER  
ELIGIBILITY

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

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

*19 TAC 102.1011(g), 102.1013(g), 102.1015(g)*

DESIGNATION OF  
TEACHER

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

COMPENSATION AND BENEFITS  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

1. The District has selected for and paid a stipend for a school year who remains eligible for a certified master teacher stipend; and
2. For whom the District receives a grant under this section for those years.

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

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

*Education Code 21.410(g), 21.411(g), 21.412(g), 21.413(g);  
19 TAC 102.1015(h), 102.1011(h), 102.1013(h)*

REDUCTION OF  
STIPEND

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

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

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

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

RETIREMENT  
INCENTIVES

The District may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

ATTENDANCE  
SUPPLEMENT

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*

COMPENSATION AND BENEFITS  
INCENTIVES AND STIPENDS

DEAA  
(LOCAL)

MASTER TEACHER  
STIPENDS

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

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

LOCAL CRITERIA

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

EDUCATOR  
INCENTIVE  
PROGRAMS

The Superintendent shall have authority to submit incentive plans and grant applications for incentive programs to TEA, on behalf of the Board. The incentive plans shall address teacher eligibility, including any exclusions.

[See also DEA regarding stipends for noncontractual supplemental duties.]

COMPENSATION AND BENEFITS  
FRINGE BENEFITS

DEB  
(LEGAL)

PEACE OFFICERS

If a District peace officer dies, the District shall provide, at no cost, the deceased person's duty weapon, if any, and badge to the person's designated beneficiary, or if there is no designated beneficiary, to the person's estate. The District shall provide peace officers with a form on which they may designate their beneficiaries for this purpose. If a District peace officer dies and is to be buried in the person's uniform, the District shall provide the uniform at no cost.  
*Gov't Code 615.102-.103*

HEALTH INSURANCE  
CONTINUATION  
BENEFITS TO  
SURVIVORS

When a District peace officer dies in the course of the individual's duty as a result of exposure to a risk that is inherent in the duty or to which the general public is not customarily exposed, an eligible survivor is entitled to purchase continued health insurance benefits from the District. An eligible survivor is a person who on the date of the peace officer's death is the officer's surviving spouse or dependent.

If the dependent is a surviving minor child, he or she is entitled to continue health insurance coverage until the dependent reaches 18 years of age or becomes eligible for group health insurance through another employer.

If the dependent is not a minor child, he or she is eligible to continue health insurance coverage until the earlier of the date he or she marries, the date he or she becomes eligible for group health insurance through another employer, or the date he or she becomes eligible for Medicare benefits.

The surviving spouse is entitled to continue health insurance coverage until the earlier of the date he or she remarries, the date he or she becomes eligible for group health insurance through another employer, or the date he or she becomes eligible for Medicare benefits.

The District shall provide written notice of rights under this provision to an eligible survivor not later than the tenth day after the date of the peace officer's death. If an eligible survivor is a minor child, the District shall also contemporaneously provide the notice to the child's parent or guardian unless, after reasonable effort, the parent or guardian cannot be located.

The District must be informed of an eligible survivor's election to continue coverage not later than the 90th day after the peace officer's death. The survivor may elect to continue coverage at any level of benefits offered to dependents of active employees or, if offered, may elect to continue coverage at a reduced level of benefits. Survivors who elect to continue coverage are entitled to make payments for coverage or have payments made on their behalf at the same time and to the same entity that payments are made by

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current employees and to purchase the coverage at the group rate  
for that coverage that exists at the time of payment.

*Gov't Code 615.071-.079*



This introductory page outlines the contents of the leaves and absences policy. See the following sections for statutory provisions on:

SECTION I

Sick/Personal Leave

1. State Personal Leave;  
Accumulated Sick Leave page 2
2. Assault Leave page 2
3. Temporary Disability Leave page 3
4. Family and Medical Leave (FML) pages 4–11
  - a. Eligibility, Notice to Employees
  - b. Definitions of “Serious Health Condition,” “Health Care Provider”
  - c. Maintenance of Health Benefits
  - d. Duration of Leave: Intermittent and End-of-Term Leaves; Combined Leave for Spouses
  - e. Notice by Employees, Foreseen and Unforeseen Leave
  - f. Medical Certification, Recertification
  - g. Concurrent Use of FML with Paid/Unpaid Leave
  - h. Reinstatement
  - i. Denial of Restoration to Key Employees

SECTION II

Military Leave

1. Federal page 12
2. State: Short- and Long-Term page 13

SECTION III

Miscellaneous

1. Religious Observances page 14
2. Compliance with a Subpoena page 15
3. Jury Duty page 15
4. Developmental Leave page 15
5. Absence Control page 15

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STATE PERSONAL  
LEAVE

A state minimum personal leave program consisting of five days per year of personal leave, with no limit on accumulation and no restrictions on transfer among districts, shall be provided for District employees. The District may provide additional personal leave beyond this minimum. The Board may adopt a policy governing an employee's use of personal leave granted under this subsection, except that the policy may not restrict the purposes for which the leave may be used. *Education Code 22.003(a)*

STATE SICK LEAVE  
ACCUMULATION

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Former Section 13.904(c), Education Code, continues to govern the use of that sick leave. Sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.

*Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66*

FORMER EDUCATION  
SERVICE CENTER  
(ESC) EMPLOYEES

The District shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

ASSAULT LEAVE

In addition to all other days of leave, a District employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. At the request of an employee, the District must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, the District may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave policy benefits will equal 100 percent of the employee's weekly rate of pay.

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A District employee is physically assaulted if the person engaging in the conduct causing injury to the employee:

1. Could be prosecuted for assault; or
2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

*Education Code 22.003(b), (c)*

SICK LEAVE  
DIFFERENT FROM  
TEMPORARY  
DISABILITY LEAVE

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

PREGNANCY

Disabilities caused or contributed to by pregnancy, childbirth, or related medical conditions, for all job-related purposes, shall be treated the same as disabilities caused or contributed to by other medical conditions, under any health or disability insurance or sick leave plan available in connection with employment. *29 CFR 1604.10(b)*

TEMPORARY  
DISABILITY

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

AT EMPLOYEE'S  
REQUEST

A request for a leave of absence for temporary disability must be made to the Superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

BY BOARD  
AUTHORITY

The Board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the Board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the Board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties.

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RETURN TO ACTIVE DUTY NOTICE	The educator shall notify the Superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.
PLACEMENT	An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, the District must place the employee at the school at which the employee formerly taught or was assigned. <i>Atty. Gen. Op. DM-177 (1992)</i>
LENGTH OF ABSENCE	The Superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. The Board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days. <i>Atty. Gen. Op. H-352 (1974)</i>  <i>Education Code 21.409</i>
FEDERAL FAMILY AND MEDICAL LEAVE ACT (FMLA)	An employee of a district having 50 or more employees within 75 miles of the worksite who has been employed by the District for at least 12 months and for 1,250 hours during the previous 12-month period shall be entitled to a total of 12 workweeks of leave, without loss of any employment benefit accrued prior to the beginning of the leave, during any 12-month period for one or more of the following reasons:  <ol style="list-style-type: none"><li>1. Because of the birth or adoption, including placement for foster care, of the employee's child and in order to care for the child, provided the leave is taken within 12 months of the birth, adoption, or placement of the child. By agreement between the employee and the District, this leave may be taken intermittently or on a reduced leave schedule.</li><li>2. To care for the employee's spouse, child, or parent if the spouse, child, or parent has a serious health condition.</li><li>3. Because of the employee's serious health condition that makes the employee unable to perform functions of his or her position.</li></ol> <i>29 U.S.C. 2611(2), 2612(a)</i>

COMPENSATION AND BENEFITS  
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METHODS FOR  
DETERMINING  
ENTITLEMENT PERIOD

The District is permitted to choose any one of the following methods for determining the 12-month period for which the 12-week leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month "leave year," such as a fiscal year, a year required by state law, or a year starting on an employee's "anniversary" date;
3. The 12-month period measured forward from the date any employee's FML begins; or
4. A "rolling" 12-month period measured backward from the date an employee uses any FML (except that such measure may not extend back before August 5, 1993).

*29 CFR 825.200(b)(1)-(4)*

NOTICE TO  
EMPLOYEES

The District shall post and keep posted in conspicuous places on each campus where notices to employees are usually posted, a notice approved by the Secretary of Labor that sets out excerpts from or summaries of the Family and Medical Leave Act and information pertaining to the filing of a charge. *29 U.S.C. 2619*

If the District's workforce is comprised of a significant portion of workers who are not literate in English, the District shall be responsible for providing the information required by the notice in a language in which the employees are literate. *29 CFR 825.300(c)*

SERIOUS HEALTH  
CONDITION

A "serious health condition" that entitles an employee to FMLA leave means an illness, injury, impairment, or physical or mental condition that involves:

1. Inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (inability to work, attend school, or perform other regular daily activities due to the serious health condition, treatment therefor or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or
2. Continuing treatment by a health care provider for a period of incapacity (as described above) for:
  - a. More than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition.
  - b. Pregnancy, including severe morning sickness, or prenatal care.

- c. Treatment for such incapacity due to a chronic serious health condition (one that requires periodic visits for treatment by a health care provider, continues over an extended period of time, and may cause episodic rather than a continuing period of incapacity).
- d. A condition for which treatment may not be effective and for which the employee or family member is under the continuing supervision of a health care provider (i.e., Alzheimer's, a severe stroke, or the terminal stages of a disease).
- e. The purpose of receiving multiple treatments by a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer, severe arthritis, or kidney disease.

*29 CFR 825.114(a)*

HEALTH CARE  
PROVIDER

For FMLA leave purposes, a "health care provider" is defined as any of the following:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the state in which the doctor practices.
2. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in the state (meaning that the provider must be authorized to diagnose and treat physical or mental health conditions without supervision by a doctor or other health care provider) and performing within the scope of their practice as defined by state law.
3. Nurse practitioners, nurse-midwives, and clinical social workers who are authorized to practice under state law and who are performing within the scope of their practice as defined under state law.
4. Christian Science Practitioners who are listed with the First Church of Christ, Scientist in Boston, Massachusetts.
5. Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

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6. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.

*29 CFR 825.118*

MAINTENANCE OF  
HEALTH BENEFITS

During any period that an eligible employee takes FMLA leave, the District shall 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 active duty with the District. *29 U.S.C. 2614(c)(1)*

FAILURE TO  
RETURN FROM  
LEAVE

The District may recover its share of health care premiums paid during a period of FMLA leave if an employee fails to return to work after his or her FMLA leave entitlement has been exhausted or expires, unless one of the following conditions exists:

1. The continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under FMLA; or
2. Other circumstances beyond the employee's control.

When an employee fails to return to work, except for the reasons stated above, health premiums paid by the District during a period of FMLA leave are a debt owed the District by the nonreturning employee, and may be recovered by the District through deduction of any sums due the employee or through legal action.

*29 U.S.C. 2614(c)(2); 29 CFR 825.213(a), (f)*

DISCRIMINATION  
PROHIBITED

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to employee's rights. An employer is prohibited from interfering with, restraining, or denying the exercise of (or attempts to exercise) any rights provided by the FMLA. An employer is prohibited from discriminating against employees or prospective employees who have used FMLA. *29 CFR 825.220*

INTERMITTENT LEAVE

An eligible employee other than an instructional employee may take leave intermittently or on a reduced leave schedule when medically necessary to care for a spouse, parent, or child or to receive planned medical treatment for himself or herself. *29 U.S.C. 2612(b)*

Intermittent leave is FMLA leave taken in separate blocks of time due to a single qualifying reason. A reduced leave schedule reduces the usual number of working days per workweek or hours per workday. The District may limit leave increments to the short-

COMPENSATION AND BENEFITS  
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est period of time that its payroll system uses to account for absences or use of leave, provided it is one hour or less. An employee may not be required to take more FMLA leave than necessary to address the circumstance that precipitated the need for the leave, unless the employee is an eligible instructional employee whose request meets the conditions below. *29 CFR 825.203 (a), (d)*

An eligible instructional employee who requests leave to care for a spouse, parent, or child or because of his or her own serious health condition that is foreseeable based on planned medical treatment and who would be on leave for greater than 20 percent of the total number of working days in the period during which the leave would extend, may be required to choose either to:

1. Take leave for periods of a particular duration, not to exceed the duration of the planned medical treatment; or
2. Transfer temporarily to an available alternative position offered by the District for which the teacher is qualified and that has equivalent pay and benefits and better accommodates recurring periods of leave than the teacher's regular employment position.

*29 U.S.C. 2618(c)*

"Instructional employees" are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants, such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instruction, nor does it include personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers. *29 CFR 825.600(c)*

CHILD CARE /  
ADOPTION

The District may allow any of its employees to take intermittent leave for child care and/or adoption purposes. *29 U.S.C. 2618(c)(2)*

END-OF-TERM LEAVE

When an instructional employee requests leave near the end of a semester, the District may impose the following restrictions on the timing of a return to duty:

1. If the leave begins more than five weeks before the end of the semester, the District may require the employee to continue taking leave to the end of the semester if the leave will last at least three weeks and the return to employment would occur during the three-week period before the end of the semester.



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2. If the leave begins during the five weeks before the end of the semester and is for a purpose other than the employee's own serious health condition, the District may require the employee to continue taking leave until the end of the semester if the leave will last more than two weeks and return to employment would occur during the two-week period before the end of the semester.
3. If the leave begins during the three weeks prior to the end of the semester for a purpose other than the employee's own serious health condition and will last more than five working days, the District may require the employee to continue to take leave until the end of the semester.

If the District requires an employee to take leave until the end of an academic term, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA entitlement.

*29 U.S.C. 2618(d); 29 CFR 825.600(c), 825.602, 825.603(b)*

BOTH SPOUSES  
EMPLOYED IN  
DISTRICT

A husband and wife who are eligible for FMLA leave and are both employed in the District may be limited to a combined total of 12 weeks of leave during any 12-month period if the leave is taken:

1. For the birth of a son or daughter or to care for the child after birth.
2. For the placement of a son or daughter for adoption or foster care, or to care for the child after placement.
3. To care for a parent with a serious health condition.

When the husband and wife both use a portion of the total 12-week entitlement for one of the purposes noted above, each spouse shall be entitled to the difference between the amount he or she has taken individually and 12 weeks of FMLA leave for a purpose other than those listed above.

*29 U.S.C. 2612(f); 29 CFR 825.202*

NOTICE BY  
EMPLOYEES  
FORESEEABLE  
LEAVE

An employee shall provide at least 30 days' notice before FMLA leave is to begin if the need for leave is foreseeable based on the expected birth, placement for adoption or foster care, or planned medical treatment for a serious health condition of the employee or of a family member. If 30 days' notice is not practicable, such as because of not knowing approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.

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“As soon as practicable” means as soon as possible and practical taking into account all of the facts and circumstances in the individual case. Ordinarily, it would mean at least verbal notification to the employer within one or two business days of when the need for leave becomes known to the employee.

*29 CFR 825.302*

LEAVE THAT IS NOT FORESEEABLE	When the need for leave, or its approximate timing, is not foreseeable, an employee shall provide notice to the District as soon as practicable under the facts and circumstances of the particular case. Ordinarily, notice shall be provided within no more than one or two working days of learning of the need for leave. Notice should be provided either in person or by telephone, telegraph, “fax” machine, or other electronic means. <i>29 CFR 825.303</i>
SPECIFICITY OF NOTICE	Employees are not required to expressly invoke the FMLA’s protection when notifying the District of their need for FMLA leave. <u><i>Manuel v. Westlake Polymers Corp.</i></u> , <i>66 F.3d 758 (5th Cir. 1995)</i> .
MEDICAL CERTIFICATION	The District may require a certification issued by the health care provider of the spouse, child, parent, or employee that the employee is needed to care for the spouse, child, or parent or, in case of leave for the employee’s condition, that the employee is unable to perform the functions of his or her position. The certification shall include the date on which the serious health condition began, the probable duration of the condition, and the appropriate medical facts within the provider’s knowledge regarding the condition. The employee shall in a timely manner provide a copy of the certification to the District. <i>29 U.S.C. 2613</i>
RECERTIFICATION	For pregnancy, chronic, or permanent/long-term conditions under the continuing supervision of a health care provider, the District may request recertification no more often than every 30 days, unless more frequent recertification is warranted because: <ol style="list-style-type: none"><li data-bbox="435 1509 1097 1535">1. The employee requests an extension of leave.</li><li data-bbox="435 1568 1296 1662">2. Circumstances described by the original certification have changed significantly (i.e., the duration or nature of the illness or complications).</li><li data-bbox="435 1694 1254 1753">3. The District receives information that casts doubt upon the continuing validity of the certification.</li></ol> The employee must provide the requested recertification to the District within the time frame requested by the District (which must allow at least 15 days to submit a recertification), unless it is not practicable under the particular circumstances to do so despite the employee’s diligent, good-faith efforts.

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Any recertification requested by the District shall be at the employee's expense, unless the District provides otherwise. No second or third opinion on recertification may be required.

*29 U.S.C. 2613(e); 29 CFR 825.308*

CONCURRENT USE OF  
PAID LEAVE AND  
FMLA LEAVE

The District may designate any paid leave to which the employee is entitled as substituting for all or some portion of the employee's FMLA leave entitlement. Once the District has acquired knowledge that the leave is being taken for an FMLA-required reason, the District must promptly (within two business days absent extenuating circumstances) notify the employee that the paid leave is designated and will be counted as FMLA leave. *29 U.S.C. 2612(d)(2); 29 CFR 825.208(b)(1)*

WORKERS'  
COMPENSATION  
RECIPIENTS

The provision for substituting an employee's paid leave does not apply to a workers' compensation absence. However, the District may not deny use of accrued paid leave to an employee who is on FMLA leave and receiving workers' compensation benefits. *29 CFR 825.207(d)(1), (2); Atty. Gen. Op. JC-40 (1999)*

RETURN TO WORK

The District may uniformly require, as a prerequisite for reinstating employees whose FMLA leave was due to their own serious health condition, medical certification of their ability to resume work. *29 U.S.C. 2614(a)(4)*

RETURN TO  
POSITION

An employee who takes FMLA leave under these provisions is entitled to be restored to the position held when the leave commenced or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. The determination of how an employee is restored to an equivalent position is based on the District's established policies and practices that clearly explain the employee's restoration rights on return from leave. *29 U.S.C. 2614(a)(1), 2618(e); 29 CFR 825.604*

DENIAL OF  
RESTORATION

The District may deny restoration to "key employees," as described below, and may delay restoration to any employee who fails to provide a fitness-for-duty certificate to return to work, if such is required by the District.

A "key employee" is a salaried FMLA-eligible employee who is among the highest paid ten percent of all District employees within 75 miles of the employee's worksite. Key employees may be denied restoration to their original or equivalent positions under the following conditions:

1. At the time FMLA leave is requested (or FMLA leave begins, if earlier), the employee has received written notice that he or she is a "key employee," and has been informed of the potential consequences with respect to reinstatement and maintenance.

nance of health benefits if the District determines that substantial and grievous economic injury will result to District operations if the employee is reinstated from FMLA leave.

2. The Board determines that denial of restoration is necessary to prevent substantial and grievous economic injury to the District.
3. On making the determination that injury would occur, the District notifies the employee in writing, either in person or by certified mail, of its intent to deny restoration to employment on completion of FMLA leave. The notice must explain the basis for the Board's finding of injury and must provide the employee a reasonable time in which to return to work, taking into account the circumstances, such as the length of leave and the urgency of the need for the employee to return.
4. If the employee does not return to work in response to the District's notice, he or she continues to be entitled to maintenance of health benefits at the District's expense. The employee's FMLA rights continue unless and until the employee gives notice he or she no longer wishes to return to duty or the District actually denies restoration at the end of the leave period.
5. An employee who has received notice as set out at item 3 above is still entitled to request reinstatement at the end of the leave period. The District must then determine whether it will suffer substantial and grievous economic injury from reinstatement based on the facts at that time. If such a determination is made, the District shall notify the employee in writing (in person or by certified mail) of denial of restoration.

*29 U.S.C. 2614(b); 29 CFR 825.216, 825.217, 825.219, 825.312(c)*

FEDERAL LEAVE FOR  
MILITARY SERVICE

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services (the Armed Forces, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Services, and any other category of persons designated by the President in time of war or emergency) shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA) if:

1. The person (or an appropriate officer of the uniformed service in which such service is performed) has given advance written or verbal notice of such service to the District (unless notice is

precluded by military necessity or is otherwise unreasonable or impossible);

2. The cumulative length of the absence and of all previous absences from a position of employment with the District does not exceed five years; and
3. The person reports to or submits an application for reemployment to the District and complies with the appropriate procedural requirements that apply under the circumstances.

A person who is reemployed under this act is entitled to the seniority and other rights and benefits determined by seniority that the person had on the date of the commencement of service in the uniformed services plus the additional seniority and rights and benefits that such person would have attained if the person had remained continuously employed.

The District is not required to reemploy a person if:

1. The District's circumstances have so changed as to make reemployment impossible or unreasonable;
2. The reemployment of such person would impose an undue hardship on the District; or
3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

*38 U.S.C. 4301, et. seq.*

STATE LEAVE FOR  
MILITARY SERVICE  
SHORT TERM

All employees of the District who are members of the state military forces or of the reserve components of the United States Armed Forces shall be granted a paid leave of absence from their duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which they are engaged in authorized training or duty ordered or authorized by proper authority, not to exceed 15 workdays in a federal fiscal year. *Gov't Code 431.005(a), (b)*

CALLED TO DUTY

A member of the state military forces who is ordered to active state duty by the governor or other proper authority under state law is entitled to the same benefits and protections provided to persons performing service in the uniformed services under 38 U.S.C. 4301–4313 and 4316–4319 and to persons in the military service of the United States under 50 App. U.S.C. 501–536, 560, and 580–594, as those laws existed on April 1, 2003. *Gov't Code 431.017*

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Such employees who are ordered to duty by proper authority shall be restored, when relieved from duty, to the position held by them when ordered to duty. *Gov't Code 431.005(c)*

LONG TERM

Any employee, other than a temporary employee, who leaves a position with the District to enter active military service is entitled to be reemployed by the District in the same position held at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position. *Gov't Code 613.001(3), 613.002*

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the District in a position that the employee can perform and that has like seniority, status, and pay as the former position or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

To be reemployed, a veteran of the military must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. Application must be made in writing to the Superintendent and have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

A person reemployed after active military service shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard or the Texas State Guard. *Gov't Code 613.001(2)*

USE OF PERSONAL  
LEAVE

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. This provision applies to any personal or sick leave available under former law or provided by local policy.

The District may adopt a policy providing for paid leave for active military service as part of the consideration of employment.

*Education Code 22.003(d), (e)*

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RELIGIOUS  
OBSERVANCES

The District shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of District business. Such absence shall be without pay unless applicable paid local leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, 107 S.Ct. 367 (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

COMPLIANCE WITH A  
SUBPOENA

The District may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

JURY DUTY

The District may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, the District shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. *Education Code 22.006*

DEVELOPMENTAL  
LEAVES OF ABSENCE

The Board may grant a developmental leave of absence for study, research travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in the District at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half regular salary or for one-half of a school year at full regular salary. Payment to the employee shall be made periodically by the District in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of the District for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in the District.

*Education Code 21.452*

ABSENCE CONTROL

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Continental Coffee Products Co. v. Cazarez, 937*

*S.W.2d 444 (Tex. 1996) (workers' compensation discrimination case); Texas Division-Tranter, Inc. v. Carrozza, 876 S.W.2d 312 (Tex. 1994) (workers' compensation discrimination case); Swearingen v. Owens-Corning Fiberglas Corp., 968 F.2d 559 (5th Cir. 1992) (workers' compensation discrimination case); Howell v. Standard Motor Prods., Inc., 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Gonzalez v. El Paso Natural Gas Co., 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)*

[Some employees may have protected status even after the expiration of all other leave. See CRE and DAA.]



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DEFINITIONS  
IMMEDIATE FAMILY

The term "immediate family" shall include:

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, sibling-in-law.
5. Grandparent and grandchild.
6. Any person who may be residing in the employee's household at the time of illness or death.

For purposes of the Family and Medical Leave Act, the definition of "family" shall include only items 1, 2, and 3 on the above list, but shall exclude son- or daughter-in-law and parent-in-law.

FAMILY  
EMERGENCY

The term "family emergency" shall be limited to natural disasters and life-threatening situations involving the employee or a member of the employee's immediate family.

WORKDAY

A "workday" for purposes of accumulation, use, or recording shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

REGULAR  
EMPLOYEE

The term "regular employee" shall include all employees who work at least 20 hours per week and are hired to work four and one-half months or more in a fiscal year.

SUPERVISOR

A "supervisor" is the administrator authorized to approve and sign absence from duty reports for a campus or department.

STATE PERSONAL  
LEAVE — RATE OF  
ACCRUAL

Each employee shall earn state personal leave at the rate of one-half workday for each 18 workdays of employment, up to the statutory maximum of five workdays annually.

TYPES OF STATE  
PERSONAL LEAVE

The Board requires employees to differentiate between uses of personal leave:

DISCRETIONARY

1. To be taken at the individual employee's discretion, subject to limitations set out below.

NON-  
DISCRETIONARY

2. To be used for the same reasons and in the same manner as state sick leave accumulated prior to May 30, 1995. [See DEC(LEGAL)]

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

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(LOCAL)

USE OF  
DISCRETIONARY  
LEAVE

A written request for use of discretionary personal leave shall be submitted in advance to the immediate supervisor or designee. The reasons for which personal leave may be used shall not be limited by the District. In deciding to approve personal leave, however, the supervisor or designee shall consider the effect of the employee's absence on the educational program, as well as the availability of substitutes. [See DEC(LEGAL)]

DURATION OF  
LEAVE

Discretionary personal leave may not be taken for more than three consecutive days.

SCHEDULE  
LIMITATIONS

Discretionary leave shall not be allowed on the day before a school holiday, the day after a school holiday, days scheduled for end-of-semester or end-of-year exams, days scheduled for state-mandated assessments, or professional or staff development days.

EXCEPTIONS

A request for an exception shall be submitted in writing and shall require approval of the immediate supervisor and then of the Superintendent or designee.

ADDITIONAL LOCAL  
SICK LEAVE

Professional and paraprofessional employees shall earn an additional one-half workday of local sick leave for each 18 workdays through 180 workdays of employment to a maximum of five equivalent workdays per school year. Employees working schedules in excess of 180 days of employment shall earn one-half workday of local sick leave for each ten workdays beyond 180 days to a maximum of seven total workdays per year.

Auxiliary employees shall earn one hour of local sick leave for each 36 hours of employment to a maximum of seven equivalent workdays per school year.

Local sick leave shall accumulate without limit and shall be taken with no loss of pay.

Local sick leave shall be used under the terms and conditions applicable to state sick leave accumulated prior to the 1995-96 school year, except as otherwise provided by this policy.

LEAVE  
REIMBURSEMENT

Upon resignation from the District, employees with ten consecutive years of service in the District immediately preceding resignation from the District and eligible for retirement under applicable Teacher Retirement System of Texas guidelines shall be entitled to reimbursement for any unused state personal and sick leave or local sick leave earned in the District. The rate of reimbursement shall be equivalent to one-half the daily rate of pay at retirement up to a maximum of \$40 per day for up to 80 days. For days accumulated in excess of 80, the employee shall be reimbursed at one-fourth the daily rate of pay to a maximum of \$20 per day.

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

For leave earned on or after July 1, 2005, these rates shall become one-half the daily rate of pay at retirement up to a maximum of \$75 per day for up to 80 days. For days accumulated in excess of 80, the employee shall be reimbursed at one-fourth the daily rate of pay to a maximum of \$65 per day.

Upon reimbursement, the unused portion of the local sick leave balance shall be zeroed out, but the unused portion of the state personal and sick leave balances shall remain intact.

In the event of an employee's death, the reimbursement shall be paid to the estate of the employee if the employee had ten consecutive years of service immediately prior to the time of death.

RELIGIOUS  
OBSERVANCES

Employees requesting to attend a religious observance on a regularly scheduled school day may use discretionary leave. In the event that all discretionary leave has been used, deductions from the employee's salary shall be made on the basis of the employee's daily rate of pay.

USE AND  
RECORDING

Available leave shall be used in the following order:

1. Compensatory leave.
2. Local sick leave.
3. State sick leave accumulated prior to the 1995–96 school year.
4. State personal leave.
5. Vacation/nonscheduled workdays.

Any leave taken for which leave balances are insufficient shall result in a deduction from the employee's paycheck commensurate with the amount of leave taken. Employees shall be charged leave as used even if a substitute is not employed.

Local sick leave may also be used for first-year care following the birth or adoption of an employee's son or daughter or the placement of a child with the employee for foster care.

Local and state sick leave, state personal leave, and vacation shall be charged as whole workdays and half workdays only, except in accordance with provisions for intermittent leave in the Family and Medical Leave Act, for professional employees. Sick leave and state personal leave for auxiliary employees and paraprofessional employees using the automated time and attendance system shall be recorded in hours and minutes and shall be restricted to a per use minimum of one hour.

COMPENSATION AND BENEFITS  
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AVAILABILITY

For professional personnel, leave for the current year shall be available for use at the beginning of the school year; however, the employee must work at least one week of a new school year in order to qualify for an advance of leave. When a professional employee uses more leave than he or she can earn by the end of the school year, the cost of the unearned leave days shall be deducted from the employee's paycheck.

For paraprofessional and auxiliary (classified) employees, available leave shall consist of the balance reported as of the employee's paycheck.

An employee may not use discretionary leave in excess of days accrued. Employees enrolling in the sick leave bank shall be allowed to temporarily maintain a negative local leave balance, not to exceed three days or 24 hours, if they initially do not have sufficient local leave to offset the required contribution of leave days to the bank.

MEDICAL  
CERTIFICATION

An employee absent more than five consecutive workdays because of personal illness or illness in the immediate family shall be required to request a leave of absence and submit a medical certification of the illness.

Medical certification shall be made by a health care provider as defined by the Family and Medical Leave Act. [See DEC(LEGAL)]

Medical certification must confirm the employee's inability to work and must state the date requested by the employee for the leave to begin and the employee's probable date of return. For leave taken under the Family and Medical Leave Act, medical certification shall be as described in federal regulations [see DEC(LEGAL)] and on the form provided by the District.

TEMPORARY  
DISABILITY

Any full-time professional employee under contract and educators as provided for in Education Code 21.409 shall be eligible for temporary disability leave when the employee's condition interferes with the performance of regular duties. The maximum length of temporary disability leave shall be 180 calendar days. Temporary disability leave shall be used concurrently with all other types of leave.

The employee shall make a request to the Superintendent or designee, accompanied by medical certification, for temporary disability leave.

UNPAID PERSONAL  
ILLNESS LEAVE

When a paraprofessional, auxiliary, or permanent part-time employee has exhausted all state leave and local sick leave, vacation leave, compensatory time, and family and medical leave, the employee may be granted up to an additional 90 calendar days of un-

COMPENSATION AND BENEFITS  
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paid personal illness leave for a work-related or nonwork-related personal injury or illness. The employee may elect to continue, at his or her own expense, the District's group insurance plan according to COBRA guidelines. [See CRD]

Each application for such unpaid personal illness leave must be submitted in writing to the Superintendent and must include certification from a health care provider of the employee's inability to perform work-related duties.

EMPLOYMENT  
FOLLOWING LEAVE

Employment following leave shall be determined based on the type of leave for which the employee qualifies.

All employees qualifying for leave under the Family and Medical Leave Act shall be placed in a like or comparable position upon their release to return to work.

Professionals under contract, qualifying for temporary disability leave, may return to a previously vacated position, subject to availability, upon release to return to work. If the position is unavailable, the employee shall be assigned to an alternate position through the end of the contract term.

Auxiliary, paraprofessional, or permanent part-time employees qualifying for unpaid personal illness leave may return to a previously vacated position, subject to availability, upon release to return to work. If the position is unavailable, the employee's name shall be placed on the substitute roster, if any, and the employee shall be considered for a subsequent vacancy along with other applicants.

FAMILY AND MEDICAL  
LEAVE

The 12-month period within which employees shall be eligible for 12 weeks of family and medical leave shall be defined as July 1 through June 30.

CONCURRENT USE  
OF LEAVE

The District shall require the use of all applicable accumulated compensatory leave, sick leave, personal leave, and vacation/non-scheduled workdays, as well as temporary disability leave when applicable, concurrently with family and medical leave.

COMBINED LEAVE  
FOR SPOUSES

If both spouses are employed by the District, family and medical leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition may be limited to a combined total of 12 weeks as determined by the needs of the District.

INTERMITTENT  
LEAVE FOR CHILD  
CARE

Use of intermittent family and medical leave shall be permitted for the care of a newborn child or upon the adoption or placement of a child with the employee.

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

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CERTIFICATION OF ILLNESS	Upon written or verbal request for family and medical leave for the employee's serious health condition or that of a spouse, parent, or child, the employee shall be required to provide medical certification of the illness or disability. Thereafter, the employee may be required to provide medical certification of the illness or disability at 30-day intervals.
MEDICAL RELEASE	The employee's request for reinstatement shall be accompanied by medical certification of the employee's ability to perform essential job functions.
TEACHER REINSTATEMENT	A teacher desiring to return to work at or near the conclusion of a semester shall be reinstated in accordance with the END-OF-TERM LEAVE section in DEC(LEGAL).
RESIGNATION	If, at the expiration of the family and medical leave, the employee is able to return to work but chooses not to do so, the District shall require reimbursement of the employee benefits contribution made by the District during the period in which such leave was taken as unpaid leave.
TERMINATION	An employee's local sick leave balance shall be reduced to zero upon termination or at the end of the contract period in the year termination occurs, whichever comes first.
BEREAVEMENT (FUNERAL LEAVE)	Use of state and/or local leave for death in the immediate family shall not exceed ten workdays per occurrence, subject to the approval of the District.
COURT APPEARANCES	Absences for court appearances related to an employee's personal business shall be deducted from the employee's personal leave or shall be taken by the employee as leave without pay if he or she does not have a personal leave balance.
WORKERS' COMPENSATION	<p>Employees who suffer a work-related injury or illness and who must be off work due to the injury or illness shall be governed by applicable provisions of the Workers' Compensation Act and the Family and Medical Leave Act federal regulations. [See also CRE]</p> <p>An employee receiving workers' compensation wage benefits may elect to receive accrued paid leave benefits, whether or not such employee is on family and medical leave. If such an election is made by the employee, the District shall pay the difference between the weekly income benefit received under workers' compensation and the employee's regular weekly compensation, and shall charge leave proportionately. [See CRE(LEGAL)]</p>

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

An employee whose accumulated leave is exhausted prior to or during an absence for a work-related injury or illness shall be placed on an unpaid leave of absence. Except while on family and medical leave, the employee shall be responsible for full payment in advance of all premiums for insurance benefits during such leave of absence. [See CRD(LOCAL)]

Upon release from workers' compensation for regular or accommodated duty, the employee must request reinstatement of employment in writing. The request must be accompanied by a physician's statement certifying the employee's fitness to return to work. If the release is for an accommodated-duty position, the return to work shall be coordinated by the risk management department.

Except as required under the temporary disability law, an employee released from workers' compensation shall be considered for a position for which the employee is qualified, provided such a position is available. If no position for which the employee is qualified is available at the time the employee requests reinstatement, the employee shall be considered for a subsequent vacancy.

Failure of an employee to report to the District upon release from workers' compensation leave within three days or refusal to accept an offered position shall constitute resignation.

SICK LEAVE BANK

The District has chosen to provide a sick leave bank for all personnel earning sick leave benefits from the District. The purpose of the bank shall be to provide additional sick leave days to members of the bank in the event of an unexpected extended critical illness, surgery, or a disability due to an injury. Days shall be requested from the bank only after the member has exhausted all accumulated leave and compensatory time off.

The Superintendent shall develop administrative regulations to govern the operation of the sick leave bank.

PARENTAL LEAVE

Employees who qualify for family and medical leave who become parents through either childbirth or adoption may be granted a parental leave of absence without pay for a maximum of 180 calendar days. This leave shall be used concurrently with all other types of leave. When both parents are employed by the District, only one employee is eligible for this parental leave [see COMBINED LEAVE FOR SPOUSES, page 4]. In cases where the leave begins during a semester, the expiration date may be extended to coincide with the beginning of a new school year.

BIRTH

An employee who gives birth may use accumulated sick leave only for the period of convalescence as determined by a physician.

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

Personal leave, local sick leave, and vacation days may be used concurrently with family and medical leave or temporary disability leave, when applicable. When paid leave is exhausted, the employee shall be on leave without pay.

ADOPTION

An employee who adopts a child shall be eligible for parental leave. The employee may use any combination of accumulated vacation days, state personal leave, and local sick leave during the bonding process, up to a maximum of 20 days. Thereafter, the employee shall be on leave without pay.

LEAVE FOR  
ADVANCED ACADEMIC  
PREPARATION

A one-year, unpaid leave of absence for advanced academic preparation may be granted by the Board upon recommendation of the Superintendent after completion of two consecutive years of employment in the District. An employee shall submit a written request for the leave prior to June 1 for a leave commencing during the next school year. Any exception to this requirement must be approved by the Superintendent or designee. In addition, the employee must be enrolled in an approved graduate program for a minimum of nine hours during each of the fall and spring semesters. An approved advanced degree plan shall be on file in the District's personnel office. The Superintendent or designee shall recommend approval of the leave to the Board if the employee meets the criteria and has been recommended by the principal.

The employee must notify the executive director of personnel in writing by March 1 of the year in which the employee is on leave whether or not the employee plans to return to his or her position in the District.

After completion of the leave, the employee shall be assigned to the same campus provided a vacancy is available in an area for which the employee is certified. All accrued benefits shall be retained. Should the employee fail to give notice of intent to return, a position shall not be held and benefits shall be forfeited.

During the leave of absence for advanced academic preparation, the employee may continue participation in the employee health care program by paying premiums in advance. [See CRD (LOCAL)]

DEVELOPMENTAL  
LEAVE OF ABSENCE  
FOR EMPLOYEE  
ORGANIZATION  
PRESIDENTS

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**Note:** The provisions in this section of the policy shall be made available in accordance with Settlement Agreement in Cause # 88-CI-05587, in the 150<sup>th</sup> Judicial District, Bexar County, Texas, August 1989.

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Employees serving as employee organization presidents shall be granted an unpaid leave of absence pursuant to Education Code 21.452. During such leave, no federal or state tax contributions shall be made for that employee. Such leave shall be for one year, renewable for one additional year.

An employee on such a developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of the District for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in the District.

The following guidelines shall apply to employee organization presidents requesting developmental leave of absence:

1. Requests for such leave shall be filed in writing with the Superintendent at least one month prior to the beginning of the leave. Requests to extend the leave for a second year shall be filed no later than April 15 of the year preceding the school year for which renewal is sought. The employee shall be given notice that the renewal is granted prior to April 15 of the year preceding the school year for which the renewal is sought.
2. An employee on continuing contract shall remain on continuing contract during the leave, without salary, and shall remain on continuing contract upon his or her return from leave, unless removed therefrom in accordance with provisions of Education Code 21.154 and other applicable statutes.
3. For the period of the developmental leave, the teacher on leave shall be responsible for making 100 percent of required contributions to the Texas Teacher Retirement System (TRS) to establish teacher retirement credit for the period of leave.
4. Upon written request by the organization president, the District shall timely file with the Texas Teacher Retirement System a certification that the leave meets the requirements of Government Code 823.402.
5. The leave shall be considered continuous in-District teaching experience in the school and grade cluster to which the teacher was assigned in the year prior to the leave, for purposes of assignment, reassignment, or transfer.
6. The teacher's performance for the year(s) on leave shall be considered to be the same as his or her performance in the year prior to leave, for all purposes not prohibited by state law.

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LOCAL)

7. A teacher returning from this leave shall be considered for placement to any position for which he or she is certified before other applicants are considered.
8. During the period of developmental leave, the employee shall be responsible for any and all payments directly to the District for maintenance of dental, health, disability, and life insurance premiums to the extent allowable under the applicable policies.
9. Upon return to the District following a developmental leave, the teacher shall receive no credit for the year(s) of leave for purposes of placement on the salary schedule.
10. Failure to notify the Superintendent of the intention to return to work at least 30 days prior to the expected date of return, or failure to report for duty at the expiration of a leave of absence or extension of a leave of absence, shall be grounds for dismissal in accordance with Board policy. [See DF series]

OTHER SPECIAL  
LEAVES

On a case-by-case basis and in light of the needs of the educational program of the District, the Superintendent or designee may grant an unpaid leave for a period not to exceed ten school days in cases not covered by any of the other leave provisions of this policy.

COMPENSATION AND BENEFITS  
EXPENSE REIMBURSEMENT

DEE  
(LEGAL)

CLASSROOM SUPPLY  
REIMBURSEMENT

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 and campus library media specialists who expend personal funds on classroom supplies.

USE OF FUNDS

The District shall allow each classroom teacher and campus library media specialist in the District who is reimbursed under the reimbursement program to use the funds at the teacher's or specialist'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 and campus library media specialists 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 21.414; 19 TAC 61.1081(d)(3)*

MAXIMUM  
REIMBURSEMENT

Total reimbursement to an individual teacher or campus library media specialist in a single year from the Classroom Supply Reimbursement Grant Program may not exceed \$200. Reimbursements from local funds may exceed the matching requirement (see below).

UNEXPENDED  
FUNDS

Funds for each grant period must be expended by the end of the grant period.

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. Account for funds in accordance with applicable state and federal requirements;
3. 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. Local funds may be donated or otherwise provided to the District by community groups, parent/teacher organizations, businesses, professional organizations, and others.
  - 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 Classroom Supply Reimbursement Grant Program must be matched with an equal amount of local funds.

COMPENSATION AND BENEFITS  
EXPENSE REIMBURSEMENT

DEE  
(LEGAL)

4. Ensure that items purchased with grant funds 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 or campus library media specialist 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 procedure allowing each teacher or campus library media specialist to retain ownership of goods of nominal value purchased with grant money; and
6. Return unexpended Classroom Supply Reimbursement Grant Program 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 Classroom Supply Reimbursement Grant Program must reimburse the state for funds unaccounted for or used for purposes not meeting 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 the Board of any dispute involving teacher or campus library media specialist 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.

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**Note:** TEA regulations under Education Code 21.214 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)*

COMPENSATION AND BENEFITS  
EXPENSE REIMBURSEMENT

DEE  
(LOCAL)

PRIOR APPROVAL  
REQUIRED

An employee shall be reimbursed for reasonable, allowable expenses incurred in carrying out District business only with the prior approval of the employee's immediate supervisor.

TRAVEL EXPENSES

Reimbursement for authorized travel shall be in accordance with legal requirements.

Accounting records shall accurately reflect that no state or federal funds were used to reimburse travel expenses beyond those authorized for state employees.

DOCUMENTATION  
REQUIRED

For any authorized expense incurred, the employee shall submit a statement, with receipts to the extent feasible, documenting actual expenses and in accordance with administrative procedures.

TERMINATION OF CONTRACT

DF  
(LEGAL)

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**Note:** For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).

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WITHHOLDING  
INFORMATION

An attempt by any District employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). *Education Code 26.008(b)*

CRIMINAL OFFENSES

The District may discharge an employee if the District obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification (SBEC) or the District. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation). *Education Code 22.085*

CERTAIN OFFENSES  
AGAINST CHILDREN

A district that receives notice under Education Code Section 21.058(b) of the revocation of a certificate issued under Chapter 21, Subchapter B, shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student [see DK]; and
2. As soon as practicable, terminate the employment of the person in accordance with the person's contract and with Education Code Chapter 21, Subchapter B.

These removal and termination requirements apply only to a conviction of a felony under Penal Code Title 5 or an offense for which the person must register as a sex offender, and only if the victim of the offense is under 18 years of age.

*Education Code 21.058*

FAILURE OF  
CERTIFICATION

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

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

TERMINATION OF CONTRACT

DF  
(LEGAL)

DISTRICT'S OPTIONS	<p>After an employee receives notice that the employee's contract is void the District may:</p> <ol style="list-style-type: none"><li>1. Terminate the employee;</li><li>2. Suspend the employee with or without pay; or</li><li>3. Retain the employee for the remainder of the school year on an at-will employment basis in a position other than classroom teacher at the employee's existing rate of pay or at a reduced rate; and</li></ol> <p>An employee whose contract is void is not entitled to the minimum salary prescribed by Education Code 21.402.</p>
NO APPEAL OR CHAPTER 21 HEARING	<p>A District's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of this chapter do not apply to the decision.</p>
APPLICABILITY	<p>These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified.</p> <p><i>Education Code 21.0031; <u>Nunez v. Simms, 341 F.3D 385 (5th Cir. 2003)</u></i></p>
REPORT TO SBEC	<p>In addition to the reporting requirement under Family Code 261.101 [see FFG], the Superintendent shall promptly notify SBEC if the Superintendent has reasonable cause to believe that:</p>
CRIMINAL RECORD	<ol style="list-style-type: none"><li>1. An educator employed by or seeking employment by the District has a criminal record;</li></ol>
RESIGNATION	<ol style="list-style-type: none"><li>2. The educator resigned and reasonable evidence supports a recommendation by the Superintendent to terminate the educator based on a determination that the educator engaged in misconduct described in 3(a)–(e), below [see DFE]; or</li></ol>
TERMINATION	<ol style="list-style-type: none"><li>3. An educator's employment at the District was terminated based on a determination that the educator:<ol style="list-style-type: none"><li>a. Abused or otherwise committed an unlawful act with a student or minor;</li><li>b. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. Section 801 et seq.;</li><li>c. Illegally transferred, appropriated, or expended funds or other property of the District;</li></ol></li></ol>

TERMINATION OF CONTRACT

DF  
(LEGAL)

- d. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or
- e. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event.

“Abuse” has the meaning assigned by Family Code 261.001 and includes any sexual conduct involving an educator and a student or minor.

REPORTS

The Superintendent must file a report with SBEC within seven calendar days after first learning about an alleged incident of misconduct described in items 1–3, above. The report must be in writing and in a form prescribed by SBEC.

A superintendent who is required to file a report, but fails to timely do so, is subject to sanctions.

The Superintendent shall notify the Board and the educator of the filing of the report.

IMMUNITY

A superintendent who in good faith and while acting in an official capacity files a report with SBEC is immune from civil or criminal liability that might otherwise be incurred or imposed.

*Education Code 21.006, 19 TAC 249.14*



PROBATIONARY CONTRACTS  
SUSPENSION/TERMINATION DURING CONTRACT

DFAA  
(LEGAL)

DISCHARGE

Any probationary contract employee may be discharged at any time for good cause as determined by the Board. "Good cause" is the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state. *Education Code 21.104(a)*

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**Note:** See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

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SUSPENSION

The District may, for good cause as defined above, suspend an employee without pay in lieu of discharge. The period of suspension may not extend beyond the end of the current school year. *Education Code 21.104(b)*

NOTICE

Before any probationary contract employee is dismissed or suspended without pay for good cause, the employee 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 employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532, 105 S.Ct. 1487 (1985)*

HEARING

If a probationary contract employee who has received notice of proposed termination desires a hearing before an independent hearing examiner, the employee must file a written request with the Commissioner not later than the 15th day after the date the employee receives notice of the proposed termination. The employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

*Education Code 21.251, 21.253 [See DFD]*

North East ISD  
015910

PROBATIONARY CONTRACTS  
SUSPENSION/TERMINATION DURING CONTRACT

DFAA  
(LOCAL)

SUSPENSION WITH  
PAY

A probationary contract employee may be suspended with pay or placed on administrative leave by the Superintendent during an investigation of alleged misconduct by the employee or at any time the Superintendent determines that the District's best interest will be served by the suspension or administrative leave.

PROBATIONARY CONTRACTS  
TERMINATION AT END OF YEAR

DFAB  
(LEGAL)

GROUNDS FOR  
TERMINATION

A probationary contract employee may be terminated at the end of the contract period if the Board determines that such termination will serve the best interests of the District.

NOTICE

The Board shall give the employee notice of its decision to terminate the employment not later than the 45th day before the last day of instruction required under the contract.

NO APPEAL

The Board's decision to terminate a probationary employee at the end of a contract period is final and may not be appealed.

*Education Code 21.103(a)*

FAILURE TO NOTIFY

Failure to give a probationary employee notice of termination within the time period described above obligates the Board to employ the probationary employee for the following school year. The contract will be for a position in the same capacity under:

1. A probationary contract, if the person has been employed under a probationary contract for less than three consecutive school years; or
2. A continuing or term contract, according to District policy, if the person has been employed under a probationary contract for three consecutive school years.

*Education Code 21.103(b)*

PROBATIONARY CONTRACTS  
RETURN TO PROBATIONARY STATUS

DFAC  
(LEGAL)

In lieu of discharging a continuing contract employee, terminating a term contract employee, or not renewing a term contract, the District may, with written consent of the employee, return the employee to probationary contract status.

AFTER BOARD  
PROPOSAL

Except as provided below, an employee may agree to be returned to probationary status only after receiving written notice that the Board has proposed discharge, termination, or nonrenewal. [See DF series]

AFTER NOTICE FROM  
SUPERINTENDENT

An employee may agree to be returned to probationary contract status after receiving written notice of the Superintendent's intent to recommend discharge, termination, or nonrenewal.

NOTICE

The notice must inform the employee of the District's offer to return the employee to probationary contract status, the period during which the employee may consider the offer, and the employee's right to seek counsel. The District must provide the employee at least three business days after the employee receives the notice to agree to be returned to probationary contract status. This provision does not require the Superintendent to provide notice of intent to recommend discharge, termination, or nonrenewal.

NEW PROBATIONARY  
PERIOD

An employee returned to probationary status must serve a new probationary period as if the employee were employed by the District for the first time.

*Education Code 21.106*

TERM CONTRACTS  
SUSPENSION/TERMINATION DURING CONTRACT

DFBA  
(LEGAL)

SUSPENSION  
WITHOUT PAY

The Board may, for good cause as determined by the Board, suspend an employee without pay:

1. Pending discharge, or
2. 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 pending discharge, the term contract employee is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

GROUND FOR  
DISMISSAL

The Board may terminate a term contract and discharge a term contract employee at any time for:

1. Good cause as determined by the Board; or
2. A financial exigency that requires a reduction in personnel.

*Education Code 21.211(a)*

NOTICE

Before any term contract employee is dismissed for good cause, the employee 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 employee to show any error that may exist. *Cleveland Bd. of Educ. v. Loudermill, 105 S.Ct. 1487 (1985)*

HEARING

If a term contract employee desires a hearing before an independent hearing examiner, the employee must file a written request with the Commissioner not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The term contract employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

*Education Code 21.251, 21.253 [See DFD]*

SUSPENSION WITH  
PAY

The employee may be suspended with pay pending the outcome of the dismissal hearing. *Moore v. Knowles, 482 F.2d 1069 (5th Cir. 1973)*

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**Note:** See DF regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification (SBEC).

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TERM CONTRACTS  
NONRENEWAL

DFBB  
(LEGAL)

EVALUATIONS	Before making a decision not to renew a term contract, the Board shall consider the most recent evaluations if the evaluations are relevant to the reason for the Board's action. <i>Education Code 21.203(a)</i> [See DNA]
REASONS	The Board shall establish by policy reasons for nonrenewal at the end of a school year. <i>Education Code 21.203(b)</i>
NOTICE	<p>Not later than the 45th day before the last day of instruction in a school year, the Board shall notify in writing each term contract employee whose contract is about to expire of its proposal to re-new or not renew the contract.</p> <p>The Board's failure to give notice of a proposed renewal or nonrenewal constitutes an election to employ the term contract employee in the same professional capacity for the following school year.</p> <p><i>Education Code 21.201, 21.206</i></p>
REQUEST FOR HEARING	If the employee desires a hearing after receiving notice of the proposed nonrenewal, the employee shall notify the Board in writing not later than the 15th day after receiving the notice of proposed action. The Board shall provide for a hearing to be held within 15 days after receiving written notice from the employee requesting a hearing unless the parties agree in writing to a different date. Such hearing shall be closed unless an open hearing is requested by the employee and shall be conducted in accordance with rules promulgated by the District.
BOARD HEARING	<p>If the employee requests a hearing, the Board shall hold a hearing at which the employee may:</p> <ol style="list-style-type: none"><li>1. Be represented by a representative of the employee's choice;</li><li>2. Hear the evidence supporting the reason for nonrenewal;</li><li>3. Cross-examine adverse witnesses; and</li><li>4. Present evidence.</li></ol> <p><i>Education Code 21.207</i></p>
BOARD DECISION	<p>To evaluate the evidence put before it, the Board shall use the preponderance of the evidence standard of review. <u><i>Whitaker v. Marshall ISD, Comm. Ed. Dec. No. 112-R1-598 (1998)</i></u></p> <p>Following the hearing, the Board shall take the appropriate action and notify the employee in writing of that action within 15 days following the conclusion of the hearing.</p>

North East ISD  
015910

TERM CONTRACTS  
NONRENEWAL

DFBB  
(LEGAL)

NO HEARING

If the employee fails to request a hearing, the Board shall take the appropriate action and notify the employee in writing of that action not later than the 30th day after the date the notice of proposed nonrenewal was sent.

*Education Code 21.208*

APPEALS

An employee aggrieved by a decision of the Board to nonrenew a term contract may appeal to the Commissioner for a review of the Board's decision. *Education Code 21.209*

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. A decision by a campus intervention team under Education Code 39.1324 that the employee not be retained at a reconstituted campus.
11. 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.
12. The illegal possession, use, manufacture, or distribution of a controlled substance, a drug, a dangerous drug, hallucinogens, or other substances regulated by state statutes.
13. Failure to meet the District's standards of professional conduct.
14. Failure to report any arrest, indictment, conviction, no contest or guilty plea, or other adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL). [See DH]



15. Conviction of or deferred adjudication for any felony, any crime involving moral turpitude, or other offense listed at DH(LOCAL); and conviction of a lesser included offense pursuant to a plea when the original charged offense is a felony. [See DH]
16. Failure to comply with reasonable District requirements regarding advanced coursework or professional improvement and growth.
17. Disability, not otherwise protected by law, that prevents the employee from performing the essential functions of the job.
18. 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.
19. Any breach by the employee of an employment contract or any reason specified in the employee's employment contract.
20. Failure to maintain an effective working relationship, or maintain good rapport, with parents, the community, or colleagues.
21. A significant lack of student progress attributable to the educator.
22. Behavior that presents a danger of physical harm to a student or to other individuals.
23. 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.
24. 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.
25. Falsification of records or other documents related to the District's activities.
26. Falsification or omission of required information on an employment application.
27. Misrepresentation of facts to a supervisor or other District official in the conduct of District business.
28. Failure to fulfill requirements for certification, including passing certification examinations required by state law for the employee's assignment.

29. Failure to achieve or maintain "highly qualified" status as required for the employee's assignment.
30. Failure to fulfill the requirements of a deficiency plan under an Emergency Permit, a Special Assignment Permit, or a Temporary Classroom Assignment Permit.
31. Any attempt to encourage or coerce a child to withhold information from the child's parent or from other District personnel.
32. Any reason that makes the employment relationship void or voidable, such as a violation of federal, state, or local law.
33. 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 Presi-

dent, 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 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.

North East ISD  
015910

TERM CONTRACTS  
NONRENEWAL

DFBB  
(EXHIBIT)

NOTICE OF PROPOSED CONTRACT NONRENEWAL  
(FOR HEARINGS CONDUCTED BY THE BOARD)

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Dear \_\_\_\_\_:

YOU ARE HEREBY NOTIFIED that the Superintendent of \_\_\_\_\_ ISD has recommended to the Board of Trustees at a lawfully called meeting of the Board of Trustees on (date) \_\_\_\_\_, that your employment contract as (job title) \_\_\_\_\_ in the District not be renewed for the succeeding school year, and the Board voted to propose the nonrenewal.

This notice is given pursuant to the provisions of Section 21.206 of the Texas Education Code.

The recommendation not to renew your contract is being made for the following reasons:

[List all reasons in detail]

If you desire a hearing, not later than the 15th day after receipt of this written notice, you must notify the Board of Trustees in writing of such request. The Board shall provide a hearing to be held not later than the 15th day after receipt of your notice requesting a hearing. Such hearing shall be closed unless you request an open hearing. If you fail to make a timely request for a hearing, the Board may proceed to make a determination upon the Superintendent's recommendation not later than the 30th day after the date the Board sends you notice of the proposed nonrenewal.

If you have any questions concerning any of the reasons supporting the proposed action to nonrenew your contract, please advise the Superintendent in writing.

Attached to this notice is a copy of the District's policy on nonrenewal of term contracts, containing the rules for the hearing.

This notice dated at (City/State/Zip): \_\_\_\_\_,

Date: \_\_\_\_\_ BY: \_\_\_\_\_

President, Board of Trustees

\_\_\_\_\_ ISD

CONTINUING CONTRACTS  
SUSPENSION/TERMINATION

DFCA  
(LEGAL)

DISCHARGE	<p>A teacher employed under a continuing contract may be discharged at any time for good cause as determined by the Board. "Good cause" is the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state.</p>
SUSPENSION	<p>The District may suspend a teacher without pay and for a period not to extend beyond the end of the current school year in lieu of discharge, for good cause as defined above.</p> <p><i>Education Code 21.156</i></p>
REDUCTION IN FORCE	<p>Continuing contract employees may be released from employment by the District at the end of a school year because of necessary reduction of personnel.</p> <p>Necessary reduction of personnel shall be made in the reverse order of seniority in the specific teaching fields.</p> <p><i>Education Code 21.157</i></p>
NOTICE	<p>Before any employee under a continuing contract is discharged, suspended without pay in lieu of discharge, or released because of a necessary reduction in personnel, the employee shall be notified in writing by the Board of the proposed action and the grounds for the action. <i>Education Code 21.158(a)</i></p> <p>An employee who is discharged or suspended without pay for actions related to the inability or failure of the employee to perform assigned duties is entitled, as a matter of right, to a copy of each evaluation report or any other written memorandum that concerns the fitness or conduct of the employee, by requesting in writing a copy of these documents. <i>Education Code 21.158(b)</i></p>
HEARING	<p>If, upon written notification of the proposed action, the employee desires to contest the same, the employee shall notify the Board in writing not later than the tenth day after the date of receipt of the official notice and must provide the Commissioner with a copy of the notice. A timely request for a hearing entitles the employee to a hearing before a hearing examiner.</p> <p>The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.</p> <p><i>Education Code 21.251(a)(1), 21.253, 21.159 [See DFD]</i></p>
HEARING NOT REQUESTED	<p>If the employee fails to request a hearing not later than the tenth day after receiving notice of the proposed action, the Board shall take the appropriate action and notify the employee in writing of the action not later than the 30th day after the date the Board sent the notice of the proposed action. <i>Education Code 21.159(c)</i></p>

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**Note:** See DF regarding circumstances under which a certified employee's termination during the year shall be reported to the State Board for Educator Certification (SBEC).

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North East ISD  
015910

CONTINUING CONTRACTS  
SUSPENSION/TERMINATION

DFCA  
(LOCAL)

SUSPENSION WITH  
PAY

A continuing contract employee may be suspended with pay or placed on administrative leave by the Superintendent during an investigation of alleged misconduct by the employee or at any time the Superintendent determines that the District's best interests will be served by the suspension or administrative leave.

TERMINATION OF CONTRACT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

APPLICABILITY

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

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

It does not apply to a decision to:

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

*Education Code 21.251*

REQUEST FOR  
HEARING

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

ASSIGNMENT OF  
HEARING EXAMINER  
BY AGREEMENT

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

BY APPOINTMENT

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

REJECTION

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



TERMINATION OF CONTRACT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

party has good cause for the rejection, the Commissioner shall assign another hearing examiner.

FINALITY OF  
DECISION

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

*Education Code 21.254*

POWERS OF HEARING  
EXAMINER

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

CONDUCT OF  
HEARING

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

*Education Code 21.255*

SCHEDULE  
RESTRICTION

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

PRIVATE

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

EXCEPTION

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

PROTECTION OF  
WITNESSES

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

EMPLOYEE RIGHTS

At the hearing, the employee has the right to:

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

The hearing is not subject to the Administrative Procedure Act.

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

TERMINATION OF CONTRACT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

EVIDENCE	The Texas Rules of Civil Evidence shall apply at the hearing. An evaluation or appraisal of the teacher is presumed to be admissible at the hearing. The hearing examiner's findings of fact and conclusions of law shall be presumed to be based only on admissible evidence.
BURDEN OF PROOF	The District has the burden of proof by a preponderance of the evidence at the hearing.  <i>Education Code 21.256</i>
COSTS	The District shall bear the cost of the services of the hearing examiner and certified shorthand reporter and the production of any original hearing transcript. Each party shall bear its costs of discovery, if any, and its attorney's fees. <i>Education Code 21.255(e)</i>
RECOMMENDATION	Not later than the 60th day after the date on which the Commissioner receives a request for a hearing before a hearing examiner, the hearing examiner shall complete the hearing and make a written recommendation. The recommendation must include findings of fact and conclusions of law. The recommendation may include a proposal for granting relief, including reinstatement, back pay, or employment benefits. The proposal for relief may not include attorney's fees or other costs associated with the hearing or appeals from the hearing. The hearing examiner shall send a copy of the recommendation to each party, the Board President, and the Commissioner.
WAIVER OF DEADLINE	The parties may agree in writing to extend by not more than 45 days the right to a recommendation by the date specified above.  <i>Education Code 21.257</i>
CONSIDERATION	The Board or a designated subcommittee shall consider the hearing examiner's record and recommendation at the first Board meeting for which notice can be posted in compliance with the open meetings laws. The meeting must be held not later than the 20th day after the date that the Board President receives the hearing examiner's recommendation and record.
ORAL ARGUMENT AND RECORDING	At the meeting, the Board or subcommittee shall allow each party to present an oral argument to the Board or subcommittee. The Board may, by written policy, limit the amount of time for oral argument, provided equal time is allotted each party. A certified shorthand reporter shall record any such oral argument.
LEGAL ADVICE	The Board or subcommittee may obtain advice from an attorney who has not been involved in the proceedings.  <i>Education Code 21.258, 21.260</i>

TERMINATION OF CONTRACT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

DECISION

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

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

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

The Board or subcommittee shall state in writing the reason for and legal basis for a change or rejection.

RECORDING

A certified shorthand reporter shall record the announcement of the decision. The District shall bear the cost of the reporter's services.

*Education Code 21.259, 21.260*

RECORD OF  
PROCEEDINGS

The Commissioner shall consider the appeal solely on the basis of the local record and may not consider any additional evidence or issue. *Education Code 21.301(c)*

The record of the proceedings before the independent hearing examiner shall include:

1. The transcripts of proceedings at the local level;
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the recommendation of the independent hearing examiner;
7. The transcript of the oral argument before the Board or Board subcommittee;
8. The decision of the Board or Board subcommittee; and
9. If applicable, the Board or Board subcommittee's written reasons for changing the recommendation of the independent hearing examiner.

*19 TAC 157.1072(e)*

TERMINATION OF CONTRACT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LOCAL)

TIME LIMITS FOR  
ORAL ARGUMENT

The Board shall consider the hearing examiner's record and recommendation at the first Board meeting for which notice can be posted in compliance with the open meetings laws.

The Board shall allow ten minutes per party for oral argument. Administration shall be offered the opportunity to present argument first and may use a portion of the designated time for rebuttal after the other party has presented argument.

The Board reserves the right to grant additional time in equal amount to both parties, depending on the complexity of the issues and solely at the Board's discretion.

TERMINATION OF CONTRACT  
RESIGNATION

DFE  
(LEGAL)

RESIGNATION  
DEADLINE

An educator employed under a probationary contract for the following school year, or under a term or continuing contract, may relinquish the position and leave District employment at the end of the school year without penalty by filing a written resignation with the Board or the Board's designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the Board President or the Board's designee at the post office address of the District is considered filed at the time of mailing.

The educator may resign, with the consent of the Board or the Board's designee, at any other time.

ABANDONMENT OF  
CONTRACT

On written complaint by the District, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a contract for the following school year and who:

1. Resigns;
2. Fails without good cause to comply with the resignation deadline or the provision regarding resignation by consent; and
3. Fails without good cause to perform the contract.

*Education Code 21.105, 21.160, 21.210*

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless the Board:

1. Renders a finding that good cause did not exist for the employee's resignation; and
2. Submits a written complaint to SBEC within 30 calendar days after the educator separates from employment.

*19 TAC 249.14(f)*

NOTICE TO SBEC

In addition to the reporting requirement under Family Code 261.101 [see FFG], the Superintendent must file a report with SBEC not later than the seventh day after the Superintendent first obtains or has knowledge of information indicating that an educator resigned and reasonable evidence supported a recommendation by the Superintendent to terminate the educator because he or she committed one of the acts specified at Education Code 21.006(b).

Before accepting the educator's resignation, the Superintendent shall inform the educator in writing that a report will be filed that may result in sanctions against the employee's certificate.

The Superintendent shall notify the Board prior to filing a report of a resignation with SBEC.

*Education Code 21.006(b), (c), (d); 19 TAC 249.14(d) [See DF]*

TERMINATION OF CONTRACT  
RESIGNATION

DFE  
(LOCAL)

GENERAL  
REQUIREMENTS

All resignations shall be submitted in writing to the Superintendent. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

AT-WILL EMPLOYEES

The Superintendent or designee shall be authorized to accept the resignation of an at-will employee at any time.

CONTRACT  
EMPLOYEES

The Superintendent or designee shall be authorized to accept the resignation of a contract employee submitted and effective before the start of the school year. If the resignation is submitted after the penalty-free resignation date established by law, acceptance is contingent on finding a suitable replacement.

BEFORE THE  
START OF THE  
SCHOOL YEAR

DURING THE  
SCHOOL YEAR

For a resignation that is effective during the school year after the contract employee has begun duty, the Superintendent or designee shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

AT THE END OF THE  
SCHOOL YEAR

The Superintendent or designee shall be authorized to accept a contract employee's resignation if submitted during the school year and effective at the end of the school year.

WITHDRAWAL OF  
RESIGNATION

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

TERMINATION OF CONTRACT  
REDUCTION IN FORCE

DFF  
(LOCAL)

APPLICABILITY

This policy shall apply only to reductions in force of contractual employees when the reduction in force requires the termination of:

1. A contract governed by Chapter 21 of the Education Code in the following circumstances:
  - a. A probationary contract during the contract period;
  - b. A term contract during the contract period; or
  - c. A term contract at the end of the contract period.
2. A contract not governed by Chapter 21 of the Education Code during the contract period.

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**Note:** This policy shall not apply to termination at any time of at-will employment (see DCD); termination of a continuing contract (see DFCA); termination of a probationary contract at the end of the contract period (see DFAA); or termination at the end of the contract period of a contract not governed by Chapter 21 of the Education Code (see DCE).

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DEFINITIONS

Definitions used in this policy are as follows:

1. "Financial exigency" shall mean any situation in which the Board, in its sole discretion, determines there is a need for the District to reduce financial expenditures for personnel including, but not limited to, a decline in the District's financial resources, a decline in enrollment, a cut in funding, reduction or elimination of funding for federally or categorically funded programs or positions, a decline in tax revenues, a need to reallocate financial resources, or an unanticipated expense or capital need.
2. "Program change" shall mean any elimination, curtailment, or reorganization of a curriculum offering, program, or school and/or administrative operation. The term shall include, but not be limited to, a change in curriculum objectives, a modification or reorganization of staffing patterns on a particular campus or Districtwide, or in central administration; a redirection of financial resources to meet the educational needs of the students, a lack of student response to particular course offerings, legislative revisions to programs, or a reorganization or consolidation of two or more individual schools or school districts.

TERMINATION OF CONTRACT  
REDUCTION IN FORCE

DFF  
(LOCAL)

3. "Discharge" shall mean termination of a contract during the contract period.
4. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.

GENERAL GROUNDS

A reduction in force may take place when the Board determines that financial exigency or a program change requires the discharge or nonrenewal of one or more employees in accordance with this policy. Such a determination constitutes sufficient cause for discharge or nonrenewal.

SCOPE OF  
REDUCTION

A reduction in force may be implemented in one, several, or all employment areas. In determining affected employment areas, the Board may combine or coordinate employment areas, (e.g., the Board may combine "elementary programs" and "compensatory education programs" to identify an employment area of "elementary compensatory education program").

EMPLOYMENT AREAS

Employment areas shall be defined as, but are not limited to:

1. Elementary grades, levels, subjects, departments, or programs.
2. Middle school grades, levels, subjects, departments, or programs.
3. High school grades, levels, subjects, departments, or programs.
4. Special programs, including, but not limited to, gifted and talented, bilingual/ESL programs, special education, compensatory education, and migrant education. Each special program is a separate employment area.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.
9. Other Districtwide programs.
10. An individual campus.
11. Any administrative position(s), unit, or department.
12. Teachers on probationary status.



TERMINATION OF CONTRACT  
REDUCTION IN FORCE

DFF  
(LOCAL)

13. Professional employees holding temporary certificates issued in accordance with SBEC rule, 19 TAC 232.5.
14. Other contractual position(s).

CRITERIA FOR  
DECISION

The Superintendent shall recommend to the Board the discharge or nonrenewal of employees within the affected employment area(s) because of a reduction in force, based on the following criteria. These criteria are listed in order of importance; the Superintendent shall apply them sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force, i.e., if all necessary reductions can be accomplished by applying the certification criterion, it is not necessary to apply the performance criterion, etc.

1. Certification: Appropriate certification, endorsement, and/or highly qualified status for current or projected assignment.
2. Qualifications/Performance: Assessment of current skills and consideration of past and current effectiveness as reflected by appraisal records and other written evaluative information. In applying this criterion, the Superintendent, as part of the proposed reduction in force, may require additional written assessments of employee skills and effectiveness.

If the Superintendent at his or her discretion decides that the documented performance differences between two or more reduction in force prospects are too insubstantial to rely upon, he or she may proceed to apply criterion 3 and, thereafter and to the extent needed, criterion 4.

3. Professional Background: Professional education including but not limited to continuing education and professional development, training, and/or work experience related to the current or projected assignment.
4. Seniority: Length of service in a contract position in the District, as measured from the employee's most recent date of hire.

SUPERINTENDENT'S  
RECOMMENDATION

After identifying the employees in the affected employment area(s) whose positions will be eliminated due to the reduction in force, the Superintendent shall notify those employees that they have been or will be recommended to the Board for discharge or nonrenewal.

CONSIDERATION FOR  
AVAILABLE POSITIONS

Once the Superintendent has identified the appropriate employees in the affected area(s), those employees may contact the human resources department and apply for other available positions for which they are qualified. An employee is responsible for reviewing posted vacancies, submitting an application, and otherwise com-

TERMINATION OF CONTRACT  
REDUCTION IN FORCE

DFF  
(LOCAL)

plying with District procedure to be considered for a particular vacancy.

An employee who applies for an open position after receiving notification that his or her position is being eliminated, but before final action regarding the discharge or nonrenewal is taken by the Board, must be offered the position if the employee meets the District's objective criteria for that position and is the most qualified internal applicant for the position.

BOARD ACTION

At least 20 days after the Superintendent has provided notice to employees of recommended discharge or nonrenewal, as appropriate, the Board, after considering the Superintendent's recommendation, and if the employees recommended for discharge or nonrenewal have not found another position within the District, shall determine which employees shall be proposed for discharge or nonrenewal.

NOTICE TO  
EMPLOYEES

The Superintendent shall provide each employee written notice of the proposed action, including a statement of the reason(s) requiring such action and notice that the employee is entitled to a hearing.

NONRENEWAL

An employee receiving a notice of proposed nonrenewal may request a hearing in accordance with DFBB.

DISCHARGE

An employee receiving notice of proposed discharge during the period of a contract governed by Chapter 21 of the Education Code may request a hearing before an independent hearing examiner in accordance with DFD.

An employee receiving notice of proposed discharge during the period of an employment contract not governed by Chapter 21 of the Education Code may request a hearing before the Board or its designee in accordance with DCE.

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

EMPLOYEE FREE  
SPEECH

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

*Garcetti v. Ceballos*, 126 S.Ct. 1951 (2006); *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 89 S. Ct. 733 (1969) [See also GKD]

WHISTLEBLOWER  
PROTECTION

The Board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by the District or another public employee to an appropriate law enforcement authority.

A "report" is made to an "appropriate law enforcement authority" if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

*Gov't Code 554.002*

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov't Code 554.008*

DEFINITIONS

"Employee" means an employee or appointed officer who is paid to perform services for the District. It does not include independent contractors. *Gov't Code 554.001(4)*

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:
  - a. Regulate under or enforce the law alleged to be violated in the report, or
  - b. Investigate or prosecute a violation of criminal law; and
2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dept. of Trans. v. Needham, 82 S.W.3d 314 (Tex. 2002)

WHISTLEBLOWER  
COMPLAINTS

An employee who alleges a violation of whistleblower protection may sue the District for injunctive relief, actual damages, court costs, and attorneys fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

INITIATE  
GRIEVANCE

Before suing, an employee must initiate action under the District's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke the District's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

LEGAL ACTION

If the Board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust the District's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or
2. Terminate District grievance procedures and sue within the time lines established by Government Code 554.005 and 554.006.

*Gov't Code 554.005, 554.006* [See DGBA regarding grievance procedures]

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

NOTICE OF RIGHTS	The Board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. <i>Gov't Code 554.009</i>
PROTECTION FOR REPORTING CHILD ABUSE	<p>The Board or its agents may not suspend or terminate the employment of, or otherwise discriminate against, a professional employee who in good faith:</p> <ol style="list-style-type: none"><li>1. Reports child abuse or neglect to:<ol style="list-style-type: none"><li>a. The person's supervisor,</li><li>b. An administrator of the facility where the person is employed,</li><li>c. A state regulatory agency, or</li><li>d. A law enforcement agency; or</li></ol></li><li>2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.</li></ol> <p>A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of the foregoing may sue for injunctive relief, damages, or both. A District employee who has a cause of action under WHISTLEBLOWER PROTECTION may not bring an action under PROTECTION FOR REPORTING CHILD ABUSE.</p> <p><i>Family Code 261.110</i></p>
ATTENDANCE COMMITTEE MEMBERSHIP	A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee. <i>Education Code 25.092(c)</i>
REPORT OF DRUG OFFENSES	<p>A teacher, administrator, or other District employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property any of the following substances:</p> <ol style="list-style-type: none"><li>1. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act.</li><li>2. A dangerous drug, as defined by the Texas Dangerous Drug Act.</li><li>3. An abusable glue or aerosol paint, as defined by Health and Safety Code Chapter 485, or a volatile chemical, if the sub-</li></ol>

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stance is used or sold for the purpose of inhaling its fumes or vapors.

4. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

*Education Code 37.016*

REPORT TO LOCAL  
LAW ENFORCEMENT

A principal or person designated by the principal is not liable in civil damages for making a good faith report to law enforcement, as required by law, of an activity specified at Education Code 37.015. *Education Code 37.015* [See GRA(LEGAL)]

ADMINISTRATION OF  
MEDICATION

The District, the Board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with Education Code 22.052. *Education Code 22.052(a), (b)* [See FFAC]

PROTECTION OF  
NURSES

The District may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code Section 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the District at the time of the refusal that this is the reason for refusing to engage in the act or omission.

*Occupations Code 301.352(a)*

IMMUNITY FROM  
INDIVIDUAL LIABILITY

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

'PROFESSIONAL  
EMPLOYEES'

A professional employee of the District is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion, except in circumstances where, in disciplining a student, the employee uses excessive force or his or her negligence results in bodily injury to the student.

"Professional employee of the District" includes a superintendent; principal; teacher, including a substitute teacher or a teacher employed by a company that contracts with the District to provide the teacher's services to the District; a supervisor; social worker; coun-

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selor; nurse; teacher's aide; a student in an education preparation program participating in a field experience or internship; a DPS-certified school bus driver, and any other person whose employment requires certification and the exercise of discretion.

MOTOR VEHICLE  
EXCEPTION

Education Code Section 22.0511 does not apply to the operation, use, or maintenance of any motor vehicle.

*Education Code 22.0511(a)–(b), 22.051; Hopkins v. Spring ISD, 756 S.W.2d 617 (Tex. 1987); Barr v. Bernhard, 562 S.W.2d 844 (Tex. 1978)*

'INDIVIDUALS'

In addition to the immunity described above [at PROFESSIONAL EMPLOYEES], and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (Coverdell Act). [See TEACHERS, below] Nothing in Education Code 22.0511(c) shall be construed to limit or abridge any immunity or protection afforded an individual under state law. *Education Code 22.0511(c)*

'TEACHERS'  
(COVERDELL ACT)

Except as provided in 20 U.S.C. Section 6736(b), no "teacher" in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if:

1. The teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;
2. The actions of the teacher were carried out in conformity with federal, state, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;
3. If appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the state in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;
4. The harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and
5. The harm was not caused by the teacher's operating a motor vehicle, vessel, aircraft, or other vehicle for which the state requires the operator or the owner of the vehicle, craft, or vessel to:

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

- a. Possess an operator's license; or
- b. Maintain insurance.

"Teacher" means:

- 1. A teacher, instructor, principal, or administrator;
- 2. Another educational professional who works in a school;
- 3. An individual member of a school board (as distinct from the Board); or
- 4. A professional or nonprofessional employee who works in a school, and:
  - a. In the employee's job, maintains discipline or ensures safety; or
  - b. In an emergency, is called on to maintain discipline or ensure safety.

*20 U.S.C. Section 6733, 6736(a)*



EMPLOYEE RIGHTS AND PRIVILEGES  
FREEDOM OF ASSOCIATION

DGA  
(LEGAL)

POLITICAL  
PARTICIPATION

The Board or any District employee may not directly or indirectly require or coerce any teacher to refrain from participating in political affairs in his or her community, state, or nation. *Education Code 21.407(b)*

ASSOCIATION  
MEMBERSHIP

The Board or any District employee may not directly or indirectly require or coerce any teacher to join any group, club, committee, organization, or association. Education Code Chapter 21 does not abridge the right of an educator to join or refuse to join any professional association or organization. *Education Code 21.407(a), 21.408*

LABOR  
ORGANIZATIONS

An individual may not be denied employment by the District because of the individual's membership or nonmembership in a labor organization. *Gov't Code 617.004*

"Labor organization" means any organization in which employees participate that exists, in whole or in part, to deal with one or more employers concerning grievances, labor disputes, wages, hours of employment, or working conditions. *Gov't Code 617.001*

COLLECTIVE  
BARGAINING  
PROHIBITED

The Board may not enter into a collective bargaining contract with a labor organization regarding wages, hours, or conditions of employment of District employees; nor shall it recognize a labor organization as the bargaining agent for a group of employees. *Gov't Code 617.002*

STRIKES  
PROHIBITED

District employees may not strike or engage in an organized work stoppage against the District. However, the right of an individual to cease work shall not be abridged if the individual is not acting in concert with others in an organized work stoppage. *Gov't Code 617.003(a), (c)*

PENALTIES

Any employee who participates in a strike or organized work stoppage shall forfeit all reemployment rights and any other rights, benefits, or privileges he or she enjoys as a result of public employment or former public employment. *Gov't Code 617.003(b)*

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.

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EMPLOYEE RIGHTS AND PRIVILEGES  
PERSONNEL-MANAGEMENT RELATIONS

DGB  
(LEGAL)

PRIVILEGES TO  
EMPLOYEE  
ORGANIZATIONS

The District may distinguish among associations on the basis of proportionate membership if it ensures that any distinguishing policies and customs are reasonable and not coercive. *San Antonio Federation of Teachers v. San Antonio Indep. Sch. Dist., Comm. of Ed. Dec. 77-R105 (1980)*

UNITED STATES  
CONSTITUTION

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

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

TEXAS CONSTITUTION

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

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Professional Association of College Educators v. El Paso County Community [College] District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS  
SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs fifteen or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 CFR 104.7(b), 104.11*

AMERICANS WITH  
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 CFR 35.107, 35.140*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 CFR 106.8(b); North Haven Board of Education v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LEGAL)

GRIEVANCES  
CONCERNING WAGES,  
HOURS, CONDITIONS  
OF WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi ISD*, 572 S.W.2d 663 (Tex. 1978)

GROUP  
GRIEVANCES

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987)

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo, writ ref'd n.r.e. 1987); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

RESPONSE TO  
GRIEVANCE

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi ISD v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

GRIEVANCES  
CONCERNING  
FINALITY OF GRADES

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board of the District in which the teacher is employed.

The Board's determination is not subject to appeal.

*Education Code 28.0214*

OPEN MEETINGS ACT

The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. *Gov't Code 551.074* [See BEC]

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LEGAL)

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. <i>Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)</i>
RECORD OF PROCEEDINGS	<p>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. <i>Education Code 7.057(c), (f)</i></p> <p>It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:</p> <ol style="list-style-type: none"><li>1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:<ol style="list-style-type: none"><li>a. The tape recording must be complete, audible, and clear; and</li><li>b. Each speaker must be clearly identified.</li></ol></li><li>2. All evidence admitted;</li><li>3. All offers of proof;</li><li>4. All written pleadings, motions, and intermediate rulings;</li><li>5. A description of matters officially noticed;</li><li>6. If applicable, the decision of the hearing examiner;</li><li>7. A tape recording or transcript of the oral argument before the Board; and</li><li>8. The decision of the Board.</li></ol> <p><i>19 TAC 157.1073(d)</i></p>
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. <i>Gov't Code 554.005</i> [See DG]

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

This policy provides employees an orderly process for the prompt and equitable resolution of grievances when a concern has not been resolved. The Board intends that, whenever feasible, grievances be resolved at the lowest possible administrative level. This policy shall not be construed to create new or additional rights beyond those granted by Board policy or law.

DEFINITIONS

For purposes of this policy, "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" 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 an attorney as 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.

"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 terms "complaint" and "grievance" shall have the same meaning. A grievance under this policy may include, but shall not be limited to, any of the following:

1. Grievances concerning an employee's wages, hours, or conditions of work.
2. Specific allegations of unlawful discrimination in employment on the basis of sex (including allegations of sexual harassment), race, religion, national origin, age, or disability.
3. Specific allegations of unlawful discrimination or retaliation on the basis of the employee's exercise of constitutional rights.
4. Whistleblower complaints.

OTHER REVIEW  
PROCESSES

Procedures and information regarding sexual harassment by other employees are found at DIA and information regarding federal nondiscrimination is found at DAA.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

An employee's dismissal or nonrenewal may be the subject of a grievance under this policy only if the District does not otherwise provide for a review of the matter.

The following are governed by other review processes and are not subject to this policy:

1. Grievances regarding suspension without pay of a contractual employee: DF series
2. Grievances regarding termination of an employment contract governed by Chapter 21 of the Education Code: DF series
3. Grievances against a District peace officer: CKE
4. Grievances regarding instructional materials: EFA

NOTICE TO  
EMPLOYEES

The principal of each campus and other supervisory personnel shall ensure that employees under their supervision are informed of this policy.

FREEDOM FROM  
RETALIATION

Neither the Board nor the administration shall unlawfully retaliate against any employee for bringing a grievance under this policy. [See DG]

WHISTLEBLOWER  
COMPLAINTS

Employees who allege adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a grievance under this policy within the time specified by law. [See DG(LEGAL)]

The complaint 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 whistleblower complaint.

GENERAL  
REQUIREMENTS

The purpose of the grievance process is to resolve conflicts in an efficient and expeditious manner. All employees are entitled to utilize the grievance process, but employees involved in the grievance process are expected to be courteous to one another [see DH(LOCAL)] and to adhere to the Code of Ethics and Standard Practices for Texas Educators as found at DH(EXHIBIT).

A grievance must specify the harm alleged by each individual and the remedy sought. An employee is prohibited from bringing separate or serial grievances regarding the same event or action. All time limits shall be strictly complied with unless modified by mutual consent. Each party shall pay its own costs incurred in the course of the complaint.

GROUP GRIEVANCES

Public employees may present grievances individually or as a group.



PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

When the Superintendent or designee determines, based upon his or her own discretion or with information provided, that two or more individual grievances are sufficiently similar in nature and remedy to permit their resolution through one proceeding, he or she may consolidate the grievances. The factors to be considered by the Superintendent or designee include but are not limited to the common nature of the complaint and remedy sought, common interests of the grievants, and the timeliness of each individual's complaint.

INFORMAL  
RESOLUTION

The District encourages resolution of complaints at the lowest possible administrative level. Prior to the time the employee files a grievance, the parties are encouraged to attempt to resolve the issues informally.

INITIATING  
GRIEVANCE

Unless otherwise specified in policy, an employee shall initiate a grievance as provided at LEVEL ONE, below.

PREREQUISITES

A grievance shall be considered by the Level One administrator only when it complies with all of the following requirements:

The grievance must be in writing on a form or in the format provided by the District, dated, and signed by the grievant or by his or her representative. Any documentation the grievant would like considered during the grievance should be attached to the form.

The grievance must contain a statement of the facts and circumstances upon which the grievance is based, including the names of any persons, involved or who have information relating directly to the grievance, the date and a description of the event(s) or incident(s) giving rise to the grievance.

The grievance must contain:

- a. A reference to the law or policy alleged to have been violated or the dissatisfaction raised by the employee;
  - b. The resulting harm or damage alleged to have occurred; and
  - c. The remedy or remedies sought.
1. The grievance must be timely filed.
  2. The grievance must include the name, address, and telephone number of the person who will represent the grievant, if any.
  3. If two or more individuals seek to file a grievance as a group, each individual grievant must sign the employee complaint form required at Level One.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

LEVEL ONE

An employee who has a grievance shall request a conference with the principal or immediate supervisor by submitting the grievance in writing on a form or in the format provided by the District. The grievance must be filed within 15 days of the time the employee first knew or should have known of the event or series of events about which the employee is complaining. All documentary evidence relied upon by the employee must be submitted at Level One. Additional material may only be provided by the employee at Level Two in reply to documentary evidence produced or relied upon by the Superintendent or designee at Level Two (see LEVEL TWO, below).

The principal or supervisor shall hold the conference within seven days after receipt of the written request. The principal or supervisor shall respond in writing no more than seven days following the conference.

LEVEL TWO

If the outcome of the conference at Level One is not to the employee's satisfaction or if the time for a response has expired, the employee may request a conference with the Superintendent or designee to discuss the grievance. The request shall be in writing on a form or in the format provided by the District and must be filed no later than seven days following receipt of a written response or, if no written response is received, no later than seven days after the response deadline. [See DGBA(EXHIBIT)]

The Superintendent or designee shall hold the conference within seven days after receipt of the written request. The Superintendent or designee shall respond in writing no later than seven days following the conference.

If during the consideration of the grievance at Level Two the Superintendent or designee determines that additional information may be necessary to render a decision, the time for responding to the employee shall be extended by seven days. Any documentary evidence upon which a decision is based at Level Two shall be provided to the employee to the extent permitted by law.

Should the employee choose to submit a response, clarification, or further documentary evidence in reply to additional information provided to the employee by the Superintendent or designee, the employee must do so within seven days of receipt of these additional materials. The Level Two decision will then be rendered or the complaint remanded to Level One within seven days after the receipt of the employee's reply. If the employee chooses not to submit a response to the additional information provided by the District, the normal time lines for issuing a decision will be followed.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

LEVEL THREE

If the outcome of the conference at Level Two is not to the employee's satisfaction or if the time for a response has expired, the employee may request to place the matter on the agenda of a future Board meeting. [See BE(LOCAL)] The request shall be in writing on a form or in the format provided by the District and must be filed within seven days following receipt of a written response or, if no written response is received, within seven days of the response deadline. [See DGBA(EXHIBIT)]

The Superintendent or designee shall inform the employee of the date, time, and place of the meeting.

The Superintendent or designee shall provide the Board with copies of the employee's original grievance, all responses, and any written documentation previously submitted by the employee and the administration. No new documentary evidence may be submitted at Level Three.

The presiding officer may set reasonable time limits. The Board shall hear the grievance and may request a response from the administration. The District shall make an audiotape record of the Level Three proceeding before the Board.

The Board shall then make and communicate 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.

CLOSED MEETING

If the grievance involves the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of the employee bringing the grievance, it may be heard by the Board in closed meeting unless the employee bringing the grievance requests that it be heard in public.

EXCEPTION

However, if the grievance involves a complaint or charge against another District employee or a Board member, it shall be heard in closed meeting unless an open meeting is requested in writing by the employee or Board member against whom the complaint or charge is brought.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

**EDUCATOR ETHICS** Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator’s code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

*Education Code 21.041(8); 19 TAC 247.1, 247.2*

**REPORT TO SBEC OF EDUCATOR MISCONDUCT** The Superintendent shall promptly notify SBEC in writing by filing a report with SBEC not later than the seventh day after the Superintendent first learns about a criminal record or an alleged incident of misconduct, as described at DF, involving a certified educator.

*Education Code 21.006; 19 TAC 249.14*

**PUBLIC SERVANTS** All District employees are “public servants” and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(41), Title VIII* [See DBD and BBFA]

**TOBACCO USE PROHIBITED** The Board shall prohibit smoking or using tobacco products at a school-related or school-sanctioned activity on or off school property.

**ENFORCEMENT** The Board shall ensure that District personnel enforce the policies on school property.

*Education Code 38.006(1)(3)* [See also FNCD and GKA]

**DRUG AND ALCOHOL ABUSE PROGRAM** 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)*

A district that receives a federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees of the requirements of the federal Drug-Free Workplace Act (DFWA) and requiring that each employee be given a copy of the statement [see DI(EXHIBIT)];
2. Establishing a drug-free awareness program for employees pursuant to the DFWA;

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

3. Notifying the granting agency within ten days after receiving notice that an employee has been convicted under a criminal drug statute;
4. Imposing a sanction on an employee who is convicted of such a violation; and
5. Making a good faith effort to continue to maintain a drug-free workplace.

*41 U.S.C. 702(a)(1); 49 CFR pt. 32*

A district that has 15 or more employees shall adopt a policy for elimination of drug abuse and must provide their employees with a copy of the policy on or before the first day of employment. Districts that comply with the DFWA must amend their policies to include alcoholic beverages. *28 TAC 169.1, 169.2*

DIETARY  
SUPPLEMENTS

Except as provided at Education Code 38.011(b), a District employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

*Education Code 38.011*

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

All District employees shall perform their duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]

All District employees 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]

VIOLATIONS OF  
STANDARDS OF  
CONDUCT

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]

SAFETY  
REQUIREMENTS

All employees shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

HARASSMENT OR  
ABUSE

Employees shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect]

While acting in the course of their employment, employees shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

RELATIONSHIPS WITH  
STUDENTS

Employees shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

TOBACCO USE

Employees shall not use tobacco products on District premises, in District vehicles, or at school or school-related activities. [See also GKA]

ALCOHOL AND DRUGS

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:

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

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)]

A copy of this policy, a purpose of which is to eliminate drug abuse from the workplace, shall be provided to each employee at the beginning of each year or upon employment.

ARRESTS,  
INDICTMENTS,  
CONVICTIONS, AND  
OTHER  
ADJUDICATIONS

An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:

1. Crimes involving school property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or
4. Crimes involving moral turpitude, which include:
  - Dishonesty; fraud; deceit; theft; misrepresentation;
  - Deliberate violence;
  - Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

- 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;
- Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct, if any two or more acts are committed within any 12-month period; or
- 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.



CODE OF ETHICS AND STANDARD PRACTICES  
FOR TEXAS EDUCATORS

The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community.

1. Professional Ethical Conduct, Practices, and Performance.

Standard 1.1. The educator shall not knowingly engage in deceptive practices regarding official policies of the school district or educational institution.

Standard 1.2. The educator shall not knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.

Standard 1.3. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

Standard 1.4. The educator shall not use institutional or professional privileges for personal or partisan advantage.

Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents, or other persons or organizations in recognition or appreciation of service.

Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.

Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other applicable state and federal laws.

Standard 1.8. The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

2. Ethical Conduct Toward Professional Colleagues.

Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.

Standard 2.2. The educator shall not harm others by knowingly making false statements about a colleague or the school system.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(EXHIBIT)

Standard 2.3. The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.

Standard 2.4. The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.

Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, sex, disability, or family status.

Standard 2.6. The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.

Standard 2.7. The educator shall not retaliate against any individual who has filed a complaint with the SBEC under this chapter.

3. Ethical Conduct Toward Students.

Standard 3.1. The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.

Standard 3.2. The educator shall not knowingly treat a student in a manner that adversely affects the student's learning, physical health, mental health, or safety.

Standard 3.3. The educator shall not deliberately or knowingly misrepresent facts regarding a student.

Standard 3.4. The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, sex, disability, national origin, religion, or family status.

Standard 3.5. The educator shall not engage in physical mistreatment of a student.

Standard 3.6. The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student.

Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any student or knowingly allow any student to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

*19 TAC 247.2*

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LEGAL)

SEARCHES—  
GENERAL RULE

Citizens, including District employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Fourth Amendment; Tex. Const. Art. I, Sec. 9*

The District may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

*O'Connor v. Ortega, 480 U.S. 709 (1987); New Jersey v. T.L.O., 469 U.S. 325 (1985)*

In addition, the District may search an employee's workplace for noninvestigatory, work-related purposes, or if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega, 480 U.S. 709 (1987)*

DRUG / ALCOHOL  
TESTING

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n, 489 U.S. 602 (1989)*

RANDOM DRUG  
TESTING

The District may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n, 489 U.S. 602 (1989); National Treasury Employees Union v. Von Raab, 489 U.S. 656 (1989)*

SAFETY-  
SENSITIVE  
POSITIONS

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and the Board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. *Aubrey v. School Board of LaFayette Parish, 148 F.3d 559 (5th Cir. 1998)*

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**Note:** The following testing requirements apply to every employee of the District who operates a commercial motor vehicle and is subject to commercial driver's license requirements in accordance with federal regulations.

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EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LEGAL)

TESTING OF DRIVERS	<p>The District shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation. <i>49 U.S.C. 2717; 49 CFR Part 382</i></p>
COMMERCIAL MOTOR VEHICLE DEFINED	<p>A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:</p> <ol style="list-style-type: none"><li>1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or</li><li>2. Has a gross vehicle weight rating of 26,001 or more pounds; or</li><li>3. Is designed to transport 16 or more passengers, including the driver.</li></ol> <p><i>49 CFR 382.107</i></p>
TESTING PROCEDURES	<p>The District shall ensure that all alcohol or controlled substances testing conducted under 49 CFR Part 382 complies with the procedures set forth in 49 CFR Part 40. <i>49 CFR 382.105</i></p>
TESTS REQUIRED	<p>Required testing includes pre-employment, postaccident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a postaccident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test. The District shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions. <i>49 CFR 382.211, 382.309</i></p>
EDUCATIONAL MATERIALS	<p>The District shall provide educational materials that explain the federal requirements and the District's policies and procedures with respect to meeting these requirements and shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall include detailed discussion of at least the items listed at 49 CFR 382.601. <i>49 CFR 382.601</i></p>
REPORTS	<p>A district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following information to the Department of Public Safety:</p>

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LEGAL)

1. A valid positive result on an alcohol or drug test.  
“Valid positive result” means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 CFR 40.87 on a confirmation drug test.
2. A refusal to provide a specimen for an alcohol or drug test.
3. An adulterated specimen, diluted specimen, or substituted specimen, as defined at 49 CFR 40.3, on an alcohol or drug test.

For purposes of this requirement, the term “employee” includes applicants for employment subject to preemployment testing.

*Trans. Code 644.251–.252*

EMPLOYEE STANDARDS OF CONDUCT:  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LOCAL)

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CONTROLLED  
SUBSTANCES (ALL  
EMPLOYEES)

The District shall provide an alcohol and drug-free workplace for the purpose of establishing a work environment that is legal and safe for all employees, students, and patrons.

Employees of the District shall be prohibited from the following activity or conduct while in or on the workplace:

1. Using, possessing, manufacturing, dispensing, distributing, or being under the influence of alcohol or alcoholic beverages, prohibited drugs, or narcotics; or
2. Testing positive on a drug test. A refusal to test or inability to test shall be deemed a positive test result.

"Workplace" is defined to mean the site for performance of work done in connection with all assignments or duties of a person's employment with the District. This includes any school building or any school premises; any school-owned vehicle or any other school-approved vehicle used to transport students to and from school or school activities; off school property during any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event where students are under the jurisdiction of the school district.

For the purposes of this policy a prohibited drug or narcotic includes, but is not limited to, the following; narcotic drugs, hallucinogenic drugs, amphetamines, barbiturates, marijuana, and inhalants. A prohibited drug or narcotic shall not include any substance prescribed by a licensed physician in the course of medical treatment.

As a condition of employment, each employee shall notify his or her supervisor of his or her conviction of any criminal drug statute for a violation occurring in the workplace as defined above, or for any charge to which the employee enters a plea of guilty or nolo contendere and received deferred adjudication. Such notification shall be provided no later than five days after such conviction.  
[See DI(EXHIBIT)]

REASONABLE  
SUSPICION  
SEARCHES

The District reserves the right to conduct searches when the District has reasonable cause to believe that a search will uncover evidence of work-related misconduct. The District may search the employee, the employee's personal items, work areas, lockers, and private vehicles parked on District premises or worksites or used in District business.

DEPARTMENT OF  
TRANSPORTATION  
(DOT) TESTING  
PROGRAM

The District shall establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by the drivers of commercial motor vehicles, including school buses. The primary purpose of the testing program is to prevent impaired employees from performing safety-sensitive functions.

The following conduct constitutes violation of District policy:

1. Refusing to submit to a required test for alcohol or controlled substances.
2. Testing positive for alcohol, at a concentration of 0.04 or above, in a postaccident test.
3. Testing positive for controlled substances in a postaccident test.
4. Testing positive for alcohol, at a concentration of 0.04 or above, in a random test.
5. Testing positive for controlled substances in a random test.
6. Testing positive for alcohol, at a concentration of 0.04 or above, in a required follow-up test.
7. Testing positive for controlled substances in a required follow-up test.
8. Testing positive for alcohol, at a concentration of 0.04 or above, in a reasonable suspicion test.
9. Testing positive for controlled substances in a reasonable suspicion test.

A test is considered positive whether the employee knowingly or unknowingly used, ingested, or inhaled alcohol and/or a controlled substance.

The Superintendent shall designate a District official who shall be responsible for ensuring that information is disseminated to employees regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

#### CONSORTIUM

With specific Board approval, the Superintendent may contract on behalf of the District with outside consultants and contractors and work with a consortium of other local governments to secure the testing services, educational materials, and other component elements needed for this program.

Under such contract, the consortium shall be responsible for implementing, directing, administering, and managing the alcohol and controlled substances program within the U.S. Department of Transportation guidelines. The consortium shall serve as the principal contact with the laboratory and for collection activities in assuring the effective operation of the testing portion of the program.

Substance use/abuse testing shall consist of urine testing for five illegal substances as defined by the National Institute on Drug Abuse (NIDA). These illegal substances include marijuana, cocaine, amphetamines, opiates, and phencyclidine (PCP).

Collection of urine specimens shall follow the protocol established by the Department of Transportation (DOT). Split sampling is required. A split sample is defined as a specimen taken where a portion is retained and sealed separately so that in the event the first confirmation test is positive, the retained portion may be assayed by an independent confirmation test at a secondary laboratory.

#### REASONABLE SUSPICION TESTING

Only supervisors specifically trained in accordance with federal regulations [see DHE preceding] may, based upon reasonable suspicion, remove a driver from a safety-sensitive position and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of the appearance, behavior, speech, or body odors of the driver whose motor ability, emotional equilibrium, or mental acuity seems to be impaired. Such observations must take place just preceding, during, or just after the period of the workday that the driver is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a



controlled substance reasonable suspicion test.

**CONSEQUENCES  
OF POSITIVE  
TEST RESULTS**

In addition to the consequences established by federal law, a District employee confirmed to have violated the District's policy pertaining to alcohol or controlled substances shall be subject to District-imposed discipline, as determined by his or her supervisor(s) and the Superintendent. Such discipline may include any appropriate action from suspension without pay during the period of removal from safety-sensitive functions, up to and including termination of employment. [See DF series] Employees who test positive for drugs and/or alcohol use shall be prohibited from performing job functions immediately and shall be recommended for termination.

In cases where a driver is also employed in a nondriving capacity by the District, disciplinary action imposed for violation of alcohol and controlled substances policies shall apply to the employee's functions and duties that involve driving. Additionally, upon recommendation of the employee's supervisor, disciplinary measures up to and including termination of employment with the District may be considered.

**CONSEQUENCES  
OF EMPLOYEE  
REFUSAL TO TEST**

Any employee who refuses to submit to an alcohol/drug test without valid medical reason will be prohibited from performing job functions immediately and will be recommended for termination.

An employee who does not produce an adequate sample (urine or breath) without a valid medical reason or an employee who engages in conduct that obstructs the collection process will be prohibited from performing job functions immediately and will be recommended for termination.

An employee who leaves the scene of an accident without a valid reason will be prohibited from performing job functions immediately and will be recommended for termination.

**ALCOHOL  
RESULTS  
BETWEEN 0.02  
AND 0.04**

A driver tested under this policy and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall be suspended without pay from driving duties for 24 hours. Subsequent violation may subject the driver to termination in accordance with Board policy.

**DWI CONVICTION**

School bus drivers and drivers of District vehicles who are convicted of a driving while intoxicated (DWI) offense while driving a District vehicle shall be terminated. Other DWI convictions shall subject employees to disciplinary action up to and including termination. This applies to conviction as a result of operating either a District or personal vehicle.

FINDING OF  
ALCOHOL OR  
DRUG USE

Employees who are found to be in violation of the District's drug-free workplace requirements as set forth in DI(EXHIBIT) shall be recommended for termination, provided that such action is not required for an employee who voluntarily admits to alcohol use or illegal drug use prior to the initiation of any drug or alcohol test (except that in the case of an alcohol/drug-related accident, the self-referral must occur prior to the accident) and obtains counseling or rehabilitation and thereafter refrains from using alcohol or illegal drugs.

POSTACCIDENT TESTING

This table depicts the circumstances under which an employer is required to perform a postaccident alcohol or controlled substances test, in accordance with 49 CFR 382.303(a).

Types of accidents involved	Citation issued to the CMV driver	Test must be performed by the employer
Human fatality	YES	YES
	NO	YES
Bodily injury with immediate medical treatment away from the scene	YES	YES
	NO	NO
Disabling damage to any motor vehicle requiring tow away	YES	YES
	NO	NO

EMPLOYEE WELFARE

DI  
(LEGAL)

HAZARD COMMUNICATION ACT	The District shall perform the following duties in compliance with the Hazard Communication Act:
NOTICE	1. Post and maintain the notice promulgated by the Texas Department of State Health Services (TDSHS) in the workplace. <i>Health and Safety Code 502.017(a)</i>
EDUCATION AND TRAINING	2. Provide an education and training program for employees using or handling hazardous chemicals. "Employee" means any person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. <i>Health and Safety Code 502.003(10), 502.009</i>  3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records shall be maintained for at least five years. <i>Health and Safety Code 502.009(g)</i>
WORKPLACE CHEMICAL LIST	4. Compile and maintain a work-place chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the TDSHS for certain highly toxic or dangerous hazardous chemicals. The list shall be readily available to employees and their representatives. <i>Health and Safety Code 502.005(a), (c)</i>  5. Update the list as necessary, but at least by December 31 each year, and maintain at least 30 years. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. <i>Health and Safety Code 502.005(b), (d)</i>
LABELING	6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled. <i>Health and Safety Code 502.007</i>
MATERIAL SAFETY DATA SHEETS	7. Maintain a legible copy of the most current manufacturer's material safety data sheets (MSDS) for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current MSDS; make such sheets readily available to employees or their representatives on request. <i>Health and Safety Code 502.006</i>

EMPLOYEE WELFARE

DI  
(LEGAL)

PROTECTIVE  
EQUIPMENT  
  
PEST CONTROL  
TREATMENT NOTICE

8. Provide employees with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

The chief administrator or building manager shall notify persons who work in a District building or facility of a planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.
2. Providing the official Structural Pest Control Board Consumer Information Sheet to any individual working in the building, on request.

*Occupations Code 1951.455; 22 TAC 595.7*

### DRUG-FREE WORKPLACE REQUIREMENTS

The District prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, and alcohol in the workplace. *41 U.S.C. 702(a)(1)(A); 28 TAC 169.2*

The District shall establish a drug-free awareness program to inform employees about the dangers of drug abuse in the workplace, the District's policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance abuse programs, and the penalties that may be imposed upon employees for drug abuse violations. *41 U.S.C. 702(a)(1)(B); 28 TAC 169.2*

Employees who violate this prohibition shall be subject to disciplinary sanctions. Such sanctions may include referral to drug and alcohol counseling or rehabilitation programs or employee assistance programs, termination from employment with the District, and referral to appropriate law enforcement officials for prosecution. [See policies at DH and DHE] *41 U.S.C. 702(a)(1)(A); 28 TAC 169.2*

Compliance with these requirements and prohibitions is mandatory and is a condition of employment. As a further condition of employment, an employee shall notify the Superintendent of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction. Within ten days of receiving such notice—from the employee or any other source—the District shall notify the granting agency of the conviction. *41 U.S.C. 702(a)(1)(D), (E)*

Within 30 calendar days of receiving notice from an employee of a conviction for any drug statute violation occurring in the workplace, the District shall either (1) take appropriate personnel action against the employee, up to and including termination of employment, or (2) require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a federal, state, or local health agency, law enforcement agency, or other appropriate agency. *41 U.S.C. 703*

[This notice complies with notice requirements imposed by the federal Drug-Free Workplace Act (*41 U.S.C. 702*) and notice requirements imposed by the Texas Workers' Compensation Commission rules at 28 TAC 169.2]

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**Note:** This policy addresses harassment of District employees. For harassment of students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

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OFFICIAL  
OPPRESSION

A public official commits a Class A misdemeanor if, while acting in his or her official or employment capacity, the official intentionally subjects another to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. *Penal Code 39.03(a)*

HARASSMENT OF  
EMPLOYEES

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. The District has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 CFR 1606.8(a), 1604.11*

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)*

HOSTILE  
ENVIRONMENT

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

*Pennsylvania State Police v. Suders, 542 U.S. 129 (2004); Nat'l Railroad Passenger Corp. v. Morgan, 536 U.S. 101 (2002); Meritor Savings Bank v. Vinson, 477 U.S. 57 (1986); 29 CFR 1604.11, 1606.8*

QUID PRO QUO

Conduct of a sexual nature also constitutes harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or

2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

*29 CFR 1604.11(a)*

SAME-SEX SEXUAL HARASSMENT	Same-sex sexual harassment constitutes sexual harassment. <u><i>Oncale v. Sundowner Offshore Services, Inc., 523 U.S. 75 (1998)</i></u>
HARASSMENT POLICY	The District should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. <i>29 CFR 1604.11(f)</i>
CORRECTIVE ACTION	The District is responsible for acts of unlawful harassment by fellow employees and by nonemployees if the District, its agents, or its supervisory employees knew or should have known of the conduct, unless the District takes immediate and appropriate corrective action. <i>29 CFR 1604.11(d), (e), 1606.8(d), (e)</i>  When no tangible employment action is taken, the District may raise the following affirmative defense: <ol style="list-style-type: none"><li>1. That the District exercised reasonable care to prevent and promptly correct any harassing behavior; and</li><li>2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.</li></ol> <u><i>Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998); Faragher v. City of Boca Raton, 524 U.S. 775, (1998)</i></u>



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**Note:** This policy addresses harassment of District employees. For harassment of students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

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The District prohibits sexual harassment and harassment based on a person's race, color, gender, national origin, disability, religion, or age.

Employees shall not tolerate harassment of others and shall make reports as required at reporting procedures, below.

SEXUAL  
HARASSMENT

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

1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

EXAMPLES

Examples of sexual harassment may include, but are not limited to, sexual advances; touching intimate body parts; coercing or forcing a sexual act on another; jokes or conversations of a sexual nature; and other sexually motivated conduct, communication, or contact.

OTHER PROHIBITED  
HARASSMENT

Harassment of a District employee on the basis of the employee's race, color, gender, national origin, disability, religion, or age includes physical, verbal, or nonverbal conduct related to these characteristics when the conduct is so severe, persistent, or pervasive that the conduct:

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

EXAMPLES

Examples of prohibited harassment may include, but are not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for workplace accommodation; threatening or intimidating conduct;

EMPLOYEE WELFARE  
FREEDOM FROM HARASSMENT

DIA  
(LOCAL)

offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other types of aggressive conduct such as theft or damage to property.

REPORTING  
PROCEDURES

An employee who believes that he or she has experienced prohibited harassment should immediately report the alleged acts to an appropriate person designated below.

Any District employee with supervisory authority who receives notice that another employee has or may have experienced prohibited harassment is required to immediately report the alleged acts and take whatever other steps are required by this policy.

Any other person who knows or believes that a District employee has experienced harassment should immediately report the alleged acts to the appropriate person designated by this policy.

TIMELY REPORTING

Reports of harassment shall be made as soon as possible after the alleged acts. A failure to promptly report alleged harassment may impair the District's ability to investigate and address the harassment.

A District employee may report harassment to his or her supervisor or campus principal. A person shall not be required to report harassment to the alleged harasser; nothing in this policy prevents a person from reporting harassment directly to one of the District officials below:

DISTRICT  
OFFICIALS

1. For sexual harassment, the Title IX coordinator. [See DAA(LOCAL)]

2. For all other prohibited harassment, the Superintendent.

A report against the Title IX coordinator may be made directly to the Superintendent; a report against the Superintendent may be made directly to the Board.

NOTIFICATION OF  
REPORT

Upon receipt of a report of harassment, a supervisor or principal shall immediately notify the appropriate District official listed above.

CONFIDENTIALITY

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

INVESTIGATION OF  
THE REPORT

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

Upon receipt or notification of a report, the District official shall determine whether the allegations, if proven, would constitute sexual harassment or other prohibited harassment as defined by District policy. If so, the District official shall immediately authorize or undertake an investigation.

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

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

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

The District's obligation to conduct an investigation is not satisfied by the fact that a criminal or regulatory investigation regarding the same or similar allegations is pending.

CONCLUDING THE  
INVESTIGATION

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

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

DISTRICT ACTION

If the results of an investigation indicate that prohibited harassment occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the harassment.

The District may take disciplinary action based on the results of an investigation, even if the District concludes that the conduct did not rise to the level of harassment prohibited by law or District policy.

APPEAL

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

The complainant shall be informed of his or her right to file a complaint with the Texas Workforce Commission Civil Rights Division,

the Equal Employment Opportunity Commission, or the United States Department of Education Office for Civil Rights.

RETALIATION  
PROHIBITED

Retaliation against an employee alleged to have experienced harassment, a witness, or another person who makes a report or participates in an investigation is strictly prohibited. A person who makes a good faith report of prohibited harassment shall not suffer retaliation for making the report. A person who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding prohibited harassment is subject to appropriate discipline.

RECORDS RETENTION

Retention of records shall be in accordance with DAA(LOCAL).

ACCESS TO POLICY

This policy shall be distributed annually to District employees. Copies of the policy shall be readily available at each campus and the District administrative offices.

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

ASSIGNMENT	<p>The District may not employ a person as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, or counselor unless the person holds an appropriate certificate or permit. In addition, a public school employee must have the appropriate credentials, as set forth by the State Board for Educator Certification, for his or her current assignment, unless the appropriate permit has been issued. <i>Education Code 21.003; 19 TAC 230.601</i> [See DBA]</p>
EMERGENCY PERMITS	<p>A superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position may activate an emergency permit for an individual who does not have one of the appropriate credentials for the assignment.</p>
TEMPORARY VACANCIES	<p>The District is not required to activate an emergency permit if an uncertified individual is assigned for a certified teacher who will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. The District must, however, comply with the parent notification requirements below.</p> <p><i>19 TAC 230.501(b), (g)</i></p>
CURRENT EMPLOYEES	<p>A degreed, certified teacher employed in the previous year or semester in an assignment for which he or she was fully certified may not be assigned to a position that requires activating an emergency permit unless:</p> <ol style="list-style-type: none"><li>1. The teacher has given written consent to the activation of the permit; or</li><li>2. Because of fluctuations in enrollment or changes in course offerings, the teacher's previous assignment no longer exists and no alternative assignment for which the teacher is fully certified is available on that campus. If a permit is activated for a teacher under these circumstances, the teacher shall be offered the opportunity to return to his or her previous assignment or an alternative assignment for which the teacher is fully certified on that campus as soon as such an assignment is available. If a teacher accepts the assignment, the actual transfer of duties shall occur not later than the beginning of the next academic year.</li></ol> <p>If an emergency permit is activated for a temporary staffing condition within 30 days of the opening of the school year or later during the contract year, the teacher is exempt from the requirement to complete additional coursework or examination requirements for certification for the remainder of the contract year for which the permit is activated. This exemption is not renewable, and a</p>

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

teacher continuing on an emergency permit for a second year must meet the full requirements of an emergency permit.

A teacher who refuses to consent to activation of an emergency permit may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the permit. However, a teacher's refusal to consent shall not impair the District's right to implement a necessary reduction in force or other personnel actions in accordance with local District policy.

*19 TAC 230.501(c)*

PRINCIPAL'S  
APPROVAL

The principal of a campus shall approve all teacher and staff appointments for the campus from a pool of applicants selected by the District or of applicants who meet the hiring requirements established by the District, based on criteria developed by the principal after informal consultation with the faculty. The Superintendent or designee has final placement authority for a teacher transferred because of enrollment shifts or program changes. *Education Code 11.202; Atty. Gen. Op. DM-27 (1991)*

TRANSFERS

The District's employment policy may include a provision for providing each current District employee with an opportunity to participate in a process for transferring to another school in or position with the District. *Education Code 11.163(c)*

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**Note:** In accordance with Education Code 21.057, the following notice requirements do not apply if a school is required by the No Child Left Behind Act of 2001 to provide notice to a parent or guardian regarding a teacher who is not highly qualified, provided the school gives notice as required by that Act. [See DBA]

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PARENT  
NOTIFICATION

If the District assigns an inappropriately certified or uncertified teacher (as defined below) to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom.

The Superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. The District shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. The District shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

INAPPROPRIATELY  
CERTIFIED OR  
UNCERTIFIED  
TEACHER

An "inappropriately certified or uncertified teacher" includes an individual serving on an emergency certificate or an individual who does not hold any certificate or permit. It does not include an individual who is:

1. Certified and assigned to teach a class or classes outside his or her area of certification, as determined by SBEC rules;
2. Serving on a certificate issued due to a hearing impairment;
3. Serving on a certificate issued pursuant to enrollment in an approved alternative certification program;
4. Certified by another state or country and serving on a certificate issued under Education Code 21.052;
5. Serving on a school district teaching permit; or
6. Employed under a waiver granted by the Commissioner.

*Education Code 21.057; 19 TAC 230.601*

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 reassignment of a contractual employee involving a change in pay shall require Board approval.

REQUESTED  
REASSIGNMENT

Any employee may request reassignment within the District to another position for which he or she is qualified. Generally, requests for reassignment shall be discussed with the principal or immediate supervisor and then submitted in writing to the Superintendent for consideration.

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.

ASSIGNMENT OF  
RELATED EMPLOYEES

To avoid conflicts that might arise when spouses or other relatives work on the same campus or in the same District department, the District reserves the right to restrict such employment.

Employees shall not be assigned to positions having a direct line of supervision, or the responsibility for the appraisal, of any relative as defined below. In addition, efforts shall be made to avoid assigning an employee to the same campus or to the same central office department where a relative has been assigned. Individuals related to other District employees are subject to reassignment for any reason applicable to other employees, as well as for special problems that may be associated with their familial relationship to another employee.

For the purposes of assignments, "relative" is defined as:

1. Spouse
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a step child, a legal ward, or a child for whom the employee stands *in loco parentis*
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee
4. Sibling, stepsibling, sibling-in-law



ASSIGNMENT AND SCHEDULES

DK  
(LOCAL)

5. Grandparent and grandchild
6. Aunt, uncle, and first cousin
7. Any person who may be residing in the employee's household at the time of employment

SUPPLEMENTAL  
DUTIES

The Superintendent or designee may assign supplemental duties to exempt personnel, as needed. The employee shall be compensated for these assignments according to the supplemental duty pay schedule established by the Superintendent or designee and in accordance with the requirements of the Fair Labor Standards Act as it applies to nonexempt employees. 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.

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.

WORK LOAD

DL  
(LEGAL)

PLANNING AND  
PREPARATION

Each classroom teacher is entitled to at least 450 minutes within each two-week period for instructional preparation including parent-teacher conferences, evaluating students' homework, and planning. A planning and preparation period may not be less than 45 minutes within the instructional day. During that time, a teacher may not be required to participate in any other activity. *Education Code 21.404*

DUTY-FREE LUNCH

Each classroom teacher or full-time librarian is entitled to at least a 30-minute lunch period free from all duties and responsibilities connected with the instruction and supervision of students. *Education Code 21.405*

EXCEPTION

If necessary because of a personnel shortage, extreme economic conditions, or unavoidable or unforeseen circumstances, and in accordance with commissioner rules, the District may require a classroom teacher or librarian to supervise students during lunch no more than one day in any school week. *Education Code 21.405*

In determining whether an exceptional circumstance exists, the District shall use the following guidelines:

1. A personnel shortage exists when, despite reasonable efforts to use nonteaching personnel or the assistance of community volunteers to supervise students during lunch, no other personnel are available.
2. Extreme economic conditions exist when the percentage of a local tax increase, including the cost of implementing duty-free lunch requirements, would place the District in jeopardy of a potential roll-back election.
3. Unavoidable or unforeseen circumstances exist when, because of illness, epidemic, or natural or man-made disaster, the District is unable to find individuals to supervise students during lunch.

*19 TAC 153.1001*

WORK LOAD  
REQUIRED PLANS AND REPORTS

DLB  
(LEGAL)

RESTRICTIONS ON  
WRITTEN REPORTS

The Board shall limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare.

A classroom teacher may not be required to prepare any written information other than:

1. Any report concerning the health, safety, or welfare of a student;
2. A report of a student's grade on an assignment or examination;
3. A report of a student's academic progress in a class or course;
4. A report of a student's grades at the end of each grade reporting period;
5. A textbook report;
6. A unit or weekly lesson plan that outlines, in a brief and general manner, the information to be presented during each period at the secondary level or in each subject or topic at the elementary level;
7. An attendance report;
8. Any report required for accreditation review;
9. Any information required by the District that relates to a complaint, grievance, or actual or potential litigation and that requires the classroom teacher's involvement; or
10. Any information specifically required by law, rule, or regulation.

The District may collect essential information, in addition to the information specified above, from a classroom teacher on agreement between the classroom teacher and the District.

PAPERWORK REVIEW

The Board shall review paperwork requirements imposed on classroom teachers and transfer to existing noninstructional staff a reporting task that can reasonably be accomplished by that staff. [See BAA]

*Education Code 11.164*

The Commissioner of Education may authorize special accreditation investigations in response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers. *Education Code 39.075(b-1)*

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WORK LOAD  
REQUIRED PLANS AND REPORTS

DLB  
(LOCAL)

RESTRICTIONS ON  
WRITTEN REPORTS

Annually upon the Board's request, the Superintendent shall report to the Board on efforts to minimize teacher paperwork and on the number and length of written reports that teachers are required to prepare.

The District shall encourage staff development of skills needed by employees through the provision of training opportunities.

The District shall balance the importance and cost of staff development with the objectives of retaining staff trained at District expense and minimizing the loss of trained staff.

The Superintendent shall develop administrative regulations as needed to ensure the implementation of this policy.

DEFINITIONS

For the purposes of this policy:

1. "Employee" shall be defined to include all paraprofessional and auxiliary employees of the District.
2. "Training" shall be defined to exclude any training provided by the District staff as well as any training provided by other persons or by other means for which no identifiable charge is made to the District.
3. "Reimbursable training" shall be defined to include, but without limitation, access to any training resource, material, course, or activity, for which an identifiable charge is made to the District, and some or all of which charge is properly allocable to an employee's use of the training resource or material or participation in a training course or activity.
4. "Maximum reimbursement obligation" shall be defined to be two times the number of normal working days in one year for an employee.
5. "Training cost" shall be defined to include the costs of training resources, materials, courses, or activities, including but without limitation the cost of travel, mileage reimbursement, lodging, and per diem.
6. A day of formal in-District training shall be defined as a structured delivery of instruction to two or more employees in a classroom-like environment for a scheduled time period using a planned written curriculum (e.g., written lesson plans).

TRAINING SPECIFICS

Reimbursable training, when used, shall be provided in a cost-effective and economic manner, and directed toward remedying deficits in an employee's specific knowledge, improving skills needed to carry out the employee's job, or preparing the employee for additional responsibilities essential to the activities of the District.

REIMBURSABLE  
TRAINING ACTIVITIES

Reimbursable training activities may include, but without limitation, access to any training resource, material, course, or activity, for which an identifiable charge is made to the District, and some or all

PROFESSIONAL DEVELOPMENT

DM  
(LOCAL)

of which charge is properly allocable to an employee's use of the training resource or material or participation in a training course or activity.

TRAINING COST  
REIMBURSEMENT

The District shall provide reimbursable training to an employee only after the employee has agreed in writing to reimburse the District through continued employment for a number of working days that bears a reasonable relation to the charge that is properly allocable to an employee's participation in the reimbursable training.

If an employee is separated from employment with the District through no fault or action of the employee, the District shall waive and deem fully satisfied all obligations of the employee to the District incurred as a result of the provision of reimbursable training to the employee.

An employee may decline the reimbursable training offered. However, the skills provided by the training may be essential to continued employment or to possible advancement within the District.

TRAINING COST  
THRESHOLD FOR  
REIMBURSEMENT

The District shall not require execution of a reimbursement agreement by an employee unless the charge properly allocable to an employee's participation in reimbursable training exceeds \$300, the training cost threshold for requiring reimbursement.

In determining whether training cost reimbursement is required, the District shall aggregate the costs of all units of reimbursable training that have been or will be provided in accordance with a documented training plan for an employee.

ELEMENTS OF  
TRAINING COST

The District shall include in the training reimbursement cost the costs of training resources, materials, courses, or activities, including but without limitation the cost of travel, mileage, reimbursement, lodging, and per diem.

MAXIMUM  
REIMBURSEMENT  
OBLIGATION

For each unit of training, an employee's maximum reimbursement obligation is two times the number of normal working days in one year for the employee.

TRAIN THE TRAINER  
COST  
REIMBURSEMENT

When one of the objectives of providing training to an employee is to have the employee provide formal in-District training to other employees, then the reimbursement obligation shall be reduced at an accelerated rate.

For every one day of formal in-District training provided by the employee, one additional day shall be deducted from the employee's reimbursement period, in addition to the day earned for working.

RIGHT TO TERMINATE

Nothing contained in this policy constitutes or is intended to constitute any restriction upon the District's right to terminate an em-

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DM  
(LOCAL)

ployee at any time for any reason, without notice and/or requirement of cause.

PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

STAFF DEVELOPMENT	Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee [see BQB].
TRAINING SPECIFICS	The staff development provided by the District must be conducted in accordance with standards developed by the District and designed to improve education in the District.  The staff development may include: <ol style="list-style-type: none"><li data-bbox="431 644 1261 744">1. Training in technology, conflict resolution, and discipline strategies, including classroom management, District discipline policies, and the Student Code of Conduct;</li><li data-bbox="431 770 1285 871">2. Training that relates to instruction of students with disabilities and is designed for educators who work primarily outside the area of special education; and</li><li data-bbox="431 897 1299 998">3. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.</li></ol>
	<i>Education Code 21.451</i>
	The District may use District-wide staff development that has been developed and approved through the District-level decision process. <i>Education Code 21.452(c)</i>
SPECIAL PROGRAMS TRAINING	A district that receives assistance under Title I shall provide high-quality professional development that will improve the teaching of the academic subjects, consistent with the state content standards, to enable all children to meet the state's student performance standards; and shall meet the requirements of federal law. <i>20 U.S.C. 6320(a), 7801(34)</i>
TITLE I STAFF DEVELOPMENT	
GIFTED AND TALENTED EDUCATION	The District shall ensure that: <ol style="list-style-type: none"><li data-bbox="431 1491 1299 1701">1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.</li><li data-bbox="431 1727 1299 1828">2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.</li><li data-bbox="431 1854 1299 1954">3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.</li></ol>



PROFESSIONAL DEVELOPMENT  
REQUIRED STAFF DEVELOPMENT

DMA  
(LEGAL)

4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

*19 TAC 89.2*

ADULT EDUCATION	All adult education staff shall receive at least 12 clock hours of professional development annually. All staff new to adult education shall receive six clock hours of preservice professional development before they begin work in an adult education program. <i>19 TAC 89.25(a)(1), (2)</i>  Directors, teachers, counselors, and supervisors who do not have valid Texas teacher certification must attend 12 clock hours of in-service professional development annually in addition to the 12 hours required above until they have completed either six clock hours of adult education college credit or attained two years of adult education experience. <i>19 TAC 89.25(a)(4)(B)</i>
EXCEPTIONS	The in-service professional development requirements may be reduced by local programs in individual cases where exceptional circumstances prevent employees from completing the required hours of in-service professional development. Documentation justifying such circumstances must be kept. Requests for exemption in individual cases may be submitted to TEA for approval in the application for funding and must include justification and proposed qualification. <i>19 TAC 89.25(a)(5)</i>
VOLUNTEERS	The above requirements also apply to volunteers who generate student contact time that is accrued by the adult education program and reported to TEA for funding purposes. <i>19 TAC 89.25(7)</i>
RECORDS	Records of staff qualifications and professional development shall be maintained by the District and must be available for monitoring. <i>19 TAC 89.25(a)(6)</i>
RESOURCES FOR STAFF DEVELOPMENT	If the District receives resources from the Commissioner's staff development account, it must pay to the Commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the District. <i>Education Code 21.453</i>

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PROFESSIONAL DEVELOPMENT  
PROFESSIONAL MEETINGS AND VISITATIONS

DMD  
(LEGAL)

District employees may be permitted to attend meetings of professional organizations during a work day, with pay, if a direct school-related purpose will be accomplished. Such release time shall not be granted if the meetings are primarily to pursue the business of the organization. *Atty. Gen. Op. MW-89 (1979)*

PROFESSIONAL DEVELOPMENT  
PROFESSIONAL MEETINGS AND VISITATIONS

DMD  
(LOCAL)

MEETINGS,  
CONFERENCES, AND  
WORKSHOPS

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

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

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

RELEASE TIME

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

EMPLOYEE  
RESEARCH

The following guidelines shall apply for any employee who, during the course of employment with the District, engages in any professional research, development, or publication of educational materials.

If an employee of the District during any term of employment with the District, plans to use any time during the normal workday to work on any type of research project, invention, discovery, process, or other development, or will be using facilities or materials belonging to the District in such project, the employee shall seek written permission from the District before commencing work. This provision applies to any literary, musical, dramatic, choreographic, audio-visual, or software and multimedia project; or any invention, discovery, process, or other development. [See also CQ(LOCAL)]

In the event that such invention, discovery, process, or other development is made without the prior permission of the District, the employee shall promptly furnish the District with details of such invention, discovery, process, or development and shall obtain the written permission of the District before making any application to patent or copyright the same.

All inventions, discoveries, processes, or other developments that result from work done by the employee pursuant to permission obtained as specified above, shall be the property of the employee, subject to the perpetual right of the District to use the same royalty-free including upgrades; such license to be nonassignable.

Further, all literary, musical, dramatic, artistic, choreographic, audio-visual or software and multimedia works produced by the employee pursuant to permission obtained under this this policy shall be the property of the employee subject to the perpetual right of the District to distribute, exhibit, display, publicly perform or otherwise use the same including upgrades, royalty-free and without infringement of any patent or copyright, such license to be nonassignable.

In the event an employee shall ever market:

1. Any invention, discovery, process, development, or
2. Any literary, musical, dramatic, artistic, choreographic, audio-visual, software and multimedia work that results from work done pursuant to a permission obtained under this policy as described above, the employee shall reimburse the District for all expenses the employee has incurred in connection with whatever the employee markets or attempts to market. Such expenses shall include, but not by way of exclusion, the use

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PROFESSIONAL DEVELOPMENT  
RESEARCH AND PUBLICATION

DME  
(LOCAL)

of the District's machines, buildings, equipment, personnel,  
and time.

DISTRICT RESEARCH      In the event the District requests an employee to develop materials, do research, or engage in any of the activities described above, then the District reserves the right to make application for any copyright or patent in the name of the District and to benefit from any royalties therefrom.

PERFORMANCE APPRAISAL

DN  
(LOCAL)

- GENERAL PRINCIPLES All District employees shall be periodically appraised in the performance of their duties. The District's employee evaluation and appraisal system shall be administered consistent with the general principles set out below.
- CRITERIA The employee's performance of assigned duties and other job-related criteria shall provide the basis for the employee's evaluation and appraisal. Employees shall be informed of the criteria on which they will be evaluated.
- PERFORMANCE REVIEW Evaluation and appraisal ratings shall be based on the evaluation instrument and cumulative performance data gathered by supervisors throughout the year. Each employee shall have at least one evaluative conference annually, except as otherwise provided by policy, to discuss the written evaluation and may have as many conferences about performance of duties as the supervisor deems necessary. [See also DNA and DNB]
- DOCUMENTATION AND RECORDS Appraisal records and forms, reports, correspondence, and memoranda may be placed in each employee's personnel records to document performance.
- EMPLOYEE COPY All employees shall receive a copy of their annual written evaluation.
- COMPLAINTS Employees may present complaints regarding the evaluation and appraisal process in accordance with the District's complaint policy for employees. [See DGBA]

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LEGAL)

FREQUENCY Except as provided below, each teacher must be appraised at least once during each school year. *Education Code 21.203, 21.352(c); 19 TAC 150.1003(a)*

EXCEPTION A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years. *Education Code 21.352(c)*

For purposes of the Professional Development and Appraisal System (PDAS), an area of deficiency is a domain. A teacher must be rated as at least proficient for each domain (that is, for all domains) to be eligible for less frequent appraisals.

District policy may stipulate:

1. Whether the appraisal option is to be made available to all teachers;
2. Whether the appraisal option is to be adopted Districtwide or is to be campus specific;
3. If the appraisal accompanying a teacher new to the District or campus meets the option, whether the appraisal is to be accepted or whether that teacher is to be appraised by the new campus administrator; and
4. Whether an appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented by cumulative data, including third-party information.

The District may choose annually to review the written agreement with the teacher. However, at the end of the school year, the District may modify appraisal options through Board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous years.

*19 TAC 150.1003(l)*

ROLE OF  
EXTRACURRICULAR  
ACTIVITIES

A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the basis of classroom teaching performance and not on performance in connection with extracurricular activities. *Education Code 21.353*

ACCESS TO  
EVALUATIONS

The District shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.

Each teacher is entitled to receive a written copy of the evaluation on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.

*Education Code 21.352(c)*

CONFIDENTIALITY	A document evaluating the performance of a teacher is confidential. <i>Education Code 21.355</i>
CHOICE OF APPRAISAL METHOD	<p>The District shall use one of the following methods to appraise teachers:</p> <ol style="list-style-type: none"><li>1. The appraisal process and performance criteria developed by the Commissioner [see STATE METHOD, below]; or</li><li>2. A locally developed appraisal process and performance criteria [see DISTRICT OPTION and CAMPUS OPTION, below].</li></ol> <p><i>Education Code 21.352(a); 19 TAC 150.1001(a)</i></p>
SELECTION OF APPRAISAL METHOD	<p>The Superintendent, with the approval of the Board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher-appraisal system must follow the requirements set forth below at DISTRICT OPTION or CAMPUS OPTION. <i>19 TAC 150.1001(c)</i></p> <hr/> <p><b>Note:</b> The following provisions apply to teacher appraisal using the state appraisal method.</p> <hr/>
STATE METHOD (PDAS)	<p>The state appraisal method is the Professional Development and Appraisal System. The foundation for the PDAS is the teacher proficiencies described in <i>Learner-Centered Schools for Texas: A Vision of Texas Educators</i>. <i>19 TAC 150.1001(b), 150.1002(a)</i></p>
PERFORMANCE DOMAINS	<p>Each teacher shall be appraised on the following domains:</p> <ol style="list-style-type: none"><li>1. Domain I: Active, successful student participation in the learning process;</li><li>2. Domain II: Learner-centered instruction;</li><li>3. Domain III: Evaluation and feedback on student progress;</li><li>4. Domain IV: Management of student discipline, instructional strategies, time, and materials;</li><li>5. Domain V: Professional communication;</li><li>6. Domain VI: Professional development;</li></ol>



7. Domain VII: Compliance with policies, operating procedures, and requirements; and
8. Domain VIII: Improvement of academic performance of all students on the campus (based on indicators included in the Academic Excellence Indicator System [AEIS]).

Each domain shall be scored independently. The evaluation of each of the domains shall consider all data generated in the appraisal process from observations, the Teacher Self-Report Form, and other documented sources.

The data shall describe teacher contributions in increasing student achievement, making the whole school safe and orderly, and creating a stimulating learning environment for children.

*19 TAC 150.1002(b), (c)*

Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified. *19 TAC 150.1003(a)*

#### RATINGS

Each teacher shall be evaluated on Domains I through VIII using the following categories:

1. Exceeds expectations;
2. Proficient;
3. Below expectations; and
4. Unsatisfactory.

The teacher evaluation in Domain VIII shall include the following areas:

1. Efforts to enhance academic performance;
2. Efforts to enhance student attendance;
3. Efforts to identify and assist students in at-risk situations; and
4. Campus performance ratings.

Campus performance rating data for Domain VIII shall be reported (not scored) by the campus or District for the first year of the PDAS implementation and/or during the first year for new teachers to the campus.

*19 TAC 150.1002(d)-(f)*

#### ORIENTATION

The District shall ensure that all teachers are provided with an orientation to the PDAS no later than the final day of the first three weeks of school and at least three weeks before the first observa-

tion. Additional orientations shall be provided any time substantial changes occur in the PDAS. A teacher new to the District shall be provided with an orientation to the PDAS at least three weeks before the teacher's first observation.

The orientation shall include materials approved by the Commissioner. These materials shall include all state and local appraisal policies, the local appraisal calendar, and information on the requirements for the completion of the Teacher Self-Report Form. In addition to the orientation, campuses may hold other sessions sufficient in length to allow teachers to actively participate in a discussion of the PDAS specifics and to have their questions answered.

*19 TAC 150.1007*

TRAINING UPON  
ADOPTION OF PDAS

In the initial year of adoption and implementation of the PDAS, selected teachers from each campus shall be given the opportunity to participate in the appraisal training for purposes of disseminating information to colleagues on their campus and assisting, at the discretion of the principal, in the orientation of all campus teachers. These teachers shall be designated as appraisal-orientation facilitators.

Each campus shall offer the opportunity to participate in appraisal training to a number of teachers equal to the number of campus administrators; however, each campus shall have at least one teacher participant. The principal shall select representative teachers from nominations submitted by the site-based decision-making (SBDM) committee. The principal may select representatives other than those nominated by the SBDM committee when nominated teachers are unable to attend appraisal training.

The District shall pay the training fees for its teachers attending the PDAS appraisal training.

The District shall make available additional training for teachers as part of the District's menu of professional development opportunities. All teachers are eligible to participate in appraisal and/or Instructional Leadership Training (ILT) or Instructional Leadership Development (ILD) training at their own expense.

*19 TAC 150.1008*

APPRAISERS

The teacher appraisal process requires at least one appraiser.

TEACHER'S  
SUPERVISOR

The teacher's supervisor shall conduct the teacher's appraisal and must hold a superintendent, mid-management (principal), or supervisor certification, or must hold comparable certificates established by the State Board for Educator Certification. An appraiser other than the teacher's supervisor must be approved by the Board, hold

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a valid teaching certificate, and have at least three years of prekindergarten, elementary, or secondary teaching experience.

SAME CAMPUS	A classroom teacher may not appraise another classroom teacher at the same campus unless it is impractical because of the number of campuses or unless the appraiser is the chair of a department or grade-level whose job description includes classroom observation responsibilities.
CERTIFICATION	Before conducting appraisals, an appraiser must be certified by having satisfactorily completed uniform appraiser training. Periodic recertification and training shall be required.  <i>Education Code 21.351(c); 19 TAC 150.1006</i>
APPRAISAL CALENDAR	The District shall establish a calendar for teacher appraisals. The appraisal period for each teacher must include all of the days of the teacher's contract.  Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.  The calendar shall: <ol style="list-style-type: none"><li data-bbox="431 1111 1285 1209">1. Exclude observations in the three weeks after the day of completion of the PDAS orientation in the school years when an orientation is required;</li><li data-bbox="431 1236 1261 1334">2. Exclude observations in the three weeks after the day of completion of the PDAS orientation for teachers new to the PDAS;</li><li data-bbox="431 1360 1285 1428">3. Exclude observations in the first three weeks of instruction in the school years when the PDAS orientation is not required;</li><li data-bbox="431 1454 1293 1552">4. Prohibit observations on the last day of instruction before any official school holiday or on any other day deemed inappropriate by the Board; and</li><li data-bbox="431 1579 1299 1677">5. Indicate a period for summative annual conferences that ends no later than 15 working days before the last day of instruction for students.</li></ol> <i>19 TAC 150.1003(d)</i>  A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. <i>Education Code 21.352(d); 19 TAC 150.1003(c)</i>
APPRAISAL PROCESS	The annual appraisal shall include:

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CLASSROOM OBSERVATION	<p>1. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the appraiser.</p> <p>By mutual consent of the teacher and appraiser, the required minimum of 45 minutes of observation may be conducted in shorter time segments. The time segments must aggregate to at least 45 minutes.</p> <p>A written summary of each observation shall be given to the teacher within ten working days after the completion of an observation, with a pre- and post-observation conference conducted at the request of the teacher or appraiser;</p>
TEACHER SELF- REPORT	<p>2. Completion of Section I of the Teacher Self-Report Form that shall be presented to the principal:</p> <ul style="list-style-type: none"><li>a. Within the first three weeks from the day of completion of the PDAS orientation;</li><li>b. Within the first three weeks from the day of completion of the PDAS orientation, for teachers new to the PDAS; or</li><li>c. Within the first three weeks of instruction in the school years when the PDAS orientation is not required.</li></ul> <p>Revision of Section I, if necessary, and completion of Sections II and III of the Teacher Self-Report Form shall be presented to the principal at least two weeks before the summative annual conference;</p>
CUMULATIVE DATA	<p>3. Cumulative data of written documentation collected regarding job-related teacher performance, in addition to formal classroom observations; and</p>
SUMMATIVE REPORT AND CONFERENCE	<p>4. A written summative annual appraisal report and a summative annual conference, described below.</p> <p><i>19 TAC 150.1003(b), (g)</i></p>
SUMMATIVE REPORT	<p>A written summative annual appraisal report shall be shared with the teacher no later than five working days before the summative conference and no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. <i>19 TAC 150.1003(h)</i></p>
SUMMATIVE CONFERENCE	<p>Unless waived in writing by the teacher, a summative conference shall be held within a time frame specified on the District calendar and no later than 15 working days before the last day of instruction</p>

for students. The summative conference shall focus on the written summative report and related data sources. *19 TAC 150.1003(i)*

If the appraiser is not an administrator on the teacher's campus, the principal, assistant principal, or another supervisory staff member designated as an administrator on the campus will participate in the summative annual conference. *19 TAC 150.1003(j)*

DOCUMENTATION

During the appraisal period, the appraiser shall evaluate and document teacher performance specifically related to the domain criteria as identified in the PDAS. The appraiser is responsible for documentation of cumulative data. *19 TAC 150.1003(e), (f)*

Any third-party information from a source other than the teacher's supervisor that the appraiser wishes to include as cumulative data shall be verified and documented by the appraiser.

Any documentation that will influence the teacher's summative annual appraisal report must be shared in writing with the teacher within ten working days of the appraiser's knowledge of the occurrence. The principal shall also be notified in writing when the appraiser is not the teacher's principal.

*19 TAC 150.1003(f)*

Any documentation collected after the summative conference but before the end of the contract term during one school year may be considered as part of the appraisal of a teacher. If the documentation affects the teacher's evaluation in any domain, another summative report shall be developed and another summative conference shall be held to inform the teacher of the change(s).

*19 TAC 150.1003(k)*

TEACHER RESPONSE

A teacher may submit a written response or rebuttal after receiving a written observation summary, summative annual appraisal report, and/or any other documentation associated with the teacher's appraisal. The rebuttal is to be attached to the evaluation in the teacher's personnel file.

Any written response or rebuttal must be submitted within ten working days of receiving the written summary, documentation, or report. At the discretion of the appraiser, this time period may be extended to 15 working days.

*Education Code 21.352(c); 19 TAC 150.1005(a), (b)*

REQUEST FOR  
SECOND APPRAISAL

A teacher may request a second appraisal by another appraiser after receiving a written observation summary and/or a written summative annual appraisal report. *Education Code 21.352(c); 19 TAC 150.1005(c)*

The second appraisal must be requested within ten working days of receiving the summary or report. At the discretion of the appraiser, this time period may be extended to 15 working days.  
*19 TAC 150.1005(d)*

PROCEDURE FOR  
SECOND  
APPRAISAL

The District shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed. *19 TAC 150.1005(g)*

The second appraiser shall appraise the teacher in all domains and shall make observations and walk-throughs as necessary to evaluate Domains I through V. The second appraiser shall use the Teacher Self-Report Form and cumulative data from the first appraisal to evaluate Domains VI through VIII. Cumulative data may also be used by the second appraiser to evaluate other domains.  
*19 TAC 150.1005(f)*

A teacher may be given notice of the date or time of a second appraisal, but advance notice is not required. *Education Code 21.352(c); 19 TAC 150.1005(e)*

APPEALS

The District shall adopt written procedures for a teacher to present grievances and receive written comments in response to the written annual report. *19 TAC 150.1005(g)*

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**Note:** The following provisions apply to teacher appraisal using the District-developed appraisal method.

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DISTRICT OPTION

A district that does not want to use the PDAS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

The Texas Teacher Appraisal System (TTAS) is no longer a state-recommended system. However, the TTAS may be used as a local option governed by the process outlined below. If adopted as a local option, the TTAS must be modified to comply with Education Code 21.351(a)(1) and (2). [See APPRAISAL PROCESS, below]

DEVELOPMENT  
OF APPRAISAL  
SYSTEM

The District-level planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Consult with the campus-planning and decision-making committee on each campus in the District.

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APPRAISAL PROCESS	<p>The appraisal process shall include:</p> <ol style="list-style-type: none"><li>1. At least one appraisal each year;</li><li>2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and</li><li>3. Criteria based on observable, job-related behavior, including:<ol style="list-style-type: none"><li>a. Teachers' implementation of discipline management procedures; and</li><li>b. Performance of the teachers' students.</li></ol></li></ol>
BOARD ACCEPTANCE	<p>The District-level planning and decision-making committee shall submit the appraisal process and criteria to the Superintendent, who shall submit the appraisal process and criteria to the Board with a recommendation to accept or reject.</p> <p>The Board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.</p> <p><i>Education Code 21.352(a)(2), (b); 19 TAC 150.1009(a)</i></p> <hr/> <p><b>Note:</b> The following provisions apply to teacher appraisal using the campus-developed appraisal method.</p> <hr/>
CAMPUS OPTION	<p>A campus within the District may choose to develop a local appraisal system.</p>
DEVELOPMENT OF APPRAISAL SYSTEM	<p>The campus planning and decision-making committee shall:</p> <ol style="list-style-type: none"><li>1. Develop an appraisal process;</li><li>2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and</li><li>3. Submit the process and criteria to the District-level planning and decision-making committee.</li></ol>
APPRAISAL PROCESS	<p>The appraisal process shall include:</p> <ol style="list-style-type: none"><li>1. At least one appraisal each year;</li><li>2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and</li><li>3. Criteria based on observable, job-related behavior, including:</li></ol>

- a. Teachers' implementation of discipline management procedures; and
- b. Performance of the teachers' students.

BOARD  
ACCEPTANCE

Upon submission of the appraisal process and criteria to the District-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the Superintendent.

The Superintendent shall submit to the Board:

1. The recommended campus appraisal process and criteria;
2. The District-level planning and decision-making committee's recommendation; and
3. The Superintendent's recommendation.

The Board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

*Education Code 21.352(a)(2), (b); 19 TAC 150.1009(b)*



PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LOCAL)

PDAS	The annual appraisal of District teachers not eligible for less frequent evaluations shall be in accordance with the Professional Development and Appraisal System (PDAS).
LESS-THAN-ANNUAL EVALUATIONS ELIGIBILITY	District teachers shall be appraised annually, except teachers who are eligible for less frequent evaluations in accordance with law and the following local criteria. The eligible teacher shall: <ol style="list-style-type: none"><li>1. Not be new to the teaching assignment;</li><li>2. Not be new to the campus;</li><li>3. Not be supervised by a new principal; and</li><li>4. Not be on a campus mandated by the Superintendent as not eligible for a waiver.</li></ol>
FREQUENCY	Eligible teachers shall be appraised every other year.  During any school year when a complete PDAS is not scheduled for an eligible teacher, either the teacher or the principal may require that an appraisal be conducted by providing written notice to the other party.
INFORMAL APPRAISAL	At the beginning of the school year, the teacher and supervisor shall sign a document indicating the duration and terms of the waiver. The supervisor shall conduct a minimum of three walk-throughs during the school year and hold a year-end conference with each teacher who waived the PDAS appraisal. At the conference, a written document shall be presented to the teacher, signed by the teacher and supervisor, and maintained in the personnel file.
PROBATIONARY TEACHERS	Written evaluations and other evaluative information need not be considered prior to a decision to terminate a probationary contract at the end of the contract term. [See DFAB]
GRIEVANCES	Complaints regarding teacher appraisal shall be addressed in accordance with DGBA(LOCAL).
ALTERNATE APPRAISERS	The list of qualified appraisers who may appraise a teacher in place of the teacher's supervisor shall be approved by the Board.
SCHEDULE LIMITATIONS	In addition to those days on which observations are prohibited by law [see DNA(LEGAL)], no observations shall be scheduled for: <ol style="list-style-type: none"><li>1. The day before and the day after a school holiday,</li><li>2. Days scheduled for end-of-semester or end-of-year examinations, or</li><li>3. Days scheduled for state-mandated assessments or other standardized tests.</li></ol>

PERFORMANCE APPRAISAL  
EVALUATION OF TEACHERS

DNA  
(LOCAL)

APPRAISAL  
OBSERVATION

The District shall establish an appraisal calendar each year. Classroom observations of teachers shall be unscheduled; however, teachers shall be given advance notice of a two-week time frame in which the observation will occur.

SECOND APPRAISAL -  
APPRAISER

Upon a teacher's request for a second appraiser, the Superintendent or designee shall select the second appraiser from a pre-established roster of trained appraisers.

SCHEDULING

Observations for second appraisals shall be unscheduled; however, teachers shall be given advance notice of a two-week time frame in which the observation will occur.

SCORES

The Board shall ensure that the Superintendent or designee establish procedures regarding how domain scores from first and second appraisals will be used.

PERFORMANCE APPRAISAL  
EVALUATION OF OTHER PROFESSIONAL EMPLOYEES

DNB  
(LEGAL)

FREQUENCY	<p>The employment policies adopted by the Board must require a written evaluation at annual or more frequent intervals of each superintendent, principal, supervisor, counselor, or other full-time, certified professional employee, and nurse. <i>Education Code 21.203(a)</i></p>
ADMINISTRATOR APPRAISAL	<p>The District shall appraise each administrator annually using either:</p> <ol style="list-style-type: none"><li>1. The Commissioner's recommended appraisal process and performance criteria; or</li><li>2. An appraisal process and performance criteria developed by the District in consultation with the District- and campus-level committees and adopted by the Board.</li></ol> <p>District funds may not be used to pay an administrator who has not been appraised in the preceding 15 months.</p> <p><i>Education Code 21.354(c), (d)</i></p>
PRINCIPALS	<p>The information in the annual report describing the educational performance of each campus [see BQB] shall be a primary consideration of the Superintendent in evaluating campus principals. In addition, the appraisal of a principal shall include consideration of the academic excellence indicators and the campus's objectives, including performance gains of the campus and the maintenance of those gains. <i>Education Code 21.354(e), 39.054(3)(D)</i></p>
COUNSELORS	<p>The Commissioner shall develop and periodically update an evaluation form for use by districts in evaluating school counselors. <i>Education Code 21.355</i></p>
CONFIDENTIALITY OF EVALUATION	<p>A document evaluating the performance of an administrator is confidential. <i>Education Code 21.355</i></p>
APPRAISAL PROCEDURES	<p>The following procedures for administrator appraisal are minimum requirements.</p> <p>The District shall establish an annual calendar providing for the following activities, which shall involve both the administrator and the appraiser:</p> <ol style="list-style-type: none"><li>1. Procedures for setting goals that define expectations and set priorities for the administrator being appraised.</li><li>2. Formative conference.</li><li>3. Summative conference.</li></ol> <p><i>19 TAC 150.1022(a)</i></p>

PERFORMANCE APPRAISAL  
EVALUATION OF OTHER PROFESSIONAL EMPLOYEES

DNB  
(LEGAL)

APPRAISAL  
INSTRUMENT AND  
PROCESS

The District shall involve appropriate administrators in developing, selecting, or revising the appraisal instruments and process.

Before conducting appraisals, an appraiser shall provide evidence of training in appropriate personnel evaluation skills related to the locally established criteria and process.

The District may implement a process for collecting staff input for evaluating administrators. If the District implements such a process, the input must not be anonymous.

The appraisal of a principal shall include a student performance domain. The District may, with Board approval, select the Commissioner-recommended student performance domain for principals or may develop an alternative governed by the process outlined in Education Code 21.354. [See ADMINISTRATOR APPRAISAL, above]

DOMAINS

The domains and descriptors used to evaluate each administrator may include the following:

1. Instructional management.
2. School or organization morale.
3. School or organization improvement.
4. Personnel management.
5. Management of administrative, fiscal, and facilities functions.
6. Student management.
7. School or community relations.
8. Professional growth and development.
9. Academic excellence indicators and campus performance objectives.

In developing appraisal instruments, the District shall use the local job description, as applicable.

*19 TAC 150.1021, 150.1022*

PERFORMANCE APPRAISAL  
EVALUATION OF OTHER PROFESSIONAL EMPLOYEES

DNB  
(LOCAL)

EMPLOYMENT  
DECISIONS

When relevant to the decision, written evaluations of a professional employee's performance, as documented to date, and any other information the administration determines to be appropriate shall be considered in decisions affecting contract status.

EXCEPTION

Written evaluations and other evaluative information need not be considered prior to a decision to terminate a probationary contract at the end of the contract term.

PERSONNEL POSITIONS

DP  
(LEGAL)

PRINCIPAL  
QUALIFICATIONS

The Board, by local policy, shall adopt qualifications for principals.  
*Education Code 11.202(c)*

CERTIFICATION

To be eligible to receive a Standard Principal Certificate, an individual must:

1. Successfully complete the educator assessments required under 19 TAC 230.5.
2. Hold a master's degree from an accredited institution of higher education.
3. Have two years of creditable teaching experience as a classroom teacher, as defined by 19 TAC Chapter 230, Subchapter Y.

*19 TAC 241.25*

DUTIES

The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. *Education Code 11.202(a)*

The principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the Superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the Superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the Superintendent pursuant to Board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]

PERSONNEL POSITIONS

DP  
(LEGAL)

10. Report the maximum attendance for the school to the Superintendent for the purpose of textbook requisitions. [See CMD]
11. (For high school principals only) Serve, or appoint someone to serve, as deputy registrar for the county in which the school is located. *Election Code 13.046*

*Education Code 11.202(b), 11.253(c), (h), 31.103(a)* [See also DMA]

PERSONNEL POSITIONS

DP  
(LOCAL)

PRINCIPAL  
QUALIFICATIONS

In addition to the minimal certification requirement, the principal shall have at least:

1. Working knowledge of curriculum and instruction;
2. The ability to evaluate instructional program and teaching effectiveness;
3. The ability to manage budget and personnel and coordinate campus functions;
4. The ability to explain policy, procedures, and data;
5. Strong communications, public relations, and interpersonal skills;
6. Three years' experience as a classroom teacher;
7. Prior experience in instructional leadership roles; and
8. Other qualifications deemed necessary by the Board.



PERSONNEL POSITIONS  
SUBSTITUTE, TEMPORARY, AND PART-TIME POSITIONS

DPB  
(LEGAL)

PARENT  
NOTIFICATION

If the District assigns an inappropriately certified or uncertified teacher [as defined in DBA(LEGAL)] to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of students in that classroom.

The Superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. The District shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is not English. The District shall retain a copy of the notice and make information relating to teacher certification available to the public on request. [See also DBA(LEGAL)]

*Education Code 21.057*

PERSONNEL POSITIONS  
SUBSTITUTE, TEMPORARY, AND PART-TIME POSITIONS

DPB  
(LOCAL)

SUBSTITUTE TEACHERS	At the beginning of each school year, the Superintendent or a designee, in cooperation with principals, shall compile a list of qualified substitute teachers available for the school year. This list shall be approved by the Superintendent and distributed to all principals. The list shall indicate each individual's qualifications. Principals shall request and receive specific authorization from the Superintendent or designee before employing any substitute not on the approved list.
APPLICATION	Persons wishing to substitute teach in the District shall make application through usual channels. [See DC]
DOCUMENTATION	Approved substitutes shall have on file in the District: <ol style="list-style-type: none"><li>1. The District's application form;</li><li>2. A record of highest education attained, including high school diploma, GED certificate, or transcript for all college work, and/or Texas certificates; and</li><li>3. An income tax withholding form.</li></ol>
QUALIFICATIONS	The District shall attempt to hire certified teachers as substitutes whenever possible; however, no person shall be employed as a substitute who does not have at least 60 college hours.
SELECTION	Principals shall give first consideration to the most qualified teachers on the approved substitute list and shall make an effort to place substitutes in their field of interest or the field in which they are best qualified.
PAY	The rates for substitute pay shall be set by the Board and recorded in Board minutes.
PERFORMANCE RESPONSIBILITIES	A substitute shall be subject to all duties of a regular classroom teacher.

SCHOOL START DATE The District may not begin instruction for students for a school year before the fourth Monday in August unless the District operates a year-round system (see below). The District may not receive a waiver of this requirement. *Education Code 25.0811*

LENGTH OF SCHOOL YEAR The District shall operate so that it provides for at least 180 days of instruction each school year.

EXCEPTIONS The Commissioner of Education may approve the operation of schools for less than the number of instructional days specified above when disaster, flood, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of schools.  
*Education Code 25.081*

OPTIONAL FLEXIBLE YEAR PROGRAM To enable the District to provide additional instructional days for an optional extended year program [see EHBC], the District may, with the approval of the Commissioner, provide a number of days of instruction during the regular school year that is not more than ten days fewer than 180 days. *Education Code 29.0821(b)(1)*

YEAR-ROUND SCHOOLS The District may operate its schools year-round on a single or a multi-track system. If it adopts a year-round system, it may modify:

1. The number of contract days of employees and the number of days of operation, including any time required for staff development, planning and preparation, and continuing education, otherwise required by law.
2. Testing dates, data reporting, and related matters.
3. The date of the first day of instruction of the school year under Education Code 25.0811 for a school that was operating year-round for the 2000–01 school year.
4. Students' eligibility to participate in extracurricular activities when their calendar track is not in session.

*Education Code 25.084*

SCHOOL DAY

EC  
(LEGAL)

LENGTH AND  
SCHEDULE

A school day shall be at least seven hours each day, including intermissions and recesses.

PLEDGES OF  
ALLEGIANCE

The Board shall require students, once during each school day, to recite the pledges of allegiance to the United States and Texas flags. On written request from a student's parent or guardian, the District shall excuse the student from reciting a pledge of allegiance.

MOMENT OF  
SILENCE

The Board shall provide for the observance of one minute of silence following the recitation of the pledges of allegiance. During the one-minute period, each student may reflect, pray, or meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of the students during that period shall ensure that each student remains silent and does not act in a manner that is likely to interfere with or distract another student.

*Education Code 25.082*

KINDERGARTEN  
PROGRAM

A public school kindergarten may be operated on a half-day or full-day basis as determined by the Board. *Education Code 29.152*

GRANT  
PROGRAMS

The District may use funds from grants administered by the Commissioner to operate an existing half-day kindergarten on a full-day basis. *Education Code 29.155*

INTERRUPTIONS

The Board shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day. *Education Code 25.083*

INSTRUCTIONAL ARRANGEMENTS  
CLASS SIZE

EEB  
(LEGAL)

TEACHER-STUDENT  
RATIO

The District shall employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance. *Education Code 25.111*

KINDERGARTEN-  
GRADE 4

The District shall not enroll more than 22 students in a class, kindergarten through fourth grade, except as allowed by the Commissioner of Education. The limit on class size, kindergarten through grade 4, shall not apply during:

1. The last 12 weeks of the school year; or
2. Any 12-week period of the school year selected by the District, if the District's average daily attendance has been adjusted due to high migratory population under Education Code 42.005(c). A district claiming this exemption must notify the Commissioner in writing not later than the 30th day after the first day of the 12-week period.

A "migratory child" is a child who is, or whose parent or spouse is, a migratory agricultural worker, including a migratory dairy worker or migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany the parent or spouse in order to obtain, temporary or seasonal employment in agricultural or fishing work has moved from one school district to another.

*Education Code 25.112(a), (b); No Child Left Behind Act of 2001, 20 U.S.C. 6399(2)*

EXCEPTION TO  
CLASS SIZE LIMITS

The Commissioner may except the District, on application, from the class size limits above if the limit works an undue hardship on the District. An exception expires at the end of the semester for which it is granted, and the Commissioner may not grant an exception for more than one semester at a time. *Education Code 25.112(d)*

NOTICE TO  
PARENTS

A campus or district that is granted an exception from class size limits shall provide written notice of the exception to the parent of or person standing in parental relation to each student affected by the exception. The notice must be in conspicuous bold or underlined print and:

1. Specify the class for which an exception was granted;
2. State the number of children in the class; and
3. Be included in a regular mailing or other communication from the campus or District, such as information sent home with students.

The notice must be provided not later than the 31st day after the first day of the school year or the date the exception is granted, if the exception is granted after the beginning of the school year.

*Education Code 25.113*

INSTRUCTIONAL ARRANGEMENTS  
HOMEBOUND INSTRUCTION

EEH  
(LOCAL)

- GENERAL EDUCATION**      A student to be confined for a minimum of four consecutive weeks to a hospital or homebound for medical reasons specifically documented by a physician licensed to practice in the U.S. may be eligible for general education homebound services. The parent's request for services shall be made through the principal in accordance with TEA's Student Attendance Accounting Handbook and administrative procedures.
- The principal or designee shall convene a placement committee composed of at least a campus administrator, a teacher of the student, and the parent or guardian of the student to consider the necessity of providing general education homebound instruction to the student. If the committee determines that such instruction is appropriate, the committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.
- SPECIAL EDUCATION**      For special education students, the ARD committee shall determine the type and amount of instruction to be provided and, when the student is able to return to the regular educational setting, the length of the transition period based on current medical information.
- DOCUMENTATION OF SERVICES**      The District shall maintain, in accordance with administrative procedures, full documentation about students receiving homebound services.

North East ISD  
015910

INDIVIDUALIZED LEARNING  
CREDIT BY EXAMINATION WITH PRIOR INSTRUCTION

EEJA  
(LEGAL)

GRADES 6–12

In accordance with local policy, a student in any of grades 6–12 may be given credit for an academic subject in which he or she had some prior instruction, if the student scores 70 percent on a criterion-referenced test for the applicable course. *Education Code 28.023; 19 TAC 74.24(c)(3)*

INDIVIDUALIZED LEARNING  
CREDIT BY EXAMINATION WITH PRIOR INSTRUCTION

EEJA  
(LOCAL)

PURPOSE	With the prior recommendation of the appropriate administrator or designee, a student may use credit by examination to demonstrate mastery and earn credit in selected academic courses in grades 6-12. Such examinations shall assess the student's mastery of the essential knowledge and skills and shall be approved by the Superintendent or designee. Credit by examination is not to be used for course validation. Course validation is administered at the campus level and not through credit by examination.
TEST SELECTION	The Superintendent or designee shall be responsible for development or selection of tests to be used to grant credit to students with prior instruction in a subject area or grade level. Whether tests are developed by the District or purchased from a State Board-approved university or other appropriate source, each examination shall thoroughly test the essential knowledge and skills in the applicable grade level or subject area.
EXCEPTION	Credit by examination shall not be offered for "performance" courses such as, but not limited to, physical education, band, choral music, art, and trade classes.
TEST DATES	The Superintendent or designee shall establish a schedule of dates when examinations for acceleration shall be administered and shall ensure that such dates are published in the student handbook and in other District publications, as appropriate.
ELIGIBILITY	To be eligible to earn credit by examination with prior instruction, a student shall have either failed a course or completed 90 percent of the semester. Under special circumstances, the counselor and the principal or designee shall determine a student's eligibility to earn credit by examination with prior instruction.
EXCESSIVE ABSENCES	On recommendation of the attendance committee, a student who has excessive absences may be permitted to earn or regain course credit through credit by examination.
EXTRACURRICULAR ACTIVITIES	Credit by examination shall not be used to gain eligibility for participation in extracurricular activities.
CREDIT APPROVAL	To receive credit, a student shall earn a grade of 70 or above on the examination. If the student passes, the credit shall automatically be granted and the actual grade earned shall be recorded in the student's academic achievement record (AAR). If the student does not pass, he or she shall not be eligible to retake the examination in the subject in which the examination was failed. In such case, other options such as correspondence courses may be considered in order to retrieve credit.
PROCEDURES	Tests shall be administered according to procedures approved by the Superintendent or designee. Requests for credit by examina-



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INDIVIDUALIZED LEARNING  
CREDIT BY EXAMINATION WITH PRIOR INSTRUCTION

EEJA  
(LOCAL)

tion shall be made to the principal or designee. The student shall be given a District-approved examination on a designated examination date. A maximum of two examinations per student may be taken per testing session.

FEE

The District shall impose a fee for test administration. This fee shall be waived for students receiving free or reduced-price lunch.

INDIVIDUALIZED LEARNING  
CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

EEJB  
(LEGAL)

With Board approval, the District shall develop or purchase examinations for acceleration that thoroughly test the essential knowledge and skills for each primary school grade level and for credit for secondary school academic subjects.

KINDERGARTEN–  
GRADE 5

The District shall develop procedures for kindergarten acceleration that are approved by the Board.

The District shall accelerate a student in grades 1–5 one grade level if the student meets the following requirements:

1. The student scores 90 percent or above on a criterion-referenced test for the grade level to be skipped in each of the following areas: language arts, mathematics, science, and social studies;
2. A District representative recommends that the student be accelerated; and
3. The student’s parent or guardian gives written approval of the acceleration.

GRADES 6–12

The District shall give a student in grades 6–12 credit for an academic subject in which the student has received no prior instruction if the student scores 90 percent or above on a criterion-referenced examination for acceleration for the applicable course. If such credit is given, the District shall enter the examination score on the student’s transcript.

ANNUAL  
ADMINISTRATION

The District shall provide at least three days between January 1 and June 30 and three days between July 1 and December 31 annually when examinations for acceleration shall be administered in grades 1 through 12. The days need not be consecutive but shall be designed to meet the needs of all students. The dates must be publicized in the community.

The District may allow a student to accelerate at a time other than those described above by developing a cost-free option approved by the Board that allows students to demonstrate academic achievement or proficiency in a subject or grade level.

FEES

The District shall not charge for examinations for acceleration. If a parent requests an alternative examination, the District may administer and recognize results of a test purchased by the parent or student from Texas Tech University or the University of Texas at Austin.

*Education Code 28.023; 19 TAC 74.24*

INDIVIDUALIZED LEARNING  
CREDIT BY EXAMINATION WITHOUT PRIOR INSTRUCTION

EEJB  
(LOCAL)

PURPOSE	A student planning to take an examination for acceleration shall be required to register with the school counselor or principal's designee no later than 30 days prior to the scheduled testing date on which the student wishes to take the test. An application form may be requested from the school counselor. The application shall be signed by the student, parent, counselor, and principal.
TEST SELECTION	The Superintendent or designee shall be responsible for development or selection of tests to be used to grant credit to students without prior instruction in a subject area or grade level. Whether tests are developed by the District or purchased from a State Board-approved university or other appropriate source, each examination shall thoroughly test the essential knowledge and skills in the applicable grade level or subject area.
EXCEPTION	Credit by examination shall not be offered for "performance" courses such as, but not limited to, physical education, band, choral music, art, and career and technology.
TEST DATES	The Superintendent or designee shall establish a schedule of dates when examinations for acceleration shall be administered and shall ensure that such dates are published in the student handbook and in other District publications, as appropriate.
ELIGIBILITY	A student may take credit by examination without prior instruction for acceleration in kindergarten through grade 8 and for selected high school courses in which the student has had no prior instruction.
CREDIT APPROVAL	For grades 1-12, a student shall earn a grade of 90 or above on the examination in order to receive credit. For kindergarten, credit is awarded based on committee approval [see KINDERGARTEN ACCELERATION, below]. If the student passes, the credit shall automatically be granted and the actual grade earned shall be recorded in the student's academic achievement record (AAR). If the student does not pass, he or she shall not be eligible to retake the examination in the subject in which the examination was failed.
KINDERGARTEN ACCELERATION	<p>The Superintendent or designee shall develop procedures to allow a five-year-old student, within the first four weeks of the student's enrollment in kindergarten, to be placed in first grade. Criteria for acceleration may include:</p> <ol style="list-style-type: none"><li>1. Scores on readiness test(s) and/or achievement test(s) that may be administered by appropriate District personnel.</li><li>2. Recommendation of the kindergarten or preschool the student has attended.</li></ol>

3. Chronological age and observed social and emotional development of the student.
4. Other criteria deemed appropriate by the principal and Superintendent.

A campus acceleration committee composed of the principal or designee, a kindergarten teacher, a first-grade teacher, and the parent must unanimously approve the advancement to first grade.

Credit toward state graduation requirements may be granted for correspondence courses only under the following conditions:

1. The institution offering the course is The University of Texas at Austin, Texas Tech University, or another public institution of higher education approved by the commissioner of education.
2. The correspondence course includes the state-required essential knowledge and skills for such a course.

*19 TAC 74.23*

INDIVIDUALIZED LEARNING  
CORRESPONDENCE COURSES

EEJC  
(LOCAL)

PRIOR APPROVAL

The Superintendent or designee shall establish and publish guidelines in the student handbook governing the use of correspondence courses as a means of earning graduation credit. Prior to enrollment in correspondence courses, a student shall make a written request to the principal or designee for approval to enroll in the course. If approval is not granted prior to enrollment, the student shall not be awarded credit toward graduation.

ELIGIBILITY

All high school students shall be eligible to take correspondence courses and earn credit toward graduation.

INSTRUCTIONAL ARRANGEMENTS  
CONTRACTS WITH OUTSIDE AGENCIES

EEL  
(LEGAL)

CAREER AND  
TECHNOLOGY  
EDUCATION

The Board may contract with another public school district, public or private post-secondary institution, or trade or technical school that is regulated by the state, as designated in the state plan for career and technology education, to provide career and technology classes for District students. *Education Code 29.184(a)* [See EHBF]

In addition, the Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum and under which a student may receive specific education in a career and technology profession. *Education Code 29.187* [See also CRB and EHBF]

STUDENTS WITH  
DISABILITIES

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for the provision of services to students with disabilities. Each contract for residential placement must be approved by the Commissioner, who may approve a residential placement only after at least a programmatic evaluation of personnel qualifications, adequacy of physical plant and equipment, and curriculum content. The Commissioner may approve either the whole or a part of a facility or program. *Education Code 29.008(a)* [See EHBA]

EDUCATIONAL  
SERVICES

The Board may contract with a public or private entity for that entity to provide educational services for the District. *Education Code 11.157*

PRE-K LICENSING  
STANDARDS

If the District contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*

DRIVER TRAINING  
SCHOOLS

A District school may enter into an agreement with a licensed driver training school to allow the driver training school to conduct a driver training course at the public school for public school students. *Education Code Title 5, Chapter 1001*

MILITARY  
INSTRUCTION

The Board may contract with the proper governmental agency with respect to the teaching of courses in military training, and it may execute, as principal or surety, a bond to secure the contracts to procure arms, ammunition, animals, uniforms, equipment, supplies, means of transportation, or other needed property. *Education Code 29.901*

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**Note:** This provision applies only to those districts in which military instruction is conducted under state or federal law requiring a district to give bond or otherwise indemnify this state, the United States, or any authorized agency for the care, safekeeping, and return of property furnished.

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INSTRUCTIONAL RESOURCES

EF  
(LEGAL)

Textbooks selected for use in the public schools shall be furnished without cost to students attending those schools. *Education Code 31.001*

PARENTAL ACCESS

A parent is entitled to review all teaching materials, textbooks, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. The District shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.

A student's parent is entitled to request that the District allow the student to take home any textbook used by the student. Subject to the availability of a textbook, the District or school shall honor the request. A student who takes home a textbook must return the textbook to school at the beginning of the next school day if requested to do so by the student's teacher.

*Education Code 26.006*

PARENTAL  
INSPECTION

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program funded in whole or in part by the U.S. Department of Education shall be available for inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)*

STUDENT RIGHTS

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education, to submit to a survey, analysis, or evaluation that reveals information concerning the following topics without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. Topics covered by this provision are:

1. Political affiliations or beliefs of the student or the student's parents.
2. Mental and psychological problems of the student or the student's family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom respondents have close family relationships.
6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.

INSTRUCTIONAL RESOURCES

EF  
(LEGAL)

7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

*20 U.S.C. 1232h(b)*

POLICIES

As a condition of receiving funds under any applicable program, the District shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student.
2. The District's arrangements to protect student privacy in the event a survey containing the items listed under STUDENT RIGHTS, above, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student.
4. The administration of physical examinations or screenings that the District may administer to the student;
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.
6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered.

The District need not develop and adopt new policies if TEA or the District had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). [See FL, FNG, FFAA, and CRD]

PARENTAL  
NOTIFICATION

The District shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the stu-

dents enrolled in schools served by the District. At a minimum, the District shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

The District shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described at STUDENT RIGHTS, above.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

'PERSONAL  
INFORMATION'  
DEFINED

The term "personal information" means individually identifiable information, including a student's:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social Security identification number.

*20 U.S.C. 1232h(c)(6)(E)*

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION

EFA  
(LEGAL)

The District possesses significant discretion to determine the content of its school libraries. The District must, however, exercise its discretion in a manner consistent with the First Amendment.

REMOVAL OF LIBRARY  
MATERIALS

Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. The District shall not remove materials from a library for the purpose of denying students access to ideas with which the District disagrees. The District may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.

*Board of Education v. Pico*, 457 U.S. 853, 102 S. Ct. 2799 (1982)

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION

EFA  
(LOCAL)

The District shall provide a wide range of instructional resources for students and faculty that present varying levels of difficulty, diversity of appeal, and a variety of points of view. Although trained professional staff are afforded the freedom to select instructional resources for their use in accordance with this policy and the state-mandated curriculum, the ultimate authority for determining and approving the curriculum and instructional program of the District lies with the Board.

OBJECTIVES

In this policy, "instructional resources" refers to textbooks, library acquisitions, supplemental materials for classroom use, and any other materials, including electronic resources, used for formal or informal teaching and learning purposes. The primary objectives of instructional resources are to deliver, support, enrich, and assist in implementing the District's educational program. [See EFAA for selection and adoption of state-adopted textbooks]

The Board shall rely on District professional staff to select and acquire instructional resources that:

1. Enrich and support the curriculum, taking into consideration students' varied interests, abilities, learning styles, and maturity levels.
2. Stimulate growth in factual knowledge, enjoyment of reading, literary appreciation, aesthetic values, and societal standards.
3. Present various sides of controversial issues so that students have an opportunity to develop, under guidance, skills in critical analysis and in making informed judgments in their daily lives.
4. Represent many ethnic, religious, and cultural groups and their contributions to the national heritage and world community.
5. Provide a wide range of background information that will enable students to make intelligent judgments in their daily lives.

CRITERIA

In the selection of instructional resources other than textbooks, especially library acquisitions and supplemental materials for classroom use, professional staff shall ensure that materials:

1. Support and are consistent with the general educational goals of the state and District and the aims and objectives of individual schools and specific courses consistent with the District and campus improvement plans.

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION

EFA  
(LOCAL)

2. Meet high standards in presentation, format, readability, content, accuracy, artistic or literary quality, and educational significance.
3. Are appropriate for the subject and for the age, ability level, learning styles, and social and emotional development of the students for whom they are selected.
4. Are designed to provide information that will motivate students to examine their own attitudes and behavior, to understand their rights, duties, and responsibilities as citizens, and to make informed judgments in their daily lives.

Recommendations for library acquisitions shall involve administrators, teachers, other District personnel, and community representatives, as appropriate. Gifts of instructional resources shall be evaluated according to these criteria and accepted or rejected accordingly.

Selection of materials is an ongoing process that includes the removal of resources no longer appropriate and the periodic replacement or repair of materials still of educational value.

CONTROVERSIAL  
ISSUES

The selection of library acquisitions on controversial issues shall endeavor to maintain a balanced collection representing various views. Library materials shall be chosen to clarify historical and contemporary forces by presenting and analyzing intergroup tension and conflict objectively, placing emphasis on recognizing and understanding social and economic problems. [See also EMB regarding instruction about controversial issues and EHAA regarding human sexuality instruction]

CHALLENGED  
MATERIALS

A parent of a District student, any employee, or any District resident may formally challenge an instructional resource used in the District's educational program on the basis of appropriateness.

INFORMAL  
RECONSIDERATION

The school receiving a complaint about the appropriateness of an instructional resource shall try to resolve the matter informally using the following procedure:

1. The principal or other knowledgeable professional staff shall explain the school's selection process, the criteria for selection, and the qualifications of the professional staff who selected the questioned material.
2. The principal or other knowledgeable professional staff shall explain the role the questioned material plays in the educational program, its intended educational usefulness, and any additional information regarding its use.

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION

EFA  
(LOCAL)

3. If appropriate, the principal may offer a concerned parent another resource to be used by that parent's child in place of the challenged material.
4. If the complainant wishes to make a formal challenge, the principal shall provide the complainant a copy of this policy and a Request for Reconsideration of Instructional Materials form [see EFA(EXHIBIT)].

FORMAL  
RECONSIDERATION

All formal objections to instructional resources shall be made on the Request for Reconsideration of Instructional Materials form. The form shall be completed and signed by the complainant and submitted to the principal or designee. Upon receipt of the request, the principal shall appoint a reconsideration committee.

The reconsideration committee shall include at least one member of the instructional staff who either has experience teaching the challenged material or is familiar with the challenged material. Other members of the committee may include District-level staff, library staff, secondary-level students, parents, and others deemed appropriate by the principal.

All members of the committee shall review the challenged material in its entirety. As soon as reasonably possible, the committee shall meet and determine whether the challenged material conforms to the principles of selection set out in this policy. The committee shall then prepare a written report. Copies of the report shall be provided to the principal, the Superintendent or designee, and the complainant.

APPEAL

The concerned party may appeal any decision of the reconsideration committee by filing a written request with the associate superintendent for instruction within seven days of the reconsideration committee's decision. If the appeal requires District-level action, a District instructional review committee shall be appointed and chaired by the associate superintendent for instruction. Upon completion of its study, a written report shall be forwarded to the Superintendent for consideration and decision. The Superintendent shall inform all concerned parties of the decision.

The concerned party may appeal to the Board any decision of the District instructional review committee by filing a written request with the Superintendent within seven days of the committee's decision. The request for a Board hearing shall contain a copy of the original complaint and both the campus and associate superintendent's reconsideration committee reports.

The Superintendent shall review these records and submit them to the Board for its consideration along with any administrative rec-

INSTRUCTIONAL RESOURCES  
INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION

EFA  
(LOCAL)

ommendation. The Board shall hear the complaint within 30 days after the written request is filed with the Superintendent and shall communicate its decision at any time up to and including the next regularly scheduled Board meeting.

GUIDING  
PRINCIPLES

The following principles shall guide the Board and staff in responding to challenges of instructional resources:

1. A parent of a District student, any employee, or any District resident may raise an objection to an instructional resource used in a school's educational program, despite the fact that the professional staff selecting the resources were qualified to make the selection, followed the proper procedure, and adhered to the objectives and criteria for instructional resources set out in this policy.
2. A parent's ability to exercise control over reading, listening, or viewing matter extends only to his or her own children.
3. When instructional resources are challenged, the principles of the freedom to read, listen, and view must be defended as well.
4. Access to challenged material shall not be restricted during the reconsideration process.

The major criterion for the final decision on challenged materials is the appropriateness of the material for its intended educational use. No challenged library material shall be removed solely because of the ideas expressed therein.



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**Note:** For provisions regarding inventory and requisition of textbooks, see CMD.

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STATE TEXTBOOK LISTS	For each subject and grade level, the State Board of Education (SBOE) shall adopt two lists of textbooks: conforming and nonconforming:
CONFORMING LIST	1. The conforming list includes each textbook that meets applicable physical specifications and contains material covering each element of the essential knowledge and skills of the subject and grade level.
NONCONFORMING LIST	2. The nonconforming list includes each textbook that meets the applicable physical specifications and contains material covering at least half, but not all, of the elements of the essential knowledge and skills.
	<i>Education Code 31.023</i>
REVIEW AND ADOPTION CYCLES	The SBOE shall adopt a review and adoption cycle for textbooks for each subject in the required curriculum under Education Code 28.002. <i>Education Code 31.022(a)</i>
INFORMATION FROM PUBLISHERS	A publisher shall provide each district with information that fully describes each of the publisher's adopted textbooks. On request of the District, a publisher shall provide a sample copy of an adopted textbook. <i>Education Code 31.027</i>  Samples shall be provided and distributed at the expense of the publisher. No state or local funds shall be expended to purchase, distribute, or ship sample materials. <i>19 TAC 66.101(c)</i>
LOCAL SELECTION	Each year, during a period established by the SBOE, the Board shall select textbooks for subjects in the foundation and enrichment curricula. <i>Education Code 31.101(a)</i>
POLICY	The Board shall adopt a policy for selecting instructional materials. Final selections must be recorded in Board minutes. <i>19 TAC 66.104(a)</i>
FOUNDATION TEXTBOOKS	The Board shall select textbooks for a subject in the foundation curriculum from either the conforming list or the nonconforming list. <i>Education Code 31.101(a)(1)</i>
ENRICHMENT TEXTBOOKS	The Board may select textbooks for courses in the enrichment curriculum from the conforming list or the nonconforming list, or it may select books that do not appear on either list (nonadopted materials). <i>Education Code 21.101(a)(2)</i>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

DURATION OF SELECTION	Once instructional materials have been requisitioned and delivered, including nonadopted materials, the District shall continue to use those materials during the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the materials are used. <i>Education Code 31.101(d); 19 TAC 66.104(f), (j)</i>
REPORT	By April 1 of each year, the District shall transmit a report to TEA listing the instructional materials selected for use in the District. Selections certified to TEA are final and, therefore, not subject to reconsideration during the original contract period or readoption contract periods covering the instructional materials selected. <i>19 TAC 66.104(g), (h)</i>
CRIMINAL OFFENSE	<p>A trustee, administrator, or teacher commits an offense if the person receives any commission or rebate on any textbooks used in the schools with which the person is associated.</p> <p>A trustee, administrator, or teacher commits an offense if the person accepts a gift, favor, or service that:</p> <ol style="list-style-type: none"><li>1. Is given to the person or the person's school;</li><li>2. Might reasonably tend to influence the person in the selection of a textbook; and</li><li>3. Could not be lawfully purchased with funds from the state textbook fund.</li></ol> <p>"Gift, favor, or service" does not include:</p> <ol style="list-style-type: none"><li>1. Staff development, in-service, or teacher training; or</li><li>2. Instructional materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.</li></ol> <p><i>Education Code 31.152</i></p>
TEXTBOOK FUNDING	Annually, the SBOE shall set aside out of the available school fund an amount sufficient for districts to purchase and distribute the necessary textbooks for the use of the students of this state for the following school year. <i>Education Code 31.021(b)</i>
MAXIMUM COST	<p>The SBOE shall set a limit on the cost that may be paid from the state textbook fund for a textbook on the conforming or nonconforming list. <i>Education Code 31.025</i></p> <p>If the District selects instructional materials priced above the limit set by SBOE, the District is responsible for paying the publisher the portion of the cost above the state maximum. <i>19 TAC 66.104(b)</i></p>

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LEGAL)

NONADOPTED MATERIALS	If the District selects a book for a course in the enrichment curriculum and grade level that is not on either of the SBOE lists, the state shall pay the District the lesser of: <ol style="list-style-type: none"><li data-bbox="431 460 1265 526">1. Seventy percent of the total actual cost to the District of the books; or</li><li data-bbox="431 548 1208 585">2. Seventy percent of the limit set by SBOE for that book.</li></ol> <p data-bbox="431 607 775 644"><i>Education Code 31.101(b)</i></p> <p data-bbox="431 666 1268 869">Funds received from the state under this provision may be used only to purchase the nonadopted instructional materials selected and ratified by the Board. The minutes of the Board meeting at which such a selection is ratified shall reflect the District's agreement to bear responsibility for the portion of the costs not eligible for payment by the state. <i>19 TAC 66.104(c), (e)</i></p>
BRAILLE / LARGE-TYPE	The District also bears responsibility for providing Braille and/or large-type versions of nonadopted enrichment materials. <i>19 TAC 66.104(d)</i>
LOCAL FUNDS	The District may use local funds to purchase any textbooks in addition to those selected under Education Code Chapter 31. <i>Education Code 31.106</i>
ANCILLARY MATERIALS	Selection and use of ancillary materials is at the discretion of the Board. <i>19 TAC 66.104(p)</i>
HUMAN SEXUALITY MATERIALS	Course materials relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) shall be selected by the Board with the advice of the local school health advisory council. <i>Education Code 28.004(e)</i> [See EHAA]

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LOCAL)

SUBJECT AREA  
TEXTBOOK STUDY  
COMMITTEES

At an appropriate time, the District shall establish subject area textbook study committees for the purpose of reviewing materials provided by the state-approved publishers for each subject being considered for adoption. Local review guidelines shall be developed by each committee under the direction of an elected chairperson.

At least one teacher from each campus where a subject is taught shall be selected as a representative for that campus. The selection process for campus representatives shall be determined by the principal and approved by the campus improvement committee (CIC). The appropriate committee chairperson shall serve as the facilitator of each subject area committee. The number of committee members will vary. Committee members shall:

1. Attend all scheduled meetings;
2. Review all materials;
3. Disseminate information to home campus teaching staff; and
4. Solicit comments from peer teachers regarding instructional materials being reviewed or considered.

Committee members must confirm that there is no conflict of interest and that they have not received directly or indirectly any compensation from any of the publishers for any of the materials being reviewed. [See DBD]

The District subject area committee members shall vote on the textbooks.

DISTRICT TEXTBOOK  
COMMITTEE

The chairperson of each subject area committee shall be the representative to the District textbook committee. The number of members shall vary according to how many subjects are being reviewed and how many textbooks are up for adoption. This committee shall be chaired by the associate superintendent of instruction.

Each subject area committee representative shall bring the official vote from his or her subject area committee to the District textbook committee at which time the District committee shall vote to accept or reject each recommendation. If a subject area committee recommendation is rejected, that subject area committee must reconvene, reexamine the materials, vote again, and bring the results back to the District textbook committee.

At the March meeting of the Board, the District textbook committee shall bring forth the recommendations from the various committees for Board ratification to assure compliance with the April 1 reporting

INSTRUCTIONAL MATERIALS SELECTION AND ADOPTION  
TEXTBOOK SELECTION AND ADOPTION

EFAA  
(LOCAL)

date. Delivery is made to the District textbook warehouse during the summer for distribution to schools before the fall term begins.

PARENT MEMBER

Each subject area committee shall have one parent member. The District shall publicize through the PTA Council the opportunity for parents to serve as members on the subject area textbook committees. If more than one parent applies to serve on a committee, the parent member shall be selected by lottery. As a member of the committee, the parent shall have one vote.

PARENT AND  
COMMUNITY

All textbooks being considered for adoption shall be made available for parent and patron review at a designated centrally located site. Forms shall be provided for written input and information received shall be shared with the appropriate committee.

Teachers shall be encouraged to attend any overview session sponsored by a publisher held off campus and after regular work hours.

PUBLISHER'S  
LIMITATIONS

In order to protect planning, conferencing, and teaching time during an adoption period, publishers' representatives who have a program up for adoption shall not be permitted on any campus during the school day.

SELECTION  
LIMITATIONS

All textbooks shall be considered in the initial review. Those books that do not meet District standards may be eliminated from in-depth review and further consideration. Cost factors exceeding the state's limit may also be cause for elimination of a textbook from further consideration.

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*

INSTRUCTIONAL RESOURCES  
COPYRIGHTED MATERIAL

EFE  
(LEGAL)

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)*

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**Note:** Further information regarding the Digital Millennium Copyright Act can be found at: <http://www.copyright.gov>.

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	<p>The Superintendent or designee shall oversee the District's compliance with the United States copyright law.</p>
ELECTRONIC MEDIA	<p>To comply with copyright law, electronic media used in the classroom shall be for educational purposes only.</p>
COPYRIGHT INFRINGEMENT	<p>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.</p> <p>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.</p> <p>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.</p>
INFORMATION AND / OR TRAINING FOR EMPLOYEES	<p>The District shall provide information and/or training to employees regarding the provisions of the United States copyright law and shall make available to employees copies of the fair use guidelines on copying and the use of copyrighted materials. Information and training on copyright compliance shall emphasize the ethical responsibility of the employee.</p>
VIOLATIONS	<p>Disregard for the District copyright policy or guidelines shall be considered a violation of District policy and administrative regulations. Continued disregard of District policy and/or administrative regulations may result in disciplinary action, including termination of employment. Under certain state and federal laws, violations of copyright law may be considered a criminal offense.</p> <p>The District shall cooperate fully with local, state, or federal officials in any investigation concerning or relating to noncompliance with United States copyright law.</p>
COMPUTER SOFTWARE	<p>Unless otherwise provided in the license agreement, District employees shall not make more than one working copy of licensed computer software. If the working copy is lost or destroyed, an-</p>

other working copy may be made from the master copy. The master copy and the working copy may not be in use at the same time.

A “master copy” of computer software is intended to be used not as a working copy of the software, but rather as an archival copy of the software.

The printed documentation accompanying the computer software is protected under copyright law and shall not be copied except as permitted under the “Guidelines for Copying Printed Material for Educational Use” or by written permission from the copyright holder.

CURRICULUM DEVELOPMENT  
INNOVATIVE AND MAGNET PROGRAMS

EGA  
(LEGAL)

INNOVATIVE  
COURSES AND  
PROGRAMS

The District may develop innovative and other locally developed courses designed to enable students to master knowledge, skills, and competencies not included in the essential knowledge and skills of the required curriculum.

STATE BOARD  
APPROVAL

The State Board of Education may approve proposed courses not described in the foundation and enrichment curricula when the District demonstrates that the course is academically rigorous and addresses documented student needs.

COMMISSIONER  
APPROVAL

The Commissioner may approve a course proposed for use as a discipline-based course in the foundation or enrichment curriculum when the District demonstrates that the proposed course is academically challenging and addresses documented student needs.

*19 TAC 74.27(a)*

MAGNET SCHOOLS  
OR PROGRAMS

The District may operate magnet schools or programs to serve student populations with specialized interests and aptitudes.

Magnet schools or programs that do not meet all of the applicable requirements of 19 TAC, Chapter 74, Curriculum Requirements, shall be submitted to the Commissioner for approval by the State Board of Education.

*19 TAC 74.27(b)*

DUAL LANGUAGE  
IMMERSION  
PROGRAM

Consistent with rules adopted by the Commissioner, the District may adopt a dual language immersion program for students enrolled in elementary school grades. *Education Code 28.005(c), 28.0051(c)*

A dual language immersion program should be designed to produce students with a demonstrated mastery, in both English and one other language, of the required curriculum under Education Code 28.002(a). The Commissioner by rule shall adopt minimum requirements for a dual language immersion program, standards for evaluating the success of a program and the performance of schools that implement a program, and standards for recognizing schools that offer an exceptional program and students who successfully complete a program. *Education Code 28.0051*

REQUEST FOR  
PROGRAM

If the parents or guardians of at least 22 students at a school request a transfer for the same school year to another school in the District for the purpose of enrolling in an educational program offered at that school, the District shall offer such a program, beginning with the following school year, at the school from which the transfers were requested. The program may be offered by teleconference.

“Educational program” means a course or series of courses in the required curriculum other than a fine arts course or a career and technology course.

*Education Code 28.003*

PARENTAL REQUESTS

A parent is entitled to request, with the expectation that the request will not be unreasonably denied:

1. The addition of a specific academic class in the course of study of the parent’s child in keeping with the required curriculum if sufficient interest is shown in the addition of the class to make it economically practical to offer the class.
2. That the parent’s child be permitted to attend a class for credit above the child’s grade level, whether in the child’s school or another school, unless the Board or its designated representative expects that the child cannot perform satisfactorily in the class.

The decision of the Board concerning such a request is final and may not be appealed. [See FNG]

*Education Code 26.003(a)(3)(A)(B), (b)*

VIDEOTAPE OR  
RECORDING

A District employee is not required to obtain the consent of a child’s parent before the employee may videotape the child or record the child’s voice if the videotape or recording is to be used only for a purpose related to regular classroom instruction. *Education Code 26.009(b)(3)*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

PURPOSE

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. The District shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, the District shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

The District shall ensure that all children in the District participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

REQUIRED  
CURRICULUM

A district that offers kindergarten through grade 12 shall offer the following as a required curriculum:

FOUNDATION  
CURRICULUM

1. A foundation curriculum that includes:
  - a. English Language Arts and reading;
  - b. Mathematics;
  - c. Science; and
  - d. Social studies, consisting of Texas, United States, and world history; government; and geography.

*Education Code 28.002(a)(1); 19 TAC 74.1(b)*

ENRICHMENT  
CURRICULUM

2. An enrichment curriculum that includes:
  - a. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the District may offer an elective course in the language;
  - b. Health, with emphasis on the importance of proper nutrition and exercise;
  - c. Physical education;

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

- d. Fine Arts;
- e. Economics, with emphasis on the free enterprise system and its benefits;
- f. Career and technology education; and
- g. Technology applications.

*Education Code 28.002(a)(2); 19 TAC 74.1(c)*

The District may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.004(f); 19 TAC 74.1(b)*

LOCAL  
INSTRUCTIONAL PLAN

The District's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. The District is encouraged to exceed minimum requirements of law and State Board rule. *Education Code 28.002(g)*

COORDINATED  
HEALTH PROGRAMS

TEA shall make available to the District one or more coordinated health programs or allow the development of District programs designed to prevent obesity, cardiovascular disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

- 1. Health education;
- 2. Physical education and physical activity;
- 3. Nutrition services; and
- 4. Parental involvement.

*Education Code 38.013; 19 TAC 102.1031(a)*

The District shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the District. *Education Code 38.014*

Coordinated school health programs that are developed by the District and that meet TEA criteria may be approved and made available as approved programs. The District must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

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*

SCHOOL HEALTH  
ADVISORY COUNCIL

The Board shall establish a local school health advisory council to assist the District in ensuring that local community values are reflected in the District's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of council and FFA regarding federal wellness requirements]

DUTIES

The council's duties include recommending:

1. The number of hours of instruction to be provided in health education;
2. Curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, and type 2 diabetes through coordination of health education, physical education and physical activity, nutrition services, parental involvement, and instruction to prevent the use of tobacco;
3. Appropriate grade levels and methods of instruction for human sexuality instruction; and
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:
  - a. School health services;
  - b. Counseling and guidance services;
  - c. A safe and healthy school environment; and

d. School employee wellness.

*Education Code 28.004(c)*

CONTENT OF HUMAN  
SEXUALITY  
INSTRUCTION

The Board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the local school health advisory council. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

*Education Code 28.004(e)*

CONDOMS

The District may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

SEPARATE  
CLASSES

If the District provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FBA regarding single-sex classes under Title IX]

NOTICE TO  
PARENTS

The District shall notify a parent of each student enrolled in the District of the basic content of the District's human sexuality instruction to be provided to the student and of the parent's right to remove the student from any part of that instruction. *Education Code 28.004(i)*

AVAILABILITY OF  
MATERIALS

The District shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFAA regarding selection of curriculum materials for human sexuality instruction]

North East ISD  
015910

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LEGAL)

STEROID NOTICE AND  
EDUCATION

The District shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(EXHIBIT)]. *Education Code 38.008*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ALL LEVELS)

EHAA  
(LOCAL)

SCHOOL HEALTH  
ADVISORY COUNCIL

The school health advisory council shall meet regularly to receive new information, to review and evaluate materials, and to establish goals and objectives for the District's health education program.

BOARD  
RESPONSIBILITY

All proposed changes in the goals and objectives shall be brought to the Board for approval prior to the change being implemented.

INSTRUCTOR AND  
MATERIALS

All instruction in human sexuality shall be taught by the school nurse. Only those instructional materials, such as booklets, hand-outs, and audio/visual materials, as approved by the school health advisory council, shall be used in instruction. Current materials and program objectives shall be outlined in the *Human Sexuality and Abstinence* Handbook for each level and kept on file by each school nurse and in the health services office.

Human sexuality instruction shall occur in the high school health and health occupations classes, the middle school science classes, and in the elementary fourth and fifth grade health classes.

All questions relating to human sexuality should be directed to the school nurse. All questions shall be answered by the nurse with factual, scientific information. Students asking questions regarding a religious or moral issue shall be directed by the teacher or nurse to discuss the issue with their parents.

The issues of homosexuality, abortion, sexual deviation, and other controversial matters shall not be part of the curriculum and shall be left to the family or clergy.

NOTICE TO PARENTS

The District shall make all curriculum materials used in human sexuality and abstinence instruction available for parent review.

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (ELEMENTARY)

EHAB  
(LEGAL)

ESSENTIAL  
KNOWLEDGE AND  
SKILLS

A district that offers kindergarten through grade 5 must provide instruction in the required curriculum as specified in 19 TAC 74.1 (relating to Essential Knowledge and Skills).

The District shall ensure that sufficient time is provided for teachers to teach and students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English.

*19 TAC 74.2*

DAILY PHYSICAL  
ACTIVITY

All students enrolled in full-day kindergarten or grades 1–6 in an elementary school setting are required to participate in physical activity for a minimum of either 30 minutes daily or 135 minutes weekly under the following conditions:

1. Participation must be in a Texas Essential Knowledge and Skills (TEKS)-based physical education class or a TEKS-based structured activity; and
2. The District shall establish procedures for providing the required physical activity that must consider the health-related education needs of the student and the recommendations of the local health advisory council.

A student who is unable to participate in daily physical activity because of illness or disability is exempt from this requirement.

*Education Code 28.002(l); 19 TAC 74.32*

BASIC INSTRUCTIONAL PROGRAM  
REQUIRED INSTRUCTION (SECONDARY)

EHAC  
(LEGAL)

Courses in the foundation and enrichment curriculum in grades 6–12 must be provided in a manner that allows all grade promotion and high school graduation requirements to be met in a timely manner. The District is not required to offer a specific course in the foundation and enrichment curriculum except as specified in 19 TAC 74.3. *19 TAC 74.3(c)*

GRADES 6–8

A district that offers grades 6–8 must provide instruction in the required curriculum as specified in 19 TAC 74.1, relating to essential knowledge and skills. The District shall ensure that sufficient time is provided for teachers to teach and for students to learn English language arts, mathematics, science, social studies, fine arts, health, physical education, technology applications, and to the extent possible, languages other than English. *19 TAC 74.3(a)*

PHYSICAL ACTIVITY  
REQUIREMENTS

The Board shall adopt a policy that determines the extent to which students enrolled in middle and junior high school settings are allowed to meet physical activity requirements throughout the school year. The District must provide exemptions for:

1. Students in the health classifications specified in 19 TAC 74.31(2) and (3); or
2. Students participating in a TEKS-based physical education class or a TEKS-based structured activity.

The District may provide an exemption for students participating in private or commercially sponsored physical activities including those certified by the Superintendent to be of high quality and well supervised by appropriately trained instructors.

*Education Code 28.002(l); 19 TAC 74.32(b)*

HIGH SCHOOL  
COURSES AT EARLIER  
GRADES

The District may offer courses designated for grades 9–12 in earlier grade levels. *19 TAC 74.26(b)*

GRADES 9–12  
COURSE OFFERINGS

A district that offers grades 9–12 shall provide instruction in the required curriculum as specified in 19 TAC 74.1, relating to the essential knowledge and skills. The District shall ensure that sufficient time is provided for teachers to teach and for students to learn the subjects in the required curriculum. *19 TAC 74.3(b)(1)*

The District shall offer the courses listed below in grades 9–12 and shall maintain evidence that students have the opportunity to take these courses:

1. English language arts — English I, II, III, IV.
2. Mathematics — Algebra I, Algebra II, Geometry, Precalculus, and Mathematical Models with Applications.

3. Science — Integrated Physics and Chemistry, Biology, Chemistry, and Physics. Science courses shall include at least 40 percent hands-on laboratory investigations and field work using appropriate scientific inquiry.
4. Social studies — United States History Studies Since Reconstruction, World History Studies, United States Government, and World Geography Studies.
5. Economics — Economics with Emphasis on the Free Enterprise System and Its Benefits.

The District shall incorporate instruction in personal financial literacy into any course meeting a requirement for an economics credit, using materials approved by the State Board of Education. The District may add elements at its discretion, but must include the areas of instruction listed at 19 TAC 74.34(b). *Education Code 28.0021; 19 TAC 74.34*

6. Physical education — Foundations of Personal Fitness and at least two of the following:
  - a. Adventure/Outdoor Education;
  - b. Aerobic Activities;
  - c. Individual Sports; or
  - d. Team Sports.
7. Health education — Health I.
8. Fine arts — courses selected from at least two of the four fine arts areas (art, music, theatre, and dance) as follows:
  - a. Art I, II, III, IV;
  - b. Music I, II, III, IV;
  - c. Theatre I, II, III, IV; or
  - d. Dance I, II, III, IV.
9. Career and technology education, taught on a campus in the District with provisions for contracting for additional offerings with programs or institutions as may be practical [see EEL] — courses selected from at least three of the eight career and technology areas, as follows:
  - a. Agricultural science and technology education;
  - b. Business education;
  - c. Career orientation;

- d. Health science technology education;
  - e. Family and consumer sciences education/home economics education;
  - f. Technology education/industrial technology education;
  - g. Marketing education; and
  - h. Trade and industrial education.
10. Languages other than English — Levels I, II, and III or higher of the same language.
11. Technology applications — at least four courses selected from Computer Science I, Computer Science II, Desktop Publishing, Digital Graphics/Animation, Multimedia, Video Technology, Web Mastering, or Independent Study in Technology Applications.
12. Speech — Communications Applications.

*19 TAC 74.3(b)(2)*

The District must provide each student the opportunity each year to select courses in which he or she intends to participate from a list that includes all courses listed above. If the District will not offer all required courses every year, but intends to offer particular courses only every other year, it must notify all enrolled students of that fact. *19 TAC 74.3(b)(2)*

The District shall teach any course a student is required to take for graduation or any course in which ten or more students indicate they will participate. For those courses in which fewer than ten students indicate that they will participate, the District shall either teach the course or use alternate delivery systems, as described in 19 TAC, Chapter 74, Subchapter C, to provide the course and shall maintain evidence thereof. *19 TAC 74.3(b)(4)*

The District may offer additional courses from the complete list of courses approved by the State Board of Education to satisfy graduation requirements. *19 TAC 74.3(b)(3)*

RESEARCH WRITING  
COMPONENT

For students entering grade 9 beginning with the 2007–08 school year, districts must ensure that one or more courses offered in the required curriculum for the Recommended and Advanced High School Programs include a research writing component. *19 TAC 74.3(b)(5)*



PHYSICAL ACTIVITY IN  
MIDDLE SCHOOL

Students in middle and junior high school may fulfill the District's requirement for physical activity by:

1. Taking a TEKS-based physical education class or a substitute approved by the District; or
2. Participating in a TEKS-based structured extracurricular activity or in an approved private or commercially sponsored physical activity program.

BASIC INSTRUCTIONAL PROGRAM  
ELECTIVE INSTRUCTION

EHAD  
(LEGAL)

DRIVER EDUCATION

Driver education is limited to eligible students who are between the ages of 14 and 18 years of age, who are at least 14 years of age at the time the driver education classroom phase begins and who will be 15 years of age or older when the behind-the-wheel instruction begins. Students officially enrolled in school who are 18-21 years of age may attend a teenage driver education program. *Education Code 29.902; 19 TAC 75.1005(i)*

LIFE SKILLS  
PROGRAMS

The District may provide an integrated program of educational and support services for students who are pregnant or who are parents. If the District provides such a program, the program shall include all of the following:

1. Individual counseling, peer counseling, and self-help programs.
2. Career counseling and job readiness training.
3. Day care for the students' children on the campus or at a day-care facility in close proximity to the campus.
4. Transportation for children of students to and from the campus or day-care facility.
5. Transportation for students, as appropriate, to and from the campus or day-care facility.
6. Instruction related to knowledge and skills in child development, parenting, and home and family living.
7. Assistance to students in the program in obtaining available services from government agencies or community service organizations, including prenatal and postnatal health and nutrition programs.

The District shall solicit recommendations for obtaining community support for the students and their children in the life skills programs.

The District may operate a shared services arrangement program to operate a life skills program for student parents.

*Education Code 29.085 [See EHBC(LEGAL), FNE(LEGAL)]*

LOCAL CREDIT  
COURSES

The District may offer one or more courses in addition to those in the required curriculum for local credit. The State Board of Education shall be flexible in approving such courses for credit for high school graduation. *Education Code 28.002(f) [See EIF]*

DYSLEXIA AND  
RELATED DISORDERS

The Board shall ensure that procedures are implemented for identifying and providing appropriate instructional services to students for dyslexia and related disorders, in accordance with the State Board of Education's Procedures Concerning Dyslexia and Related Disorders (Dyslexia Handbook).

IDENTIFICATION  
AND TESTING

Screening should be done only by individuals who are trained to assess students for dyslexia and related disorders.

Before an identification or assessment procedure is used selectively with an individual student, the District shall notify the student's parent or guardian or another person standing in parental relation to the student.

A program for early identification, intervention, and support for students with dyslexia must be available, as outlined in the Dyslexia Handbook.

TREATMENT

Each school shall provide each identified student access at his or her campus to the services of a teacher trained in dyslexia and related disorders. The District may, with the approval of each student's parents or guardians, offer additional services at a centralized location, but centralized services shall not preclude each student from receiving services at his or her campus.

READING  
PROGRAM

The District may purchase a reading program or develop its own reading program, as long as the program is characterized by the descriptors in the Dyslexia Handbook.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multisensory, phonetic methods and a variety of writing and spelling components in the State Board dyslexia guidelines and in the professional development activities specified by the District- and/or campus-level committees.

NOTICE TO  
PARENTS

The District shall inform parents and guardians of students eligible under Section 504 [see FB] of all services and options available to the student under that statute.

PARENT  
EDUCATION

The District shall provide a parent education program for parents and guardians of students with dyslexia and related disorders. This program should include awareness of characteristics of dyslexia and related disorders; information on testing and diagnosis of dyslexia; information on effective strategies for teaching dyslexic students; and awareness of information on modifications, especially modifications allowed on standardized testing.

*Education Code 38.003; 19 TAC 74.28*

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**Note:** The policies in the EHBA series are statements of principles governing special education programs for Texas school districts. In no way are these policies intended to cover the entire scope and detail involved in administering any special education program.

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NONDISCRIMINATION

No qualified student with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any District service, program, or activity. *42 U.S.C. 12132; 29 U.S.C. 794(a); 34 CFR 104.4(a)* [See also FB]

FREE APPROPRIATE  
PUBLIC EDUCATION  
(FAPE)

Eligible students with disabilities shall enjoy the right to a free appropriate public education, which may include instruction in the regular classroom, instruction through special teaching, or instruction through approved contracts. Instruction shall be supplemented by the provision of related services when appropriate. *Education Code 29.003(a)*

“Free appropriate public education” (FAPE) means special education and related services that:

1. Have been provided at public expense, under public supervision and direction, and without charge;
2. Meet standards set out by TEA;
3. Include an appropriate preschool, elementary school, or secondary school education; and
4. Are provided in conformity with the student’s individualized education program (IEP).

*20 U.S.C. 1401(9); 34 CFR 300.13; 34 CFR 300.121(d)*

LEAST RESTRICTIVE  
ENVIRONMENT

The District shall ensure that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, shall be educated with children who are not disabled. Special classes, separate schooling, or other removal of children with disabilities from the regular educational environment shall occur only when the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. *20 U.S.C. 1412(a)(5); 34 CFR 300.550(b)*

DISCIPLINE

All disciplinary actions regarding students with disabilities shall be in accordance with federal requirements, Education Code Chapter 37, and 19 TAC 89.1053. *19 TAC 89.1050(g)* [See FOF]

PLACEMENT OPTIONS Instructional arrangements/settings shall be based on the individual needs and IEPs of eligible students receiving special education services. Placement options include:

1. Mainstream: providing services in a regular classroom;
2. Homebound: providing services at home or hospital bedside;
3. Hospital class: providing services in a classroom, hospital facility, or residential care and treatment facility not operated by the District;
4. Speech therapy: providing speech therapy services in a regular education classroom or other setting;
5. Resource room/services: providing services in a setting other than the regular classroom for less than 50 percent of the regular school day;
6. Self-contained (mild, moderate, or severe) regular campus: providing services to a student who is in a self-contained program for 50 percent or more of the regular school day on a regular school campus;
7. Off home campus: providing services in an interdistrict program, through District personnel at a nondistrict facility, or at a District campus that provides only special education and related services.
8. Nonpublic day school: providing services through a contractual agreement with a nonpublic school for special education;
9. Vocational adjustment class/program: providing services to a student who is placed on a job with regularly scheduled direct involvement by special education personnel in the implementation of the student's IEP;
10. Residential care and treatment facility (not District resident): providing services to students who reside in care and treatment facilities and whose parents do not reside within the boundaries of the District;
11. State school for persons with mental retardation: providing services to a student who resides at a state school when the services are provided at the state school location; or
12. Other program options, including contracts with other districts and programs approved by TEA.

*19 TAC 89.63(c), (f)*

North East ISD  
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SPECIAL PROGRAMS  
SPECIAL EDUCATION

EHBA  
(LEGAL)

SHARED SERVICES  
ARRANGEMENTS

The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. *Education Code 29.007*

SPECIAL EDUCATION  
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA  
(LEGAL)

CHILD FIND

The District shall ensure that all children residing within the District who have disabilities, regardless of the severity of their disabilities, and who are in need of special education and related services are identified, located, and evaluated. This requirement applies to children attending private schools, highly mobile children (including migrant and homeless children), children who are wards of the state, and children who are suspected of being in need of special education but who are advancing from grade to grade.

The District shall have a practical method for determining which children are currently receiving needed special education and related services.

*20 U.S.C. 1412(a)(3)(A); 34 CFR 300.125*

PRIVATE SCHOOL  
STUDENTS

The child find process shall be designed to ensure the equitable participation of parentally placed private school children with disabilities and an accurate count of such children. In carrying out this requirement, the District shall undertake activities similar to those undertaken for public school children.

The child find process for children enrolled in private schools shall be completed in a time period comparable to that for other students attending public schools in the District.

CONSULTATION  
WITH PRIVATE  
SCHOOL  
OFFICIALS

The District shall conduct a timely and meaningful consultation with private school representatives regarding the child find process and the provision of special education and related services to children enrolled in private schools.

When timely and meaningful consultation has occurred, the District shall obtain a written affirmation signed by the representatives of participating private schools. If such representatives do not provide such affirmation within a reasonable period of time, the District will forward the documentation to TEA.

*20 U.S.C. 1412(a)(10)(A)(ii)-(iv)*

PRESCHOOL  
STUDENTS

The District shall develop a system to notify District residents with children between the ages of three and five who are eligible for enrollment in a special education program of the availability of the program. *Education Code 29.009*

REFERRALS

Referral of students for a full and individual initial evaluation for possible special education services shall be a part of the District's overall general education referral or screening system. Either a parent, a state educational agency, another state agency, or the District may initiate a request for an initial evaluation.

Before referral, students experiencing difficulty in the general classroom should be considered for all support services available to all students, such as tutorial, remedial, compensatory, and other services. If a student continues to experience difficulty in the general classroom after the provision of interventions, District personnel must refer the student for a full and individual initial evaluation.

*20 U.S.C. 1414(a)(1); 19 TAC 89.1011*

NOTICE OF RIGHTS

A reasonable time before the District proposes or refuses to initiate or change the identification, evaluation, or educational placement of a student or the provision of a free appropriate education to a student, the District shall provide written notice to the student's parent or guardian. *20 U.S.C. 1415(b)(3); 34 CFR 300.503(a)(i)* [See EHBAE]

INITIAL EVALUATION

The District shall conduct a full and individual initial evaluation before the initial provision of special education and related services. *20 U.S.C. 1414(a)(1)(A)*

The District shall ensure that assessments of children who transfer from one district to another in the same academic year are coordinated with the children's prior and subsequent schools, as necessary and as expeditiously as possible, to ensure prompt completion of evaluations. *20 U.S.C. 1414(b)(3)(D)*

The screening of a student by a teacher or specialist to determine appropriate instructional strategies for curriculum implementation shall not be considered to be an evaluation for eligibility for special education and related services. *20 U.S.C. 1414(a)(1)(E)*

CONSENT FOR  
INITIAL  
EVALUATION

Before the District conducts an initial assessment, it shall obtain informed, written parental consent for the evaluation.

If the parent does not provide consent for an initial evaluation, or if the parent fails to respond to a request to provide consent, the District may pursue the initial evaluation by utilizing due process procedures [see EHBAE], except to the extent inconsistent with state law relating to such parental consent.

If a parent revokes consent, that revocation is not retroactive (that is, it does not negate an action that has occurred after the consent was given and before the consent was revoked). [See EHBD]

Parental consent shall not be construed as consent for placement.

*20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.500(b)(1), 300.505, 300.531*



WARDS OF THE STATE	<p>If the child is a ward of the state and is not residing with the child's parent, the District shall make reasonable efforts to obtain the informed consent from the parent for an initial evaluation, unless:</p> <ol style="list-style-type: none"><li>1. Despite efforts to do so, the District cannot discover the whereabouts of the parent;</li><li>2. The rights of the parent have been terminated;</li><li>3. The rights of the parent to make educational decisions have been subrogated and an individual appointed by a judge has given consent for an initial evaluation.</li></ol> <p><i>20 U.S.C. 1414(a)(1)(D)(iii)</i></p>
DETERMINATION	<p>The initial evaluation shall consist of procedures to determine whether a child is a child with a disability within 60 days of receiving parental consent for the evaluation, or a shorter time frame if one is established by the state.</p> <p>This time frame shall not apply if:</p> <ol style="list-style-type: none"><li>1. A child enrolls after the relevant time frame has begun and before the previous district made a determination as to whether the child has a disability, but only if the current district is making sufficient progress to ensure a prompt completion of the evaluation and the parent and District agree to a specific time for completion of the evaluation; or</li><li>2. The parent repeatedly fails or refuses to produce the child for the evaluation.</li></ol> <p><i>20 U.S.C. 1414(a)(1)(C)(ii); Education Code 29.004</i></p> <p>The time required for the District to provide information and seek consent under Education Code 29.0041(b) may not be counted toward the 60 calendar days for completion of an evaluation under Education Code 29.004. If a parent does not give consent under Education Code 29.0041(b) within 20 calendar days after the date the District provided to the parent the information required, the parent's consent is considered denied. <i>Education Code 29.0041(c)</i></p>
DETERMINATION OF ELIGIBILITY	<p>Upon completion of the administration of assessments and other evaluation measures, a team of qualified professionals and the parent shall make the determination of whether the child is eligible for special education and related services. Lack of instruction in reading or math or limited English proficiency shall not be the determinant factor. <i>20 U.S.C. 1414(b)(4)-(5); 34 CFR 300.534(a)</i></p>
FIRST-TIME REFERRALS	<p>The admission, review, and dismissal (ARD) committee shall make its decisions regarding a student referred for a full and individual</p>

initial evaluation within 30 calendar days from the date of the completion of the written evaluation report. If the 30th day falls during the summer and school is not in session, the ARD committee shall have until the first day of classes in the fall to finalize decisions concerning the initial eligibility determination, the IEP, and placement, unless the initial evaluation indicates the student will need extended school year (ESY) services during that summer.  
*19 TAC 89.1050(d)*

COPY OF REPORT TO PARENTS	A copy of the evaluation report and the documentation of determination of eligibility must be given to the parent. <i>20 U.S.C. 1414(b)(4)(B); 34 CFR 300.534(a)(2)</i>
REEVALUATIONS	<p>The District shall ensure that each child is reevaluated if the District determines that the educational or related services needs of the child, including improved academic achievement and functional performance, warrant a reevaluation, or if the child's parent or teacher requests a reevaluation.</p> <p>Reevaluation shall occur:</p> <ol style="list-style-type: none"><li data-bbox="435 1017 1282 1078">1. No more than once a year, unless the parent and the District agree otherwise; and</li><li data-bbox="435 1109 1303 1170">2. At least once every three years, unless the parent and District agree that a reevaluation is unnecessary.</li></ol> <p><i>20 U.S.C. 1414(a)(2), (b), (c); 34 CFR 300.505, 300.536</i></p>
CHANGE IN ELIGIBILITY	<p>The District shall evaluate a child before determining that the child is no longer a child with a disability. However, an evaluation is not required before the termination of eligibility due to graduation from secondary school with a regular diploma or due to exceeding the age eligibility for a free appropriate public education under state law. <i>20 U.S.C. 1414(c)(5); 34 CFR 300.534(c)(1)</i></p>
INDEPENDENT EVALUATION	<p>The parents have a right to obtain an independent educational evaluation if they disagree with the District's evaluation.</p> <p>If a parent requests an independent evaluation, the District shall provide the parents with information regarding where one can be obtained. In addition, the District shall either ensure that an evaluation is performed at public expense or initiate a due process hearing to establish that the District's evaluation is appropriate.</p>
AT PUBLIC EXPENSE	<p>If an independent evaluation is at public expense, the criteria under which the evaluation is obtained, including the location of the evaluation and the qualifications of the examiner, must be the same as the criteria that the District uses when it initiates an evaluation.</p>

SPECIAL EDUCATION  
IDENTIFICATION, EVALUATION, AND ELIGIBILITY

EHBAA  
(LEGAL)

AT PRIVATE EXPENSE	If the District initiates a hearing, and the District's evaluation is found to be appropriate, the parent still has a right to an independent evaluation, but not at public expense. If the parent obtains an independent educational evaluation at private expense, the results of the evaluation shall be considered by the District, if it meets District criteria, in any decision made with respect to providing a free appropriate public education to the child.  <i>34 CFR 300.502</i>
DEFINITION OF ELIGIBILITY	A student is eligible to participate in the District's special education program if:  <ol style="list-style-type: none"><li data-bbox="435 749 1212 781">1. The student is between the ages of 3 and 21, inclusive;</li><li data-bbox="435 803 1265 869">2. The student has one or more of the disabilities listed in federal regulations, state law, or both; and</li><li data-bbox="435 891 1265 995">3. The student's disability(ies) prevent the student from being adequately or safely educated in the public schools without the provision of special services.</li></ol> <i>Education Code 29.003(b); 19 TAC 89.1035; 19 TAC 89.1040</i>
VISUAL AND AUDITORY IMPAIRMENTS	A student with a visual or auditory impairment shall be eligible to participate in the District's special education program from birth. <i>19 TAC 89.1035(b); Education Code 30.002</i>
PRESCRIPTION MEDICATION	An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.  An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.  <i>20 U.S.C. 1412(a)(25)</i>

SPECIAL EDUCATION  
INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND ARDS

EHBAB  
(LEGAL)

ADMISSION, REVIEW,  
AND DISMISSAL  
COMMITTEE

The District shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full and individual initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 CFR 300.344.

RESPONSIBILITIES  
OF ARD  
COMMITTEE AND  
IEP TEAM

The responsibilities of the ARD committee and the District include:

1. Evaluation, re-evaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities;
3. Development of the student's individualized education program (IEP);
4. Development and implementation of service plans for eligible students in private schools;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of personal graduation plans;
8. Development of intensive programs of instruction under Education Code 28.0213;
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

*19 TAC 89.1050(a)*

COMMITTEE  
MEMBERS

The District shall ensure that each IEP team meeting includes all of the following:

1. The parents of a child with a disability;
2. At least one regular education teacher of the child (if the child is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the child;
4. A representative\* of the District who:

SPECIAL EDUCATION  
INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND ARDS

EHBAB  
(LEGAL)

- a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of children with disabilities;
  - b. Is knowledgeable about the general education curriculum; and
  - c. Is knowledgeable about the availability of resources of the District;
5. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee (who may be a member of the committee listed in items 1–5);
  6. The child, if appropriate; and
  7. Other individuals who have knowledge or special expertise regarding the child at the discretion of the District or the parent.

\* The District may designate another member of the ARD committee to also serve as a District representative, so long as the criteria in items 4a–c are satisfied.

A member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the District agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during meeting.

A member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent and the District consent to the excusal and the member submits, in writing, input into the development of the IEP before the meeting.

*20 U.S.C. 1414(d)(1)(B)–(C); 34 CFR 300.344*

MEMBERSHIP  
FOR TRANSITION  
MEETINGS

If the purpose of the meeting is to consider transition services for a student, the District shall invite:

1. The student. If the student does not attend, the District shall take steps to ensure that the student's preferences and interests are considered.
2. A representative of any other agency that is likely to be responsible for providing or paying for transition services. If such a representative is invited but does not attend, the Dis-

trict shall take other steps to obtain the participation of the other agency in the planning of any transition services.

*34 CFR 300.344(b)* [See EHBAD]

PARENT  
INVOLVEMENT

The District shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notice of the purpose, time, and location of the meeting, who will be in attendance, and that persons with knowledge or special expertise may be invited by either the parent or the District;
2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the District will invite the student, and identify any other agency that will be invited to send a representative.

*34 CFR 300.345(a), (b); 19 TAC 89.1045*

ALTERNATIVE  
MEANS OF  
MEETING  
PARTICIPATION

When conducting ARD committee meetings and placement, the parent and the District may agree to use alternative means of meeting participation, such as video conferences and conference calls. *20 U.S.C. 1414(f)*

An ARD meeting may be conducted without a parent in attendance if the District is unable to convince the parents that they should attend, but the District shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 CFR 300.345(c)-(d)*

MEETINGS

The District shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year.

A meeting does not include informal or unscheduled conversations involving District personnel and conversations on issues such as teaching methodology, lesson plans, or coordination of service provisions if those issues are not addressed in the child's IEP. A meeting also does not include preparatory activities that public agency personnel engage in to develop a proposal or response to a parent proposal that will be discussed at a later meeting.

*20 U.S.C. 1414(d)(4); 34 CFR 300.501(b)(2), 300.343*

SPECIAL EDUCATION  
INDIVIDUALIZED EDUCATION PROGRAM (IEP) AND ARDS

EHBAB  
(LEGAL)

MEETING AT PARENT'S REQUEST	A parent may request an ARD committee meeting at any mutually agreeable time to address specific concerns about his or her child's special education services. The District must respond to the request by holding the meeting or requesting TEA's assistance through the mediation process. The District shall inform parents of the functions of the ARD committee and the circumstances or types of problems for which requesting an ARD committee meeting would be appropriate. <i>19 TAC 89.1045(b)</i>
TRANSFER STUDENTS	If a student transfers districts, and the student had a previous IEP in place, the District will provide the child with a free appropriate public education, including services comparable to those described in the previous IEP, in consultation with the parents, until:  <ol style="list-style-type: none"><li data-bbox="431 794 1285 897">1. In the case of a student who transfers within the state, the District adopts the previous IEP or develops, adopts, and implements a new IEP.</li><li data-bbox="431 919 1293 1022">2. In the case of a student who had an IEP in effect in another state, the District conducts an evaluation, if determined necessary by the District, and develops a new IEP, if appropriate.</li></ol>
TRANSFER OF RECORDS	The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.  The previous district shall take reasonable steps to promptly respond to the request from the new district.  <i>20 U.S.C. 1414(d)(2)(C)</i>
INDIVIDUALIZED EDUCATION PROGRAM(IEP)	The District shall develop, review, and revise an IEP for each child with a disability. <i>20 U.S.C. 1412(a)(4)</i>  At the beginning of each school year, the District shall have in effect, for each child with a disability in its jurisdiction, an IEP. <i>20 U.S.C. 1414(d)(2)(A)</i>  The term "individualized education program" means a written statement for each child with a disability that includes:  <ol style="list-style-type: none"><li data-bbox="431 1699 1177 1764">1. A statement of the child's present levels of academic achievement and functional performance;</li><li data-bbox="431 1786 1289 1852">2. A statement of measurable annual goals, including academic and functional goals;</li></ol>

3. A description of how the child's progress toward the annual goals will be measured and when periodic reports on the progress of the child will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the child;
5. A statement of the program modifications or supports for school personnel that will be provided for the child;
6. An explanation of the extent, if any, to which the child will not participate with nondisabled children in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the child on state or districtwide assessments;
9. Beginning not later than the first IEP to be in effect when the child is 16, and updated annually thereafter, a statement of the transition service needs of the student [see EHBAD]; and
10. Beginning not later than one year before the child reaches the age of 17, a statement that the child has been informed of the rights that will transfer to the child upon reaching the age of majority.

*20 U.S.C. 1414(d); 34 CFR 300.347(a), (b); 19 TAC 89.1055*

TRANSLATION OF  
IEP INTO NATIVE  
LANGUAGE

If the parent is unable to speak English and Spanish is the parent's native language, the District shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, the District shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language.  
*Education Code 29.005(d)*

AUTISM /  
PERVASIVE  
DEVELOPMENTAL  
DISORDER

For students with autism/pervasive developmental disorders, information about the following shall be considered and, when needed, shall be addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time;



3. In-home training or viable alternatives;
4. Prioritized behavioral objectives;
5. Prevocational and vocational needs of students 12 years of age or older;
6. Parent training; and
7. Suitable staff-to-students ratio.

If the ARD committee determines that the services are not needed in one or more of the items listed in 1–7 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

*19 TAC 89.1055(e)–(f)*

VISUAL  
IMPAIRMENT

If the District provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (access to resources).

*19 TAC 89.1075(b)*

COLLABORATIVE  
PROCESS

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions concerning the required elements of the IEP shall be made by agreement of the required members, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

TEN-DAY  
RECESS

When agreement about all required elements of the IEP is not achieved, the parent or adult student [see EHBAD for more information on rights of adult students] who disagrees shall be offered a single opportunity to have the committee recess for a period not to exceed ten school days. This recess is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or
3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.  
[See FOF]

These requirements do not prohibit the members of the ARD committee from recessing an ARD committee meeting for reasons other than failure of the parents and the District to reach agreement about all required elements of an IEP.

During the recess, the committee members shall consider alternatives, gather additional data, prepare further documentation, and/or

obtain additional resource persons to enable the committee to reach agreement.

The date, time, and place for continuing the ARD committee meeting shall be determined by agreement before the recess.

FAILURE TO  
REACH  
AGREEMENT

If, after the ten-day recess, the ARD committee still cannot reach agreement, the District shall implement the IEP it has determined to be appropriate for the student. A written statement of the basis for the disagreement shall be included in the IEP. The members who disagree shall be offered the opportunity to write their own statements.

When the District implements an IEP with which the parents or adult student disagree, it shall provide prior written notice in compliance with the notice provisions described at EHBAB.

Parents shall have the right to file a complaint, request mediation, or request a due process hearing at any point, when they disagree with ARD committee decisions.

*19 TAC 89.1050(h)*

MODIFICATION OF  
EXISTING IEP

After the annual IEP meeting for a school year, the parent and District may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

To the extent possible, the District shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP. Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

*20 U.S.C. 1414(d)(3)(D)-(F)*

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

RELATED SERVICES  
DEFINITION

“Related services” means transportation, and such developmental, corrective, and other supportive services as may be required to assist a child with a disability to benefit from special education.

The term includes speech-language pathology and audiology services, interpreting services, psychological services, physical and occupational therapy, recreation, including therapeutic recreation, social work services, school nurse services designed to enable a child with a disability to received a free appropriate public education as described in the child’s individualized education program (IEP), counseling services, including rehabilitation counseling, orientation and mobility services, and medical services, except that medical services shall be for diagnostic and evaluation purposes only.

The term does not include a medical device that is surgically implanted, or the replacement of such device.

*20 U.S.C. 1401(26)*

TRANSPORTATION

The District shall provide special transportation with federal funds only when the ARD committee determines that the condition of the student warrants the service in order for the student to receive the special education and related services (if any) set forth in the IEP. *19 TAC 89.1096(d)*

ASSISTIVE  
TECHNOLOGY  
DEVICES

The term “assistive technology device” (ATD) means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of such a device. *20 U.S.C. 1401(1)*

TEA shall annually disseminate standards for a district’s transfer of an assistive technology device (ATD) when a student with a disability using the device changes the school of attendance in a district or ceases to attend school in the district that purchased the device, and the student’s parents, or the student if the student has the legal capacity to enter into a contract, agrees to the transfer.

A transfer of an ATD shall be in accordance with a transfer agreement which incorporates the standards described in Education Code 30.0015(c) and 19 TAC 89.1056.

*Education Code 30.0015; 19 TAC 89.1056*

EXTENDED  
SCHOOL YEAR  
(ESY) SERVICES

The District shall ensure that extended school-year (ESY) services are available as necessary to provide a student with a disability with a free appropriate public education.

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

The need for ESY services must be determined on an individual student basis by the ARD committee. In determining the need for and in providing ESY services, the District may not limit ESY services to particular categories of disability or unilaterally limit the type, amount, or duration of ESY services.

If the District does not propose ESY services for discussion at the annual review of a student's IEP, the parent may request that the ARD committee discuss ESY services.

*34 CFR 300.309(a); 19 TAC 89.1065(1), (5)*

SHARED SERVICES  
ARRANGEMENTS

The District may enter into a written contract to jointly operate its special education program. The contract must be approved by the Commissioner. *Education Code 29.007*

NONDISTRICT  
PLACEMENT

The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

ADULT PRISONS

1. Federal requirements pertaining to participation of students with disabilities in general assessments;
2. Requirements concerning transition planning and transition services, if the children's eligibility will end, because of their age, before they will be released from prison.

If a child with a disability is convicted as an adult under state law and incarcerated in an adult prison, the child's ARD committee may modify the child's IEP or placement, notwithstanding the least restrictive environment requirements, if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

*20 U.S.C. 1414(d)(6)(B); 34 CFR 300.311*

PRIVATE SCHOOLS  
AND FACILITIES

The District shall ensure that children with disabilities in private schools and facilities are provided special education and related services, at no cost to their parents, if the children are placed in, or referred to, such schools or facilities by the state or District. *20 U.S.C. 1412(a)(10)(B)(i); 34 CFR 300.401(a); 19 TAC 89.1090*

ENROLLED BY  
STATE OR  
DISTRICT

ENROLLED BY  
PARENT

If a child with a disability is enrolled in a private school and will receive special education or related services from the District, the District shall initiate and conduct ARD committee meetings to develop, review, and revise a services plan for the child and ensure that a representative of the private school attends that meeting.

PRIVATE  
SCHOOL  
PERSONNEL

The District shall give appropriate representatives of private school children with disabilities a genuine opportunity to express their views regarding educational needs of private school children with

disabilities. However, the services provided to private school children with disabilities must be provided by personnel meeting the same standards as personnel providing services in the public schools.

The District shall make the final decisions with respect to eligible private school children.

*34 CFR 300.454*

REIMBURSEMENT  
FOR PRIVATE  
SCHOOL  
PLACEMENT

If the parents of a child with a disability, who previously received special education and related services under the authority of a public agency, enroll the child in a private school without the consent or referral by the public agency, a court or a hearing officer may require the agency to reimburse the parents for the cost of that enrollment if the court or hearing officer finds that the agency had not made a free and appropriate public education available to the child in a timely manner before the enrollment. *20 U.S.C. 1412(a)(10)(B)*

When a student with disabilities who has been placed by his or her parents directly in a private school or facility is referred to the District, the District shall convene an ARD committee meeting to determine whether the District can offer to the student a free appropriate public education. If the District determines that it can, the District is not responsible for providing educational services to that student until the parents enroll the child in the public school full-time or request services under the dual enrollment rule [see DUAL ENROLLMENT, below]. *20 U.S.C. 1412(a), 1413(a); 34 CFR 300.454*

Children with disabilities who are enrolled by their parents in private elementary and secondary schools shall be provided special education and related services in accordance with a services plan that describes the specific special education and related services that the District will provide. Such services may be provided on the premises of private, including parochial, schools to the extent consistent with law. *19 TAC 89.1096(b)-(c); 34 CFR 300.455(b), 300.456(a)*

DUAL ENROLLMENT

Parents of an eligible student age three or four shall have the right to "dual enroll" their student in both the public school and a private school beginning on the student's third birthday and continuing until the end of the school year in which the student turns five, or until the student is eligible to attend the District's public school program, whichever comes first, subject to the following:

1. The student's ARD committee shall develop an IEP.

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

2. The parent and the District shall determine which special education and/or related services will be provided to the student and the location where those services will be provided, based on the requirements concerning placement in the least restrictive environment and the policies and procedures of the District.
3. The District shall be responsible for employing and supervising the personnel providing the service, providing the needed instructional materials, and maintaining pupil accounting records. Materials and services provided shall be consistent with those provided for students enrolled only in the public school and shall remain the property of the District.

*19 TAC 89.1096(c)*

CHARTER  
SCHOOLS

The District shall serve children with disabilities attending District charter schools in the same manner as it serves children with disabilities in its other schools and shall provide federal special education funds to those schools in the same manner as it provides those funds to its other schools. *20 U.S.C. 1413(a)(5); 34 CFR 300.312*

RESIDENTIAL  
FACILITIES  
WITHIN DISTRICT

A district having a residential facility that is licensed by appropriate state agencies and located within the District's boundaries must provide special education and related services to eligible students residing in the facility.

If, after contacting the facility to offer services to eligible students with disabilities, the District determines that educational services are provided through a charter school, approved non-public school, or a facility operated private school, the District is not required to provide services. However, the District shall annually contact the facility to offer services to eligible students with disabilities.

*19 TAC 89.1001(c); 19 TAC 89.1115*

CONTRACTS FOR  
RESIDENTIAL  
PLACEMENTS

The District may contract with a public or private facility, institution, or agency inside or outside of Texas for residential placement for students with disabilities. The District may contract only with facilities that are approved by the Commissioner. Contracts for residential placement must be approved by the Commissioner. Residential contracts shall be negotiated on an individual student basis. *Education Code 29.0087(a)*

RESPONSIBILITY

If the District contracts for education services, rather than providing the services itself, it shall oversee the implementation of the student's IEP and shall annually reevaluate the appropriateness of the arrangement. *Education Code 29.008(d)*

The District shall have the following responsibilities when making a residential placement:

1. Before placing a student with a disability in a residential facility, the District shall initiate and conduct a meeting to develop an IEP for the student.
2. The District shall list in each student's IEP the services the District is unable to provide and the facility is able to provide.
3. The District shall make an annual on-site visit to verify that the facility can and will offer the services listed in the individual student's IEP and to ensure that the facility offers the student an appropriate educational program.
4. The District shall document in each student's IEP the appropriateness of the facility. General approval by TEA or a general screening by a regional education service center (RESC) is not sufficient.
5. For each student, the ARD committee shall establish written criteria and estimated time frames for returning the student to the District.
6. For all contract students, the District shall verify in the initial and each subsequent annual ARD review that:
  - a. The facility continues to meet minimum standards for health and safety;
  - b. Continued contracting is needed and the need is documented in the IEP; and
  - c. The facility continues to offer an appropriate program for the student and is the least restrictive environment for the student.

OUT-OF-STATE  
PLACEMENTS

If the District contracts for out-of-state residential placements, it shall do so in accordance with the rules for in-state residential placement, except that the facility shall be approved by the appropriate agency in the state in which the facility is located rather than by the Texas Commissioner of Education.

IN-STATE  
TRANSFERS

When a student on a residential contract in one district moves to another district in Texas and the student is to continue on the contract, the district that negotiated the contract shall be responsible for the residential contract for the remainder of the school year.

*19 TAC 89.61(a)(4)*

SPECIAL EDUCATION  
STUDENTS IN NONDISTRICT PLACEMENT

EHBAC  
(LEGAL)

SCHOOL FOR THE  
BLIND AND  
VISUALLY IMPAIRED  
AND SCHOOL FOR  
THE DEAF

For each of its students enrolled in the Texas School for the Blind and Visually Impaired or Texas School for the Deaf, the District shall share the cost of the student's education (excluding the summer program). Before considering the student's educational placement for special education services, the District shall provide each parent of a student with visual or auditory impairments the following written information regarding the Texas School for the Deaf or Texas School for the Blind and Visually Impaired:

1. The availability of programs offered.
2. The eligibility and admissions requirements.
3. Student's rights to admission and to appeal admission decisions.

*Education Code 30.003(a), 30.004(a); 19 TAC 89.62*

The District may request services through the Texas School for the Blind and Visually Impaired or the Texas School for the Deaf in accordance with 19 TAC 89.1085. *19 TAC 89.1085*



TRANSITION  
SERVICES DEFINED

“Transition services” means a coordinated set of activities for a child with a disability that:

1. Is designed to be within a results-oriented process, that is focused on improving the academic and functional achievement of the child to facilitate the child’s movement from school to post-school activities, including postsecondary education, vocational education, integrated employment (including supported employment), continuing and adult education, adult services, independent living, or community participation.
2. Is based on the individual child’s needs, taking into account the child’s strengths, preferences, and interests.
3. Includes instruction, related services, community experiences, the development of employment and other post-school adult living objectives, and when appropriate, acquisition of daily living skills and functional vocational evaluation.

*20 U.S.C. 1401(34); 34 CFR 300.29*

INDIVIDUAL  
TRANSITION  
PLANNING (ITP)

Beginning when a student turns 14 (or younger, if determined appropriate by the ARD committee), and updated annually, each student’s IEP shall include a statement of the transition service needs of the student under the applicable components of the student’s IEP that focuses on the student’s courses of study.

Beginning when a student turns 16, the IEP shall include a statement of needed transition services, including, if appropriate, a statement of the interagency responsibilities or any needed linkages.

*34 CFR 300.347(b)*

GRADUATION

Graduation with a regular high school diploma terminates a student’s eligibility for special education services. For students who receive a diploma according to 19 TAC 89.1070(c), the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age requirements. [See EHBAA]

Graduation from high school with a regular diploma constitutes a change in placement that requires written prior notice to parents.

The District is not required to conduct an evaluation before termination of eligibility due to graduation from secondary school with a regular high school diploma or due to exceeding the age eligibility for a free appropriate public education under state law.

The District shall provide the child with a summary of the child’s academic achievement and functional performance, which shall

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include recommendations on how to assist the child in meeting the child's postsecondary goals.

*20 U.S.C. 1414(c)(5); 34 CFR 300.122(a)(3); 19 TAC 89.1070*  
[See EIF]

SPECIAL EDUCATION  
PROCEDURAL REQUIREMENTS

EHBAE  
(LEGAL)

The District shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education. These procedures shall include:

OPPORTUNITIES FOR  
PARENTS

1. An opportunity for the parents of a child with a disability to examine all records relating to the child, or participate in meetings with respect to the identification, evaluation, and educational placement of the child, and the provision of a free appropriate public education to the child; and to obtain an independent educational evaluation of the child.

ASSIGNMENT OF  
SURROGATE PARENT

2. Procedures to protect the rights of the child whenever the parents of the child are not known, the District cannot locate the parents after reasonable efforts to do so, or the child is a ward of the state. These procedures shall include assigning an individual to act as a surrogate for the parents. This individual shall not be an employee of TEA, the District, or any other agency that is involved in the education or care of the child.

PRIOR WRITTEN  
NOTICE

3. Prior written notice to the parents whenever the District proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the free appropriate public education of the child. [See PRIOR NOTICE AND CONSENT, below]

The written notice to parents shall be provided at least five school days before the proposed action is taken, unless the parents agree otherwise.

PARENTS' NATIVE  
LANGUAGE

4. Procedures designed to ensure that the prior written notice is in the native language of the parents, unless it is clearly not feasible to do so. The notice must include the elements set forth at 34 CFR 300.503(b).

MEDIATION

5. An opportunity for mediation.

COMPLAINT  
PROCEDURES

6. An opportunity for any party to present a complaint with respect to any matter relating to the identification, evaluation, or educational placement of the child, or the provision of a free appropriate public education to the child. [See COMPLAINT PROCEDURES, below]

NOTICE OF  
COMPLAINT

7. Procedures that require either party, or the attorney representing a party, to provide a due process complaint notice (which shall remain confidential) to the other party.

*20 U.S.C. 1415(a)-(b); 19 TAC 89.1015*

SPECIAL EDUCATION  
PROCEDURAL REQUIREMENTS

EHBAE  
(LEGAL)

PROCEDURAL  
SAFEGUARDS NOTICE

The District shall provide a copy of the procedural safeguards to parents only one time a year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon the first occurrence of the filing of a complaint; and
3. Upon request by a parent.

The District may place a current copy of the procedural safeguards notice on its Internet Web site, if it has one.

CONTENTS OF  
NOTICE

The procedural safeguards notice shall be written in the native language of the parents (unless it clearly is not feasible to do so) and written in an easily understandable manner. The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluation;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;
5. The opportunity to present and resolve complaints, including:
  - a. The time period in which to make a complaint,
  - b. The opportunity for the agency to resolve the complaint, and
  - c. The availability of mediation;
6. The child's placement during pendency of due process proceedings;
7. Procedures for students who are subject to placement in an interim alternative educational setting;
8. Requirements for unilateral placement by parents of children in private schools at public expense;
9. Due process hearings, including requirements for disclosure of evaluation results and recommendations;
10. State-level appeals;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

*20 U.S.C. 1415(a)-(b), (d)*

SPECIAL EDUCATION  
PROCEDURAL REQUIREMENTS

EHBAE  
(LEGAL)

PRIOR NOTICE AND  
CONSENT

Before initially placing a student in the District's special education program, the District shall seek informed consent from the student's parent by:

CONSENT TO  
SERVICES

1. Giving the child's parent prior written notice, which includes a full explanation of all procedural safeguards and describes evaluation procedures the District proposes to conduct; and
2. Obtaining parental consent for the evaluation.

If the parent refuses to consent to services or fails to respond to a request to provide consent, the District shall not provide special education and related services to the child and the District shall not be considered to be in violation of the requirement to make available a free and appropriate public education to the child. The District is not required to convene an individualized education program (IEP) meeting or develop an IEP for the services for which the District requested consent.

*20 U.S.C. 1414(a)(1)(D); 34 CFR 300.500(b)(1); 300.505; 300.531*

CONSENT TO  
INITIAL  
ASSESSMENT

Before the District conducts an initial assessment, it shall obtain parental consent for the evaluation. *20 U.S.C. 1414(a)(1)(D), (E); 34 CFR 300.500(b)(1); 300.505; 300.531*

If the District determines that an additional examination or test is required for the evaluation of a child's need for special education after obtaining consent from the child's parent, the District shall provide the information described above to the child's parent regarding the additional examination or test and shall obtain additional consent for the examination or test.

PSYCHOLOGICAL  
EXAMINATIONS  
AND TESTS

On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, the District shall provide to the child's parent:

1. The name and type of the examination or test; and
2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child.

*Education Code 29.0041*

COMPLAINT  
PROCEDURES

Whenever a complaint has been received by the District, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by TEA.

TIME LIMIT

Such complaint must set forth an alleged violation that occurred not more than two years before the date the parent or District knew or should have known about the alleged action that forms the basis

of the complaint or, if the state has an explicit time limitation for presenting such a complaint, in such time as state law allows.

Under Texas regulations, the parent or District must request a due process hearing within one year of the date the complainant knew or should have known of the alleged action that serves as the basis for the hearing request.

*20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151*

EXCEPTION

This timeline shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by the District that it had resolved the problem forming the basis of the complaint; or
2. The District's withholding of information from the parent that the District was required by the IDEA to provide.

*20 U.S.C. 1415(b)(6)–(7)*

'STAY PUT'

During the pendency of any proceeding conducted under IDEA part B (regarding the District's obligation to provide FAPE), unless the District and the parent agree otherwise, the student involved in the complaint shall remain in the then-current educational placement. If the student is applying for initial admission to a public school, the student shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j)*

EXCEPTION

When an appeal has been requested by a parent or District the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and District agree otherwise.

*20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.526 [See FOF]*

TRANSFER OF RIGHTS  
TO ADULT STUDENTS

When the student reaches the age of 18, the District shall notify the student and the parents of the transfer of rights, as described in the following paragraph. This notice is separate and distinct from the requirement that the student's IEP include a statement regarding transfer of parental rights.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

*34 CFR 300.517; Education Code 29.017(a)–(b); 19 TAC 89.1049(c)*

SPECIAL PROGRAMS  
GIFTED AND TALENTED STUDENTS

EHBB  
(LEGAL)

The District shall establish a process for identifying and serving gifted and talented students and shall establish a program for those students in each grade level. The District may establish a shared services arrangement with other districts. *Education Code 29.122*

DEFINITION

“Gifted and talented student” means a child or youth who performs at or shows the potential for performing at a remarkably high level of accomplishment when compared to others of the same age, experience, or environment and who exhibits high performance capability in an intellectual, creative, or artistic area, possesses an unusual capacity for leadership, or excels in a specific academic field. *Education Code 29.121*

IDENTIFICATION

Students shall be identified as gifted/talented in accordance with a written policy that includes:

1. Provisions for ongoing screening and selection of students who perform or show potential for performing at remarkably high levels of accomplishment in the areas defined in Education Code 29.121.
2. Assessment measures collected from multiple sources according to each area defined in the Texas State Plan for the Education of Gifted/Talented Students.
3. Data and procedures designed to ensure that students from all populations in the District have access to assessment and, if identified, to services provided for the gifted/talented program.
4. Provisions for final selection of students to be made by a committee of at least three local District educators who have received training in the nature and needs of gifted students.
5. Provisions regarding furloughs, reassessment, exiting of students from program services, transfer students, and appeals of District decisions regarding program placement.

*19 TAC 89.1*

LEARNING  
OPPORTUNITIES

The District shall provide an array of learning opportunities for gifted/talented students in kindergarten through grade 12 and shall inform parents of the opportunities. Options shall include:

1. Instructional and organizational patterns that enable identified students to work together as a group, to work with other students, and to work independently.
2. A continuum of learning experiences that leads to the development of advanced-level products and performances.

3. In-school, and when possible, out-of-school options relevant to the student's area of strength that are available during the school year.
4. Opportunities to accelerate in areas of strength.

*19 TAC 89.3*

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**Note:** See DMA(LEGAL) for training requirements for teachers of GIFTED AND TALENTED EDUCATION.

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SPECIAL PROGRAMS  
GIFTED AND TALENTED STUDENTS

EHBB  
(LOCAL)

PROGRAM DESCRIPTION	The gifted and talented (GT) program is open to all students in kindergarten through grade 12 who meet the identification criteria. The program consists of three stages, kindergarten-grade 2, grades 3-5, and a secondary subject specific program.
NOMINATION	Students may be nominated for the gifted and talented program at any time by teachers, counselors, parents, or other interested persons.
IDENTIFICATION CRITERIA	Criteria to identify gifted and talented students shall be established in the Board-approved program for the gifted and talented. The criteria shall be specific to the state definition of gifted and talented and shall ensure the fair assessment of students with special needs, such as the culturally different, the economically disadvantaged, and students with disabilities.
PARENTAL CONSENT	Written parental consent shall be obtained before any testing is conducted as part of the identification process. All student information collected during the identification process shall be an educational record, subject to the protections set out in policies at FL.
SELECTION	Each nominated student shall be evaluated according to the established criteria; a committee shall then select those students for whom gifted program placement is the most appropriate educational setting. The committee shall be composed of at least three professional educators who have received training in the nature and needs of gifted students and shall be established at each elementary campus. Qualifications for the secondary program are decided by a trained committee at the central office level.
ASSESSMENTS	Data collected through both objective and subjective assessments shall be measured against the criteria approved by the Board to determine individual eligibility for the program. Assessment tools may include but not be limited to the following: <ol style="list-style-type: none"><li>1. Achievement tests,</li><li>2. Intelligence tests,</li><li>3. Behavioral checklists completed by teachers and parents,</li><li>4. Teacher nominations based on classroom observations,</li><li>5. Student/parent conferences, and</li><li>6. Student work products, if available.</li></ol>
NOTIFICATION	Parents and students shall be notified in writing upon selection of the student for the gifted program. Participation in any program or services provided for gifted students is voluntary. The District shall

SPECIAL PROGRAMS  
GIFTED AND TALENTED STUDENTS

EHBB  
(LOCAL)

	obtain written permission of the students and the parents before a student is placed in a gifted program.
REASSESSMENTS	The District shall reassess students for the gifted and talented program at the beginning of grade 3 and at the end of grade 5 for specific courses beginning in grade 6.
TRANSFER STUDENTS	When a student identified as gifted by a previous school district transfers into the District, he or she shall be given the opportunity to be tested for the District program within 14 days of enrolling in the District.
PROBATION	Students who are unable to maintain satisfactory performance within the structure of the gifted and talented program shall be placed on probation. The purpose of such a probation is to provide the student an opportunity to attain performance goals.
FURLOUGHS	A furlough may be granted at the request of the student and/or parent. A furlough is for one school year only.
EXIT PROVISIONS	Student performance in the program shall be monitored. A student shall be removed from the program if it is in the student's best interest. If a student or parent requests removal from the program, the gifted and talented teacher and counselor shall meet with the parent and student before honoring the request.
APPEALS	Parents or students may appeal any final decision of the selection committee regarding selection for or removal from the gifted program. Appeals shall be made first to the selection committee. Any subsequent appeals shall be made in accordance with FNG(LOCAL) beginning at Level Two.
PROGRAM EVALUATION	The gifted program shall be evaluated periodically, and evaluation information shall be shared with Board members, administrators, teachers, counselors, students in the gifted and talented program, and the community.
COMMUNITY AWARENESS	The District shall ensure that information about the District's gifted and talented program is available to parents and community members and that they have an opportunity to develop an understanding of and support for the program.
STATE COMPLIANCE TRAINING	District Trustees shall be trained in gifted and talented state compliance by the District's gifted and talented program coordinator.
STATE COMPLIANCE REPORT	Once a year, the gifted and talented compliance report shall be presented to District Trustees by the gifted and talented program coordinator.

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

COMPENSATORY  
EDUCATION  
ALLOTMENT

The District is entitled to an annual compensatory education allotment for each student:

1. Who is educationally disadvantaged; or
2. Who does not have a disability and resides in a residential placement facility in the district in which the student's parent or legal guardian does not reside.

The number of educationally disadvantaged students is determined by the formula set forth at Education Code 42.152(b).

*Education Code 42.152(a)–(b)*

USE

The District shall use its compensatory education allotment to fund supplemental programs and services designed to eliminate any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at-risk of dropping out of school, as defined below, and all other students.

Specifically, the District may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program under Education Code 37.008, or to support a Title I program [see EHBD], at a campus at which at least 40 percent of the students are educationally disadvantaged.

The District may also use allocated funds for:

1. A mentoring services program under Education Code 29.089;
2. An accelerated reading instruction program under Education Code 28.006(g);
3. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003; and
4. A program under Education Code 29.081 specifically designed to serve students at risk of dropping out of school.

*Education Code 42.152(c), (c-1), (c-2)*

LIMIT ON DAEP  
EXPENDITURES

The District may not use more than 18 percent of its compensatory education allotment for disciplinary alternative education programs.

The Commissioner may waive this limitation upon an annual petition, by the District's Board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on disciplinary alternative education programs.

*Education Code 42.152(c)(1)–(2)*

DEFINITION OF AT-  
RISK STUDENT

“Student at risk of dropping out of school” includes each student who is under 21 years of age and who:

1. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Was not advanced from one grade level to the next for one or more school years;
4. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
5. Is pregnant or is a parent;
6. Has been placed in a disciplinary alternative education program during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in the District,

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster group home.

*Education Code 29.081(d)*

LOCAL ELIGIBILITY CRITERIA	In addition to students described above, a student who satisfies local eligibility criteria adopted by a Board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the District during the preceding school year. <i>Education Code 29.081(g)</i>
COMPENSATORY, INTENSIVE, AND ACCELERATED INSTRUCTION	The District shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the District's schools that enable the students to perform at grade level at the conclusion of the next regular school term. <i>Education Code 29.081(a)</i>
ACCELERATED INSTRUCTION	The District shall provide accelerated instruction to enrolled students who have not performed satisfactorily on each section of the secondary exit-level assessment instrument or who are at risk of dropping out of school. <i>Education Code 29.081(b)</i>
EFFECTIVENESS	The District shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other District students. <i>Education Code 29.081(c)</i>
DROPOUT RECOVERY EDUCATION PROGRAMS	<p>The District may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The programs must meet the criteria set forth at Education Code 29.081(e)(1)–(5).</p> <p>Students in attendance at a dropout recovery education program shall be included in the District's average daily attendance for funding purposes.</p> <p><i>Education Code 29.081(f)</i></p>
OPTIONAL EXTENDED-YEAR PROGRAM	The District may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program (OEYP), for a period not to exceed 30 instructional days for students:

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

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(LEGAL)

1. In kindergarten through grade 11, who are identified as not likely to be promoted to the next grade level for the succeeding school year; or
2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year.

POLICY	If the District provides an OEYP, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.
PROGRAM CRITERIA	An OEYP must meet the requirements set forth at Education Code 29.082 and 19 TAC 105.1001.
PROMOTION OF STUDENT	A student who attends at least 90 percent of the program days and who satisfies the requirements for promotion at Education Code 28.021 shall be promoted or retained in accordance with Education Code 29.082(e).
TRANSPORTATION	The District shall provide transportation to each student who is required to attend a program under this section and who is eligible for regular transportation services. [See EIE and FDC]  <i>Education Code 29.082; 19 TAC 105.1001</i>
OPTIONAL FLEXIBLE YEAR PROGRAM	The District may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.
PROGRAM CRITERIA	An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 TAC 61.1017.  <i>Education Code 29.0821; 19 TAC 61.1017</i>
OPTIONAL FLEXIBLE SCHOOL DAY PROGRAM	Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], the District may apply to the Commissioner to provide a flexible school day program (OFSDP) for students in grades 9 through 12.
PROGRAM CRITERIA	A district that meets application requirements may: <ol style="list-style-type: none"><li>1. Provide flexibility in the number of hours each day a student attends;</li><li>2. Provide flexibility in the number of days each week a student attends; or</li><li>3. Allow a student to enroll in less than or more than a full course load.</li></ol>

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

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A course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of instructional days under Education Code section 25.081 and the required length of school day under Education Code section 25.082.

STUDENT  
ELIGIBILITY

The District may provide an OFSDP for students who:

1. Have dropped out of school or are at risk of dropping out of school, as defined above at Definition of AT-RISK STUDENT; or
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the Commissioner.

FUNDING

Funding for an optional flexible school day program shall be based on the number of instructional days in the District calendar and a seven-hour school day, but attendance may be cumulated over a school year, including any summer or vacation session. The attendance of students who accumulate less than the number of attendance hours required shall be proportionately reduced for funding purposes.

*Education Code 28.025*

TUTORIAL SERVICES

The District may provide tutorial services at District schools. If the District provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials.

The District may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.

*Education Code 29.084*

BASIC SKILLS  
PROGRAMS

The District may apply to the Commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the Commissioner.

With the consent of a student's parent or guardian, the District may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

*Education Code 29.086*

SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

EHBC  
(LEGAL)

AFTER-SCHOOL AND  
SUMMER INTENSIVE  
MATHEMATICS AND  
SCIENCE

The District may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the District.

Before providing a program, the Board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
  - a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
  - b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;
3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the District that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

*Education Code 29.088, 29.090; 19 TAC 102.1041*

MENTORING  
SERVICES PROGRAM

The District may provide a mentoring services program to students at risk of dropping out of school. The Board may arrange for any public or nonprofit community-based organization to come to the District's schools and implement the program.

The Board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

*Education Code 29.089*

ACCELERATED  
READING  
INSTRUCTION  
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results



SPECIAL PROGRAMS  
COMPENSATORY/ACCELERATED SERVICES

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[see EKC], to be at risk for dyslexia or other reading difficulties. The District shall determine the form, content, and timing of the program.

LIMITATION	<p>The District may implement an accelerated reading instruction program only if the Commissioner certifies that funds have been appropriated during a school year for administering the program.</p> <p><i>Education Code 28.006(f), (g)</i></p>
INTENSIVE PROGRAM OF INSTRUCTION	<p>The District shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument.</p>
STATE ASSESSMENTS	<p>The program shall be designed to:</p> <ol style="list-style-type: none"><li>1. Enable the student to:<ol style="list-style-type: none"><li>a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or</li><li>b. Attain a standard of annual growth specified by the District and reported by the District to TEA; and</li></ol></li><li>2. If applicable, carry out the purposes of Education Code 28.0211.</li></ol>
GRADUATION REQUIREMENTS	<p>The District shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.</p>
NO CAUSE OF ACTION	<p>The District's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.</p> <p><i>Education Code 28.0213</i></p>

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**Note:** The following contains basic requirements for districts and schools receiving Title I, Part A funds, but does not represent a complete list of legal obligations of such districts and schools. Those districts and schools that receive Title I, Part A funds should carefully review federal and state requirements concerning use of those funds.

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Each district receiving federal funds under Title I, Part A shall:

1. Use the state academic assessments and other indicators described in the state plan to review annually the progress of each school served under 20 U.S.C. Title I, Part A (federal school improvement programs) to determine whether the school is making adequate yearly progress.
2. At the District's discretion, use any academic assessments or any other academic indicators described in the District's plan to review annually the progress of each school served under Title I, Part A to determine whether the school is making adequate yearly progress.
3. Publicize and disseminate the results of the local annual review to parents, teachers, principals, schools, and the community.
4. Review the effectiveness of the actions and activities the schools are carrying out under Title I, Part A with respect to parental involvement, professional development, and other activities assisted under Title I, Part A.

*No Child Left Behind Act of 2001, 20 U.S.C. 6316*

'ADEQUATE YEARLY  
PROGRESS' DEFINED

The state shall define, based on academic assessments, what constitutes "adequate yearly progress" for the state, all public elementary schools, secondary schools, and districts in the state, toward enabling all public elementary school and secondary school students to meet the state's student academic achievement standards, while working toward the goal of narrowing the achievement gaps in the state, districts, and schools.

'ACADEMIC  
ASSESSMENTS'  
DEFINED

"Academic assessments" means a state-implemented set of high-quality, yearly student academic assessments that include, at a minimum, academic assessments in mathematics, reading or language arts, and science that will be used as the primary means of determining the yearly performance of the state and of each district and school in the state in enabling all children to meet the state's challenging student academic achievement standards, except that no state shall be required to meet the requirements of Title I, Part A

relating to science assessments until the beginning of the 2007–08 school year.

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

IDENTIFICATION FOR  
SCHOOL  
IMPROVEMENT

The District shall identify for school improvement any elementary school or secondary school served under Title I, Part A that fails, for two consecutive years, to make adequate yearly progress as defined in the state’s plan. The identification shall take place before the beginning of the school year following such failure to make adequate yearly progress.

SCHOOL PLAN

Each school identified for school improvement shall, not later than three months after being so identified, develop or revise a school plan, in consultation with parents, school staff, the District serving the school, and outside experts, for approval by the District.

The school plan shall cover a two-year period and shall, as detailed at 20 U.S.C. 6316(b)(3)(A), incorporate strategies; policies; practices; funding; professional development; parental notice; parental involvement; the specific academic issues that caused the school to be identified for school improvement; specific annual, measurable objectives for continuous and substantial progress; and other elements that have the greatest likelihood of ensuring that each group of students enrolled in the school will meet the state’s proficient level of achievement on the state academic assessment not later than 12 years after the end of the 2001–02 school year.

The school shall implement the school plan (including a revised plan) expeditiously, but not later than the beginning of the next full school year following the identification. If a plan is not approved prior to the beginning of a school year, such plan shall be implemented immediately upon approval.

The District, within 45 days of receiving a school plan, shall establish a peer review process to assist with review of the school plan and promptly approve the school plan if the plan meets the requirements.

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**Note:** See FDB for the option to transfer to a higher performing school, FDD for school safety transfers, and CNA for transportation of transfer students.

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NOTICE TO PARENTS

The District shall promptly provide to a parent or parents (in an understandable and uniform format and, to the extent practicable, in a language the parents can understand) of each student enrolled in an elementary school or a secondary school identified for school improvement, for corrective action, or for restructuring:

1. An explanation of what the identification means, and how the school compares in terms of academic achievement to other elementary schools or secondary schools served by the District and TEA. [See GND]
2. The reasons for the identification.
3. An explanation of what the school identified for school improvement is doing to address the problem of low achievement.
4. An explanation of what the District or TEA is doing to help the school address the achievement problem.
5. An explanation of how the parents can become involved in addressing the academic issues that caused the school to be identified for school improvement.
6. An explanation of the parents' option to transfer their child to another public school, with transportation provided by the District when required or to obtain supplemental educational services for the child. [See CNA]

SUPPLEMENTAL  
EDUCATIONAL  
SERVICES

In the case of any school that fails to make adequate yearly progress after identification, or is under corrective action or restructuring, the District serving such school shall arrange for the provision of supplemental educational services to eligible children in the school from a provider with a demonstrated record of effectiveness that is selected by the parents and approved for that purpose by TEA in accordance with reasonable criteria that TEA shall adopt. Nothing contained in this provision shall permit the making of any payment for religious worship or instruction.

An "eligible child" means a child from a low-income family, as determined by the District for purposes of allocating funds to schools under 20 U.S.C. 6313(c).

The District shall continue to provide supplemental educational services to a child receiving such services until the end of the school year in which such services were first received.

WAIVER FROM TEA

At the request of the District, TEA may waive, in whole or in part, the requirement to provide supplemental educational services. TEA shall notify the District, within 30 days of receiving the District's request for a waiver, whether the request is approved or disapproved and, if disapproved, the reasons for the disapproval, in writing.

TECHNICAL  
ASSISTANCE

For each school identified for school improvement, the District serving the school shall ensure the provision of technical assis-

tance as the school develops and implements the school plan throughout the plan's duration. Such technical assistance shall include assistance in analyzing data from the academic assessments; in identifying and implementing professional development, instructional strategies and methods that are based on scientifically based research and that have proven effective in addressing the specific instructional issues that caused the school to be identified for school improvement; and in analyzing and revising the school's budget.

Technical assistance may be provided by the District, TEA, a qualified institution of higher education, a private not-for-profit organization or for-profit organization, an educational service agency, or another entity with experience in helping schools improve academic achievement. Technical assistance provided by the District or an entity approved by the District shall be based on scientifically based research.

FAILURE TO MAKE  
AYP AFTER  
IDENTIFICATION

In the case of any school served under Title I, Part A that fails to make adequate yearly progress by the end of the first full school year after identification, the District serving such school shall:

ONE YEAR AFTER

1. Continue to provide all students enrolled in the school with the option to transfer to another public school served by the District.
2. Make supplemental educational services available.
3. Continue to provide technical assistance.

TWO YEARS AFTER:  
CORRECTIVE  
ACTION

In the case of any school served by the District under Title I, Part A that fails to make adequate yearly progress by the end of the second full school year after the identification, the District shall implement a system of corrective action.

The term "corrective action" means action, consistent with state law, that substantially and directly responds to the consistent academic failure of a school that caused the District to take such action, and any underlying staffing, curriculum, or other problems in the school; and is designed to increase substantially the likelihood that each group of students enrolled in the school identified for corrective action will meet or exceed the state's proficient levels of achievement on the state academic assessments. To implement corrective action, the District shall:

1. Continue to provide all students enrolled in the school with the option to transfer to another public school served by the District.

2. Continue to provide technical assistance while instituting any corrective action.
3. Continue to make supplemental educational services available to children who remain in the school.
4. Identify the school for corrective action and take at least one of the following corrective actions:
  - a. Replace the school staff who are relevant to the failure to make adequate yearly progress.
  - b. Institute and fully implement a new curriculum, including appropriate professional development, that is based on scientifically based research and offers substantial promise of improving educational achievement for low-achieving students and enabling the school to make adequate yearly progress.
  - c. Significantly decrease management authority at the school level.
  - d. Appoint an outside expert to advise the school on its progress toward making adequate yearly progress, based on its school plan.
  - e. Extend the school year or school day for the school.
  - f. Restructure the internal organizational structure of the school.

NOTICE OF  
CORRECTIVE  
ACTION

The District shall publish and disseminate information regarding any corrective action the District takes at a school to the public and to the parents of each student enrolled in the school subject to corrective action, in an understandable and uniform format and, to the extent practicable, provided in a language that the parents can understand, and through such means as the Internet, the media, and public agencies.

THREE AND FOUR  
YEARS AFTER:  
SCHOOL  
RESTRUCTURING

If, after one full school year of corrective action, a school subject to such corrective action continues to fail to make adequate yearly progress, then the District shall:

1. Continue to provide all students enrolled in the school with the option to transfer to another public school served by the District.
2. Continue to make supplemental educational services available to children who remain in the school.
3. Prepare a plan and make necessary arrangements to carry out alternate governance.

Not later than the beginning of the school year following the year in which the District implements restructuring, the District shall implement one of the following alternative governance arrangements for the school consistent with state law:

1. Reopen the school as a public charter school.
2. Replace all or most of the school staff (which may include the principal) who are relevant to the failure to make adequate yearly progress.
3. Enter into a contract with an entity, such as a private management company, with a demonstrated record of effectiveness, to operate the public school.
4. Turn the operation of the school over to the TEA, if permitted under state law and agreed to by the state.
5. Execute any other major restructuring of the school's governance arrangement that makes fundamental reforms, such as significant changes in the school's staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress.

NOTICE OF  
SCHOOL  
RESTRUCTURING

The District shall provide prompt notice to teachers and parents whenever restructuring provisions apply and provide them with an adequate opportunity to comment before taking any action for restructuring and to participate in developing any restructuring plan.

DURATION

If any school identified for school improvement, corrective action, or restructuring makes adequate yearly progress for two consecutive school years, the District shall no longer subject the school to the requirements of school improvement, corrective action, or restructuring or identify the school for school improvement for the succeeding school year.

STATE ASSISTANCE  
AND INTERVENTION

TEA shall identify the District for improvement, provide technical assistance, and finally take corrective action in the manner prescribed by 20 U.S.C. 6316(c). If the District is identified for corrective action, TEA shall take at least one of the following actions:

1. Defer programmatic funds or reduce administrative funds.
2. Institute and fully implement a new curriculum.
3. Replace the District personnel who are relevant to the failure to make adequate yearly progress.

4. Remove particular schools from the jurisdiction of the District and establish alternative arrangements for public governance and supervision of such schools.
5. Appoint a receiver or trustee to administer the affairs of the District in place of the Superintendent and school Board.
6. Abolish or restructure the District.
7. In conjunction with at least one of the actions listed above, authorize students to transfer to a higher-performing public school operated by another district and provide the students transportation (or transportation costs).

*No Child Left Behind Act of 2001, 20 U.S.C. 6316*

PARENTAL  
INVOLVEMENT

The District's Title I, Part A program shall be planned and implemented with meaningful consultation with parents of participating students.

DISTRICT POLICY

Each district that receives Title I, Part A funds shall develop jointly with, agree on with, and distribute to, parents of participating children a written parent involvement policy. The policy shall be incorporated into the District's plan developed under 20 U.S.C. 6312, establish the District's expectations for parent involvement, and describe how the District will:

1. Involve parents in the joint development of the plan under 20 U.S.C. 6312, and the process of school review and improvement under 20 U.S.C. 6316;
2. Provide the coordination, technical assistance, and other support necessary to assist participating schools in planning and implementing effective parent involvement activities to improve student academic achievement and school performance;
3. Build the schools' and parents' capacity for strong parental involvement as described at 20 U.S.C. 6318(e);
4. Coordinate and integrate parental involvement strategies under Title I, Part A with parental involvement strategies under other ESEA programs;
5. Conduct, with the involvement of parents, an annual evaluation of the parental involvement policy as described at 20 U.S.C. 6318(a)(2)(E), and use the findings of the evaluation as described in that section; and
6. Involve parents in the activities of the schools served under this part.



Each school served under Title I, Part A shall jointly develop with, and distribute to, parents of participating children a written parental involvement policy, agreed on by such parents, that shall describe the means for carrying out the requirements of 20 U.S.C. 6318(c)–(f). Parents shall be notified of the policy in an understandable and uniform format and, to the extent practicable, provided in a language the parents can understand. Such policy shall be made available to the local community and updated periodically to meet the changing needs of parents and the school.

*No Child Left Behind Act of 2001, 20 U.S.C. Sec. 6318*

COMPARABILITY  
ASSURANCE

If the District has more than one attendance area for each grade span, as a condition of receiving any Title I funds, it shall file with TEA written assurance that it has established:

1. A Districtwide salary schedule.
2. A policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel.
3. A policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

*20 U.S.C. 6321(c)(2)*

PRIVATE SCHOOLS

After timely and meaningful consultation with appropriate private school officials, the District shall provide eligible disadvantaged children attending private elementary and secondary schools with special education services or benefits under Title I, Part A that are comparable to those provided in public schools. *20 U.S.C. Sec. 6320*

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**Note:** See DBA for qualifications of teachers in Title I programs.

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HOMELESS CHILDREN

As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, the District shall serve homeless children according to their best interests. *McKinney-Vento Homeless Education Assistance Improvements Act of 2001, part of No Child Left Behind Act of 2001, 42 U.S.C. 11432* [See FD, FDC, and FFC]

COMPARABILITY OF  
SERVICES

The Board shall ensure equity in services among campus programs and shall maintain appropriate records reflecting equity.

As reflected in District records, equity shall be maintained District-wide in one of the following areas:

1. Expenditures of money per student from state and local funds;
2. Instructional salaries per student from state and local funds;  
or
3. Instructional staff/student ratios.

In special programs, such as special education and bilingual education, a lower ratio may be maintained and more money may be spent as necessary to fulfill other legal requirements. [See DEA]

TITLE III  
REQUIREMENTS

A district that receives funds under Title III of the No Child Left Behind Act shall comply with the statutory requirements regarding limited English proficient (LEP) and immigrant students. *20 U.S.C. 6801-7014*

STATE POLICY

It is the policy of the State that every student who has a home language other than English and who is identified as LEP shall be provided a full opportunity to participate in a bilingual education or English as a second language (ESL) program.

DISTRICT  
RESPONSIBILITY

Each district shall:

1. Identify LEP students based on criteria established by the State;
2. Provide bilingual education and ESL programs, as integral parts of the regular program;
3. Seek certified teaching personnel to ensure that LEP students are afforded full opportunity to master the essential knowledge and skills; and
4. Assess achievement for essential knowledge and skills in accordance with Education Code chapter 39 to ensure accountability for LEP students and the schools that serve them.

*Education Code 29.051; 19 TAC 89.1201(a)*

IDENTIFICATION OF  
LEP STUDENTS

Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the Board the number of LEP students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. The Board shall report that information to TEA before November 1 each year. *Education Code 29.053(b)*

LANGUAGE  
PROFICIENCY  
ASSESSMENT  
COMMITTEES  
(LPAC)

Each district that is required to offer bilingual and special language programs shall, by local Board policy, establish a language proficiency assessment committee (LPAC). The District shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of LEP students. The District shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

MEMBERSHIP OF  
LPAC

The LPAC shall include:

1. A professional bilingual educator;
2. A professional transitional language educator;
3. A parent of a LEP student; and
4. A campus administrator.

The District may add other members to the committee in any of the required categories. If the District does not have an individual in one or more of the job classifications required, it shall designate another professional staff member to serve on the LPAC.

In districts and grade levels at which the District is not required to provide a bilingual education program, the LPAC shall be composed of one or more professional personnel and a District-designated parent of an LEP student.

No parent serving on the LPAC shall be an employee of the District.

All members of the LPAC, including parents, shall be acting for the District and shall observe all laws and rules governing confidentiality of information concerning individual students. The District shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

*Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)*

DUTIES

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 TAC 89.1220(g)–(j), (l).

HOME LANGUAGE  
SURVEY

Within four weeks of each student's enrollment, the District shall conduct a home language survey to determine the language normally used in the home and the language normally used by the student. The home language survey shall be conducted in English and in the home language, and signed by the student's parents if the student is in kindergarten through grade 8, or by the student if the student is in grades 9 through 12. The original copy of the survey shall be retained in the student's permanent record.

If a student is identified through the home language survey as normally speaking a language other than English, the student shall be tested in accordance with 19 TAC 89.1225 or, for students with disabilities, 19 TAC 89.1230.

*Education Code 29.056(a); 19 TAC 89.1215*

LEP  
CLASSIFICATION

The LPAC may classify a student as LEP if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;

3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

*Education Code 29.056(c)*

PARENTAL NOTICE  
AND CONSENT

Within ten days of the LPAC's classification of a student as LEP, the LPAC shall give written notice to the student's parent. The notice must be in English and in the parent's primary language. The notice shall inform the parents of the benefits of the program for which the student is recommended and that it is an integral part of the school program.

Pending parent approval, the District shall place the student in the recommended program, but may count only those students with parent approval for bilingual education allotment.

*Education Code 29.056(a), (d); 19 TAC 89.1220(k)*

PARTICIPATION OF  
NON-LEP  
STUDENTS

With the approval of the District and a student's parents, a student who is not LEP may also participate in a bilingual education program. The number of participating students who are not LEP may not exceed 40 percent of the number of students enrolled in the program. *Education Code 29.058*

BILINGUAL AND ESL  
PROGRAMS

Each district with an enrollment of 20 or more LEP students in any language classification in the same grade shall offer a bilingual education or special language program, as follows:

1. Kindergarten through elementary grades: the District shall offer bilingual education.
2. Post-elementary through grade 8: the District shall offer bilingual education, ESL, or other transitional language instruction approved by TEA.
3. Grades 9 through 12: the District shall offer instruction in ESL.

If a program other than bilingual education must be used in kindergarten through the elementary grades, documentation for the exception must be filed with and approved by TEA.

*Education Code 29.053(c), (d), 29.054*

PROGRAM  
CONTENT

The District's bilingual education program shall be a full-time program of dual-language instruction that provides for learning basic skills in the primary language of the students enrolled in the program and for carefully structured and sequenced mastery of English language skills.

An ESL program shall be an intensive program of instruction in English from teachers trained in recognizing and dealing with language differences. The bilingual or ESL program shall be designed to consider the students' learning experiences and shall incorporate the cultural aspects of the students' backgrounds.

Students enrolled in the bilingual or ESL programs shall be placed in classes with other students of approximately the same age and level of educational attainment. The District shall ensure that each student's instruction is appropriate to the student's level of educational attainment, and the District shall keep adequate records of the educational level and progress of each student enrolled in the program.

LEP students shall participate fully with English-speaking students in regular classes provided in subjects such as art, music, and physical education. The District shall provide students enrolled in the bilingual or ESL program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses may be taught in a language other than English.

*Education Code 29.055, 29.057(b); 19 TAC 89.1010(g)*

FACILITIES

Bilingual education and special language programs shall be located in the District's regular schools rather than in separate facilities. The District may concentrate the programs at a limited number of schools, provided that the enrollment in those schools shall not exceed 60 percent LEP students. *Education Code 29.057; 19 TAC 89.1235*

COOPERATION  
AMONG DISTRICTS

The District may join with one or more other districts to provide the required bilingual and special education programs. The availability of the programs shall be publicized throughout the districts involved.

The District may allow a nonresident LEP student to enroll in or attend its bilingual education or special language program if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district of residence.

*Education Code 29.059*

SUMMER PROGRAM	<p>If the District is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for LEP children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.</p> <p>A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the Board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the Board.</p> <p>The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. The District shall comply with the requirements of 19 TAC 89.1250 in providing such a program.</p>
OTHER PROGRAM	<p>The District may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for LEP students and may join with other districts in establishing such programs.</p> <p>Neither the summer program nor the other programs may substitute for the program to be provided during the regular school year.</p> <p><i>Education Code 29.060</i></p>
PERSONNEL	<p>Teachers assigned to bilingual education and ESL programs must be appropriately certified in bilingual education or ESL, respectively. <i>Education Code 29.061(b), (c)</i></p> <p>If the District is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates, the District may file an application for exception with TEA, in accordance with 19 TAC 89.1205(h).</p> <p><i>Education Code 29.054; 19 TAC 89.1205(g)</i></p>
LEP STUDENTS AND STATE ASSESSMENTS	<p>In grades 3–12, an LEP student shall participate in the assessment of academic skills in accordance with Commissioner’s rules at 19 TAC Chapter 101, subchapter AA. <i>19 TAC 101.5(d)</i> [See EKB]</p>
PROGRAM EXIT	<p>The District may transfer an LEP student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:</p> <ol style="list-style-type: none"><li data-bbox="435 1821 1279 1954">1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency and specific language skills in English;</li></ol>

2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

*Education Code 29.056(g)*

NOTICE TO  
PARENTS

The District shall notify parents of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program. *19 TAC 89.1240(b)*

POST-EXIT  
MONITORING

The LPAC committee shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be re-enrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

*Education Code 29.0561*



LANGUAGE  
PROFICIENCY  
ASSESSMENT  
COMMITTEES

The professional staff members of the LPAC(s) shall be assigned those duties by the Superintendent or designee. Selection of parent members of LPAC(s) shall be made after soliciting volunteers and upon the recommendation of professionals involved in the bilingual/ESL programs.

TRAINING

The District shall provide orientation and training for all members of the LPAC(s), which shall include a discussion of the committee's duties and a thorough explanation and review of all laws and rules governing the confidentiality of information regarding individual students. In performing their duties, committee members shall be acting for the District and shall observe requirements regarding confidentiality of student records. [See FL]

SPECIAL PROGRAMS  
CAREER AND TECHNOLOGY EDUCATION

EHBF  
(LEGAL)

Each public school student shall master the basic skills and knowledge necessary for managing the dual roles of family member and wage earner and for gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the post-secondary level. *Education Code 29.181.*

The Board may conduct and supervise career and technology classes and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs. *Education Code 29.183* [See EEL]

DISTINGUISHED  
ACHIEVEMENT IN  
CAREER AND  
TECHNOLOGY  
EDUCATION

The Board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum [see EHAA] and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards;
2. Obtain from the District an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this section is not in lieu of a diploma or certificate of coursework completion. [See EI]

In developing the program, the Board shall consider the state plan for career and technology education. The Board must submit the proposed program to the Commissioner of Education in accordance with criteria established by the Commissioner.

CONTRACTS WITH  
OTHER ENTITIES

The Board may contract with an entity listed in Education Code 29.184(a) [see EEL] for assistance in developing the program or providing instruction to District students participating in the program. The Board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

INSURANCE

The Board may provide insurance to protect a business that contracts with the District under this provision. [See CRB]

*Education Code 29.187*

APPLICABILITY

The following provisions apply only to districts receiving federal career and technology education funds. *19 TAC 75.1021*

PROGRAM  
EVALUATION

The District shall annually evaluate its career and technology education programs. *19 TAC 75.1025*

SPECIAL PROGRAMS  
CAREER AND TECHNOLOGY EDUCATION

EHBF  
(LEGAL)

SPECIAL  
POPULATIONS

Members of special populations shall be provided career and technology services in accordance with all applicable federal and state laws, regulations, and rules.

DEFINITION

In this policy, a “member of a special population” includes:

1. An individual with a disability;
2. An individual from an economically disadvantaged family, including a foster child;
3. An individual preparing for nontraditional training and employment;
4. A single parent, including single pregnant women;
5. A displaced homemaker; and
6. An individual with other barriers to educational achievement, including an individual with limited English proficiency.

*20 U.S.C. 2302(23)*

STUDENTS WITH  
DISABILITIES

A student with a disability shall be provided career and technology services in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (IDEA) and its implementing regulations, state statutes, and rules of the SBOE and the Commissioner.

A student with a disability shall be instructed in accordance with the student’s individualized education program (IEP), in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technology education program, using supplementary aids and services, the student may be served in separate programs designed to address the student’s occupational/training needs, such as career and technology education for students with disabilities (CTED). [See EHBA]

A student with a disability identified in accordance with IDEA is an eligible participant in career and technology education when the following requirements are met:

1. The ARD committee shall include a representative from career and technology education, preferably the teacher, when considering initial or continued placement of a student in career and technology education;
2. Planning for the student shall be coordinated among career and technology education, special education, and state reha-

bilitation agencies and should include a coherent sequence of courses;

3. The District shall monitor to determine if the instruction being provided students with disabilities in career and technology education classes is consistent with those students' IEPs;
4. The District shall provide supplementary services that each student with a disability needs to successfully complete career and technology education, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. The District shall help fulfill the transitional service requirements of the IDEA Amendments of 1997 and implementing regulations, state statutes, and rules of the Commissioner for each student with a disability who is completing a coherent sequence of career and technology education courses.

When determining placement in a career and technology classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA Amendments of 1997 and its implementing regulations.

*19 TAC 75.1023*

STUDENT  
ORGANIZATIONS

The District may use federal career and technology education funds to provide opportunities for student participation in approved student leadership organizations and assist vocational student organizations in accordance with all applicable federal and state laws, rules, and regulations. A student shall not, however, be required to join such an organization. Student participation in vocational student organizations shall be governed in accordance with 19 TAC Chapter 76 (relating to extracurricular activities). *19 TAC 75.1024* [See FM]

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**Note:** Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

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TUITION-FREE

The District shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. The District may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

The District may not charge tuition for a prekindergarten program offered under these provisions.

EXEMPTION

The District may apply to the Commissioner for an exemption from the requirement that it provide a free prekindergarten program if the District would be required to construct classroom facilities in order to provide the program.

ELIGIBILITY

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and is:

1. Unable to speak and comprehend the English language;
2. Educationally disadvantaged;
3. Homeless, as defined by federal law [see FD(LEGAL)], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. The child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority; or
5. The child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty.

A child who is eligible for enrollment under item 4 or 5 above remains eligible if the child's parent leaves the armed forces, or is no longer on active duty, after the child begins the prekindergarten class.

NOTICE

The District shall develop a system to notify the population in the District with children who are eligible for enrollment in a free prekindergarten program of the availability of the program. The system must include public notices issued in English and Spanish.

HALF-DAY BASIS

A free prekindergarten class shall be operated on a half-day basis.

SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

TRANSPORTATION	<p>The District is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.</p> <p><i>Education Code 29.153</i></p>
TUITION-SUPPORTED OR DISTRICT-FINANCED	<p>The District may offer on a tuition basis or use District funds to provide:</p> <ol style="list-style-type: none"><li>1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten; and</li><li>2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.</li></ol> <p>The District may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (regarding PEIMS data for prekindergarten programs). The District must submit its proposed tuition rate to the Commissioner for approval.</p> <p><i>Education Code 29.1531</i></p>
PROGRAM DESIGN	<p>The District's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. <i>Education Code 29.1532(a)</i></p>
PREKINDERGARTEN EXPANSION GRANT	<p>The District may use funds from grants administered by the Commissioner of Education to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.</p> <p>The District may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.</p> <p>The District may use funds granted under this program in contracting with another entity, including a private entity.</p> <p><i>Education Code 29.155</i></p>
READY TO READ GRANT	<p>A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by Commissioner rule.</p> <p>Grants shall be used to provide scientific, research-based prereading instruction for the purpose of directly improving prereading</p>

skills and for identifying cost-effective models for prereading intervention. Grants funds shall be used for:

1. Professional staff development in prereading instruction;
2. Prereading curriculum and materials;
3. Prereading skills assessment materials; and
4. Employment of prereading instructors.

*Education Code 29.157*

STATEWIDE  
INFORMATION  
REFERRAL NETWORK

The District shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. The District shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

“Child care and education services” includes child-care and education services provided by the District through a prekindergarten or after-school program. *Gov't Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, the District shall contact the applicant to verify information regarding the applicant's eligibility for available child-care and education services. On certifying eligibility, the District shall match the applicant with entities providing those services in the applicant's community, including local workforce development boards, local child-care providers, or a Head Start or Early Head Start program provider.

The District shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

*Gov't Code 531.0312(c)–(e)*

SHARED SITE

Before establishing a new prekindergarten program, the District shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

PRE-K LICENSING  
STANDARDS

If the District contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas

North East ISD  
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SPECIAL PROGRAMS  
PREKINDERGARTEN

EHBG  
(LEGAL)

Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*



Students who are deaf or hard of hearing must have an education in which their unique communication mode is respected, used, and developed to an appropriate level of proficiency. *Education Code 29.303*

PERSONNEL

A student who is deaf or hard of hearing must have an education in which teachers, psychologists, speech therapists, progress assessors, administrators, and others involved in education understand the unique nature of deafness and the hard-of-hearing condition. A teacher of deaf or hard-of-hearing students either must be proficient in appropriate language modes or use an interpreter certified in appropriate language modes if certification is available. Regular and special personnel who work with students who are deaf or hard of hearing must be adequately prepared to provide educational instruction and services to those students.

The District shall employ or provide access to appropriate qualified staff with proficient communications skills, consistent with credentialing requirements, to fulfill the responsibilities of the District and shall make positive efforts to employ qualified individuals with disabilities.

*Education Code 29.304*

INVOLVEMENT OF  
OTHERS

Students who are deaf or hard of hearing must have an education in which parents or legal guardians and advocates for parents or legal guardians are involved in determining the extent, content, and purpose of programs. Other individuals may be involved at the discretion of parents or legal guardians or the District. *Education Code 29.306*

Students who are deaf or hard of hearing shall be given the opportunity to be exposed to deaf or hard-of-hearing role models. *Education Code 29.307*

ADVISORY  
COMMITTEE

If the District has students who are deaf or hard of hearing, it shall include in its local special education advisory committee persons who are deaf or hard of hearing and parents or students who are deaf or hard of hearing, if practicable. *Education Code 29.309*

ASSESSMENT

The District shall not discriminate on the basis of race, culture, or sex when selecting and administering procedures and materials for assessment and placement of students who are deaf or hard of hearing. *Education Code 29.310(a)*

PLACEMENT

A single assessment instrument may not be the sole criterion for determining the placement of a student who is deaf or hard of hearing. *Education Code 29.310(b)*

	<p>Procedures and materials for the assessment and placement of a student who is deaf or hard of hearing shall be in the student's preferred mode of communication. All other procedures and materials used with any student who is deaf or hard of hearing and who has limited English proficiency shall be in the student's preferred mode of communication. <i>Education Code 29.210(c)</i></p>
DEAF OR HARD-OF-HEARING PROGRAMS	<p>Programs for students who are deaf or hard of hearing must be coordinated with other public and private agencies, including agencies operating early childhood intervention programs, preschools, agencies operating child development programs, nonpublic nonsectarian schools, agencies operating regional occupational centers and programs, and the Texas School for the Deaf. The programs must also be coordinated with post-secondary and adult programs for persons who are deaf or hard of hearing. <i>Education Code 29.311</i></p>
COUNSELING	<p>Appropriate psychological counseling services for a student who is deaf or hard of hearing shall be made available at the student's school site in the student's primary mode of communication. Appropriate auditory systems shall be used with students who are hard of hearing, if required by the ARD committee. <i>Education Code 29.312</i></p>
EVALUATION	<p>The District must provide continuous evaluation of the effectiveness of programs for students who are deaf or hard of hearing. If practicable, the evaluations shall follow program excellence indicators established by TEA. <i>Education Code 29.313</i></p>
TRANSITION TO REGULAR CLASS	<p>In addition to satisfying requirements under state and federal law for vocational training, the District shall develop and implement a transition plan for transition of students who are deaf or hard of hearing into a regular class program if the student is to be transferred from a special class or center or from a nonpublic, nonsectarian school into a regular class for any part of the school day. The transition plan must provide for activities to integrate the students into the regular education program and to support the transition of the student from the special education program into the regular education program. <i>Education Code 29.314</i></p>

SPECIAL PROGRAMS  
ADULT AND COMMUNITY EDUCATION

EHBI  
(LEGAL)

ADULT EDUCATION	The District shall provide, to the extent possible within available public and private resources, adult education programs designed to meet the education and training needs of adults. Bilingual education may be the method of instruction for students who do not function satisfactorily in English whenever it is appropriate for their optimum development. <i>Education Code 29.253</i>
REIMBURSEMENT FOR COMMUNITY EDUCATION	If the Board elects to provide community education for all age groups, it may be eligible for reimbursement for the costs of the program. In order to receive reimbursement, it must submit an application in accordance with TEA rules and reimbursement shall be made to the extent authorized.
CONDITIONS	The District will receive such reimbursement only if it has achieved the level of community services prescribed by TEA in the current or preceding year.  <i>Education Code 29.256</i>
ESSENTIAL PROGRAM COMPONENTS	The following essential program components shall be provided: <ol style="list-style-type: none"><li>1. Adult basic education;</li><li>2. Programs for adults of Limited English proficiency;</li><li>3. Adult secondary education, including programs leading to the achievement of a high school equivalency certificate and/or high school diploma;</li><li>4. Instructional services to improve student proficiencies necessary to function effectively in adult life, including accessing further education, employment-related training, or employment; and</li><li>5. Assessment and guidance services related to 1–4, above.</li></ol> <i>19 TAC 89.23</i>
DIPLOMA REQUIREMENTS	The standards for awarding diplomas to adults shall be those established in 19 TAC Chapter 75, except: <ol style="list-style-type: none"><li>1. There shall be no limit to the number of secondary credits adults may earn by demonstrating competence.</li><li>2. Adults may earn the required physical education credits by one or more of the following:<ol style="list-style-type: none"><li>a. satisfactory completion of approved secondary physical education courses; or</li><li>b. substitution of state-approved secondary elective courses.</li></ol></li></ol>

3. Adults must meet the requirements for successful performance on a secondary level test designated by the commissioner.

*19 TAC 89.24*

STAFF DEVELOPMENT All adult education staff hired after September 1, 1996, shall receive at least 12 clock hours of professional development annually. All staff new to adult education shall receive six clock hours of pre-service professional development before they begin work in an adult education program. Aides shall have at least a high school diploma or a high school equivalency certificate.

Directors, teachers, counselors, and supervisors must have a bachelor's degree. Directors, teachers, counselors, and supervisors who do not have valid Texas teacher certification must attend 12 clock hours of inservice professional development annually in addition to the 12 hours required above until they have completed either six clock hours of adult education college credit or attained two years of adult education experience.

The requirements for inservice professional development may be reduced by local programs in individual cases upon documented demonstration of exceptional circumstances that prevent employees from completing the required hours.

These requirements (above) apply to volunteers who generate contact time that is part of the adult education program and is reported to TEA for funding purposes. [See DMA]

*19 TAC 89.25*

STAFF ASSIGNMENTS Teachers and aides shall be assigned to instruction, counseling, and/or assessment for a minimum of 75 percent of the hours for which they are employed. *19 TAC 89.26*

TUITION AND FEES No student tuition or fees shall be charged for adult basic education as a condition for membership and participation in a class. Tuition for adult secondary education may be charged and established by local policy. Funds generated by such tuition and fees shall be used for the adult education instructional program.

*19 TAC 89.30*

The Board is committed to lifelong learning and supports the concept of community schools and community education. The community education department shall work cooperatively with businesses and other public and nonpublic agencies, institutions, and organizations in providing educational services and other activities beneficial to the community, as well as addressing current issues of community concern.

The schools and related business sites in the community will be the focal points for the delivery of community education to citizens of all ages.

CLASSES

The District, through its facilities and resources, serves all residents in the District and the community with programs that include, but are not limited to:

- Academic
- Cultural
- Recreational
- Enrichment
- Job skills training
- Adult basic education
- English as a second language (ESL)
- General educational development (GED)
- Amnesty
- Business and industry training
- In-school remediation
- Certification courses
- Adult and youth education
- Community involvement

TUITION AND FEES

Tuition charges and program fees shall be set at a level adequate to recoup instructional and material costs. Adult basic education classes and amnesty classes shall be at no tuition charge to participants.

ADVISORY COUNCIL

The community education advisory council shall be composed of a broad spectrum of community representatives to assist in planning, developing, and evaluating the adult and community educational programs.

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*

CONSTITUTION DAY

A district that receives federal funds for a fiscal year shall hold an educational program on the United States Constitution on September 17 of such year for the students served by the District. *Pub. L. 108-447 (2004)*

SPECIAL PROGRAMS  
OTHER INSTRUCTIONAL INITIATIVES

EHBK  
(LEGAL)

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 Just Powers from the Consent of the Governed."

EXCEPTION

Each district shall excuse from recitation a student:

1. Whose parent or guardian submits to the District a written request that the student be excused;
2. Who, as determined by the District, has a conscientious objection to the recitation; or
3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.

*19 TAC 74.33(b)*

WOMEN'S  
INDEPENDENCE DAY

August 26 is Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote.

The public schools shall regularly observe Women's Independence Day to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*

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*



	<p>A "High School Equivalency Program" (HSEP) is a program approved by TEA to prepare eligible students to take the high school equivalency exam (GED). <i>19 TAC 89.1401</i></p>
AUTHORIZATION FOR PROGRAM	<p>The District may apply for authorization to operate an HSEP. The Board must hold a public hearing concerning the proposed application before applying to operate an HSEP. <i>Education Code 29.087(b), (k)(1); 19 TAC 89.1405(a), 89.1407</i></p> <p>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. <i>19 TAC 89.1405(b)</i></p> <p>A district authorized by the Commissioner on or before August 31, 2003, to operate an HSEP may continue to operate the program. <i>Education Code 29.087(b-1); 19 TAC 89.1417(b), (e)</i></p>
OPERATION OF PROGRAM	<p>A student enrolled in an HSEP must be offered a seven-hour school day and a 180-day instructional year calendar. However, a student may attend the HSEP a maximum of six hours of instruction per day. A student may be enrolled only in an HSEP or may be enrolled in an HSEP in combination with regular attendance and/or special program attendance during the school day. <i>Education Code 29.087(c); 19 TAC 89.1411(a), (d), 89.1417(d)</i></p> <p>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. <i>19 TAC 89.1417(c)</i></p>
ANNUAL REVIEW	<p>The Board must hold a public hearing annually to review the performance of the HSEP.</p> <p>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 TEA. The data in the progress reports must be disaggregated by ethnicity, age, gender, and socioeconomic status.</p> <p><i>Education Code 29.087(k)(2); 19 TAC 89.1407, 89.1417(a)</i></p>
STUDENT ELIGIBILITY	<p>A student is eligible to participate in the HSEP if:</p>
COURT-ORDERED	<ol style="list-style-type: none"><li>1. The student has been ordered by a court under Code of Criminal Procedure 45.054, or by the Texas Youth Commission, to:<ol style="list-style-type: none"><li>a. Participate in a preparatory class for the high school equivalency examination; or</li></ol></li></ol>

- 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; and
  - d. Either:
    - (1) 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; or
    - (2) For students who left school before grade 9, at least three years have elapsed since the student last enrolled in grade 8, or four years since the student last enrolled in grade 7, or five years since the student last enrolled in grade 6.

*Education Code 29.087(d); 19 TAC 89.1403*

- STATE ASSESSMENT A student enrolling in an HSEP must take:
- 1. 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. Each grade level assessment instrument administered during the student's enrollment in the HSEP.
  - 3. 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) [See EKB]*

- GED TESTING 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. A district wanting to serve as a

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SPECIAL PROGRAMS  
HIGH SCHOOL EQUIVALENCY

EHLB  
(LEGAL)

General Education Development (GED) testing center must obtain authorization from TEA, pursuant to 19 TAC 89.42(a).

The District must present to the 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)*

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SPECIAL PROGRAMS  
HIGH SCHOOL EQUIVALENCY

EHBL  
(LOCAL)

GED TEST CENTER

An official General Educational Development testing center shall be located at one or more District high schools. In accordance with State Board rules, the District shall maintain test records permanently and provide storage for restricted test materials and a suitable place for administering the test. A certified counselor shall serve as chief examiner. Annually the Superintendent or chief examiner shall report to the Board concerning the center, including the number of tests administered and the fees received for administering the test.

EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

COLLEGE CREDIT  
PROGRAM

Not later than the fall 2008 semester, the District shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. On request, a Texas institution of higher education shall assist the District in developing and implementing the program. *Education Code 28.009*

COLLEGE-LEVEL  
COURSES

The Board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools
5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by the District. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

*19 TAC 74.25*

DUAL CREDIT  
PROGRAMS

The District may enter into an agreement with a public college to form a dual credit partnership. *19 TAC Ch. 4, Subch. D*

For purposes of the following provisions, "college" means a public two-year associate degree-granting institution or a public university.

"Dual credit" means the process by which a high school student enrolls in a college course and receives simultaneous academic credit for the course from both the college and high school.

*19 TAC 4.83(4)*

ATTENDANCE  
ACCOUNTING

The time during which a student attends a dual credit course shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LEGAL)

PARTNERSHIP  
AGREEMENT

The Board of the District and the governing board of the college must approve any dual credit partnership between the schools before offering such courses.

The partnership agreement must address:

1. Eligible courses;
2. Student eligibility;
3. Location of class;
4. Student composition of class;
5. Faculty selection, supervision, and evaluation;
6. Course curriculum, instruction, and gathering;
7. Academic policies and student support services;
8. Transcribing of credit; and
9. Funding.

*19 TAC 4.84(a), 4.85*

CERTAIN ACADEMIES

The District shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LOCAL)

DUAL CREDIT

Students shall be permitted to earn credit toward high school graduation for completing college-level courses taught in conjunction with an articulation agreement between the District and a local college.

To enroll in dual credit college-level coursework taught during the school day on the high school campus, students (i.e., high school students):

1. Shall have passed all sections of the exit-level state-mandated assessment.
2. Shall meet testing requirements for college entrance; shall be THEA exempt or shall pass the Texas Higher Education Assessment (THEA) test and receive a passing score on the section(s) required for entry into the desired college course.
3. Shall complete the required application materials by the designated date, including the residency form.
4. Shall be required to maintain local course load requirements and all eligibility requirements if participating in University Interscholastic League activities.
5. Shall be awarded grades from the college or university that will be recorded as "pass" or "fail" on the academic achievement record unless actual numerical grades are received.

GRADUATION  
CREDIT

Dual credit courses are those college-level courses approved in a specific articulation agreement between the District and the college as exceeding the Texas Essential Knowledge and Skills of high school courses listed in 19 TAC 74.25. The student must earn a grade of 70 or above to receive credit toward graduation.

CONCURRENT CREDIT

Concurrent credit courses are college courses taught off campus that provide advanced academic instruction and that have been approved by the Superintendent or designee. Concurrent credit college courses are not awarded graduation credit and are not included in high school rank calculations.

Students who have accumulated at least 15 hours of state-approved high school credit toward graduation may request approval from the campus principal to enroll for concurrent credit. The student must maintain local course load requirements and eligibility requirements if participating in University Interscholastic League activities.

DISTINGUISHED  
ACHIEVEMENT  
PROGRAM

Advanced measures required for the Distinguished Achievement Program may include up to four college-level courses earning grades of at least 3.0 (B). The college transcript serves as re-

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EXTENDED INSTRUCTIONAL PROGRAMS  
COLLEGE COURSE WORK/DUAL CREDIT

EHDD  
(LOCAL)

quired documentation toward the Distinguished Achievement Program. [See also EIF]



EXTENDED INSTRUCTIONAL PROGRAMS  
DISTANCE LEARNING

EHDE  
(LEGAL)

DISTANCE LEARNING

Credit toward state graduation requirements may be granted for distance learning courses only as follows:

1. Students may earn course credit through distance learning technologies, such as satellite, Internet, two-way videoconferencing, and instructional television.
2. The distance learning courses must include the state-required essential knowledge and skills for such a course.

*19 TAC 74.23*

ELECTRONIC  
COURSES

“Electronic course” means an educational program or course:

1. That includes use of the Internet or other electronic media; and
2. In which a student and a teacher are in different locations for a majority of the student’s instructional period.

The Commissioner shall implement a program under which the District may offer electronic courses to students enrolled in the District or in another district, as provided by an agreement between the districts.

The Commissioner may determine the number of districts permitted to participate, but may not require a district to participate. To the extent possible, the Commissioner shall permit the participation of rural and urban districts with a higher than average number of at-risk students, dropout rate, or population of underserved gifted and talented students.

The District may offer electronic courses through a designated campus or through a full-time program serving students throughout the District. The District may not require a student to enroll in an electronic course.

APPLICATION

To participate in the electronic course program, the District must submit a written application to the Commissioner not later than July 1 preceding the school year the District proposes to begin participation, or an earlier date set by the Commissioner. The District’s application must include:

1. A proposed budget for the program;
2. A method to verify student attendance;
3. Any requested waiver of a requirement, restriction, or prohibition imposed by the Education Code or by rule and the period for which any requested waiver is proposed to be in effect; and
4. The information required for the Informed Choice Report.

EXTENDED INSTRUCTIONAL PROGRAMS  
DISTANCE LEARNING

EHDE  
(LEGAL)

INFORMED CHOICE  
REPORT

Not later than a date determined by the Commissioner, a district participating in the electronic course program shall create and maintain on the district's Internet Web site an "informed choice" report in a format determined by the Commissioner. Each report must include a description of:

1. Each course of instruction offered to students in the program, including the number of lessons, the expected duration of each lesson, and a description of each lesson that requires use of a computer.
2. All materials required for each course offered in the program.
3. The process used to ensure that each course meets the essential knowledge and skills requirements, including any consultation with a District curriculum specialist.
4. The process used to place students in the appropriate academic levels of the program, including:
  - a. Sample placement evaluations;
  - b. Information related to each person responsible for placement of a student;
  - c. The circumstances in which a student may be placed in different academic levels for different course subjects during a school year; and
  - d. The circumstances in which a student may complete more than one course level during a school year.
5. Any technology provided to each student enrolled in the program, including any computer, computer software, or Internet access.
6. The method used to report attendance in the program.
7. The method used to authenticate student coursework and attendance.
8. The location and content of each scheduled meeting between parents or guardians of students enrolled in the program and teachers or other school officials, and the method used to notify parents and guardians of the time and location of each meeting.
9. The program policies relating to:
  - a. Computer security and privacy; and
  - b. Nonattendance, absences, discipline, withdrawal, and expulsion of students.

EXTENDED INSTRUCTIONAL PROGRAMS  
DISTANCE LEARNING

EHDE  
(LEGAL)

10. Any extracurricular activities provided by the program, including activities held on a campus in the District.
11. The teaching model used by the program, including:
  - a. Each teacher's responsibilities;
  - b. Minimum teacher qualifications;
  - c. Minimum hours of training provided to teachers;
  - d. Average and maximum student/teacher ratios;
  - e. Hours of teacher availability; and
  - f. For each grade level, minimum and expected amounts of contact between teachers and parents and between teachers and students.
12. Any academic services that the program expects a student's parent or guardian to provide to the student.
13. Each standardized assessment instrument, in addition to any assessment instrument required under Chapter 39, that the student is required to complete during the school year and, if available, the location for administration of the instrument.
14. A summary of the results of each assessment instrument administered to students in the program during the school year preceding the year the report is submitted.
15. The school year calendar for the program, including any options for continued participation outside of the standard District calendar.

FUNDING

The District is entitled to receive federal, state, and local funding for a student enrolled in an electronic course in an amount equal to the funding the District is otherwise entitled to receive for a student enrolled in the District. The District may calculate the average daily attendance of a student enrolled in an electronic course based on:

1. Hours of contact with the student;
2. The student's successful completion of a course; or
3. A method approved by the Commissioner.

*Education Code 29.909*

ACADEMIC ACHIEVEMENT

EI  
(LEGAL)

AWARD OF CREDIT	The award of credit for a course affirms that a student has satisfactorily met state and local requirements. <i>19 TAC 74.26(a)</i>
EARLY AWARD OF CREDIT	The District may offer courses designated for grades 9–12 in earlier grade levels. Credit must be awarded if the student has demonstrated achievement by meeting the standard requirements of the course, including demonstrated proficiency in the subject matter, regardless of the time the student received instruction in the course or the grade level at which proficiency was attained. The academic achievement record shall reflect that students have satisfactorily completed courses at earlier grade levels from grades 9–12 and have been awarded state graduation credits. <i>19 TAC 74.26(b)</i>
PARTIAL AWARD	In accordance with the District’s local policy, a student who is able to successfully complete only one semester of a two-semester course can be awarded credit proportionately. <i>19 TAC 74.26(d)</i>
ATTENDANCE FOR CREDIT	Unless credit is awarded by the attendance committee or regained in accordance with District policy, a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the days the class is offered. <i>Education Code 25.092 [See FEC]</i>
GRADUATION REQUIREMENTS	Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 on a scale of 100, based upon the essential knowledge and skills of each course. Credit earned toward state graduation requirements in an accredited school district shall be transferable and must be accepted by any other school district in the state. <i>19 TAC 74.26(a)(1), (c)</i>
ACADEMIC ACHIEVEMENT RECORD	<p>The District shall use the academic achievement record (transcript) form designated by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District. Any credit earned by a student must be recorded on the academic achievement record, regardless of when the credit was earned.</p> <p>Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the district to which the student is transferring, or both. The District shall respond promptly to all requests for student records from receiving districts. [See also FDA and FL]</p> <p><i>Education Code 28.025(e); 19 TAC 74.14(b)–(c)</i></p>
EARLY HIGH SCHOOL GRADUATION SCHOLARSHIP PROGRAM	For purposes of the Early High School Graduation Scholarship Program, a student who does not satisfy the curriculum requirements for a recommended or advanced high school program is considered to have satisfied those requirements if the high school

ACADEMIC ACHIEVEMENT

EI  
(LEGAL)

from which the student graduated indicates on the student's transcript that the student was unable to complete the appropriate curriculum within the time prescribed solely because of a reason beyond the student's control, such as lack of enrollment capacity or a shortage of qualified teachers. *Education Code 56.203(d)*

TRANSCRIPT SEALS

Students who complete high school graduation requirements shall have attached to the academic achievement record the State Board-approved seal.

CERTIFICATE OF  
COURSEWORK  
COMPLETION

A student who completes all graduation requirements except for required exit-level examinations may be issued a certificate of coursework completion. The academic achievement record shall include a notation of the date a certificate of completion was issued to the student.

*Education Code 28.025(d); 19 TAC 74.14(d)–(e)*

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ACADEMIC ACHIEVEMENT

EI  
(LOCAL)

CERTIFICATES OF  
COURSEWORK  
COMPLETION

The District shall not issue certificates of coursework completion to students who fail to meet all state and local requirements for graduation. [See EIF, FMH]

ACADEMIC ACHIEVEMENT  
GRADING/PROGRESS REPORTS TO PARENTS

EIA  
(LEGAL)

POLICY  
REQUIREMENTS

The Board shall adopt a policy that:

1. Provides for a conference between parents and teachers;
2. Requires the District, at least once every 12 weeks, to give written notice to a parent of a student's performance in each class or subject; and
3. Requires the District, at least once every three weeks, or during the fourth week of each nine-week grading period, to give written notice to a parent if a student's performance in a foundation curriculum subject [see EHAA] is consistently unsatisfactory, as determined by the District.

The notice required by items 2 and 3 must provide for the signature of the student's parent and must be returned to the District.

"Parent" includes a guardian, conservator, or other person having lawful control of a student.

EXCEPTIONS

These requirements do not apply to a student who:

1. Is 18 or older and living in a different residence than the student's parents;
2. Is married; or
3. Has had the disabilities of minority removed for general purposes.

*Education Code 28.022(a)*

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**Note:** See DGBA and FNG for provisions regarding finality of grades.

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NOTICE OF  
PERFORMANCE  
RATING

The first written notice of a student's performance that the District gives during a school year under Education Code 28.022(a)(2) [see POLICY REQUIREMENTS, item 2, above] must include the most recent performance rating of the campus at which the student is enrolled and a definition and explanation of each performance rating described by Education Code 39.072(a). [See GND] *Education Code 39.251*

ACADEMIC ACHIEVEMENT  
GRADING/PROGRESS REPORTS TO PARENTS

EIA  
(LOCAL)

RELATION TO  
ESSENTIAL  
KNOWLEDGE AND  
SKILLS

The District shall establish instructional objectives that relate to the essential knowledge and skills for grade-level subjects or courses. These objectives shall address the skills needed for successful performance in the next grade or next course in a sequence of courses.

Assignments, tests, projects, classroom activities, and other instructional activities shall be designed so that the student's performance indicates the level of mastery of the designated District objectives. The student's mastery level shall be a major factor in determining the grade for a subject or course.

GUIDELINES FOR  
GRADING

The Superintendent or designee shall ensure that each campus or instructional level develops guidelines for teachers to follow in determining grades for students. These guidelines shall ensure that grading reflects student achievement and that a sufficient number of grades are taken to support the grade average assigned. Guidelines for grading shall be clearly communicated to students and parents.

PROGRESS  
REPORTING

Grade reports shall be issued every nine weeks on a form approved by the Superintendent or designee. At least once every nine weeks, the notice to parents shall be returned to the campus with the parent(s) signature. Performance shall be measured in accordance with this policy and the standards established in EIE.

INTERIM REPORTS

Interim progress reports shall be issued at least once every three weeks to students with unsatisfactory or borderline performance. Performance shall be measured in accordance with this policy and the standards established in EIE(LOCAL). All students shall be issued a progress report after the first six weeks of each nine-week period.

CONFERENCES

In addition to conferences scheduled on the campus calendar, conferences may be requested by a teacher or parent as needed.

ACADEMIC  
DISHONESTY

Students found to have engaged in academic dishonesty shall be subject to grade penalties on assignments or tests and disciplinary penalties in accordance with the Student Code of Conduct. Academic dishonesty includes cheating or copying the work of another student, plagiarism, and unauthorized communication between students during an examination. The determination that a student has engaged in academic dishonesty shall be based on the judgment of the classroom teacher or another supervising professional employee, taking into consideration written materials, observation, or information from students.

RECORDING FAILING  
GRADES

The actual numerical grade earned shall be recorded in the student's permanent cumulative records.



GRADING/PROGRESS REPORTS TO PARENTS  
MAKEUP WORK

EIAB  
(LOCAL)

Students shall be expected to make up assignments and tests after excused absences. Students shall receive a zero for any assignment or test not made up within the allotted time.

For extended absences, makeup assignments shall be made available to students after two consecutive class days of excused absence. Teachers shall inform their students of the time allotted for completing makeup work and tests after an excused absence; however, the student shall be responsible for obtaining and completing the makeup assignments in a satisfactory manner within the allotted amount of time.

TESTS

Students shall be permitted to take tests administered in any class missed because of absence.

For any class missed, the teacher may assign the student makeup work based on the instructional objectives for the subject or course and the needs of the individual student in mastering the essential knowledge and skills or in meeting subject or course requirements.

LATE PROJECTS

Teachers may assign a late penalty to any project turned in after the due date in accordance with previously established guidelines approved by the principal and disseminated to students.

UNEXCUSED  
ABSENCES

The grade for makeup work after an unexcused absence shall be zero.

SUSPENSION

The District shall not impose a grade penalty for makeup work after an absence because of suspension.

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LEGAL)

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 28.026*

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)*

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

RANK IN CLASS —  
STUDENTS ENTERING  
GRADE 9 PRIOR TO  
2004–05 SCHOOL  
YEAR

Official class standing reports shall be issued to students following the sixth and seventh semesters of high school. This rank-in-class report designates students within a range of their high school class, as follows:

- Top five percent
- Top ten percent
- Top quarter
- Second quarter
- Third quarter
- Fourth quarter

Rank is based on the students' cumulative grade average, which is derived through a conversion system using weighted rank point values for semester grades. The District shall adhere to the rules set by the Texas Higher Education Coordinating Board for reporting to colleges the actual numerical standing of the top ten percent of graduates.

RANK IN CLASS —  
STUDENTS ENTERING  
GRADE 9 BEGINNING  
2004–05 SCHOOL  
YEAR THROUGH  
2006–07 SCHOOL  
YEAR

Preliminary unofficial class standing reports will be issued to students following the second and fourth semesters of high school. Official class standing will be issued to students following the sixth and seventh semesters of high school. Class rank is determined using a weighted system that supports academic achievement and rigor. Core academic, foreign language, all Pre-AP and AP courses are considered in class rank. Beginning with the 2007–08 school year for students entering grade 9 in 2005–06 or 2006–07, only the top five eligible course grades will be ranked, which must include all core academic courses taken each semester.

These rank-in-class reports designate students within a range of their high school class, as follows:

- Top five percent
- Top ten percent
- Top quarter
- Second quarter
- Third quarter
- Fourth quarter

These reports also designate the position of each student relative to other students in the graduating class. The position or rank is

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

reported as “number (\_\_\_\_) out of (\_\_\_\_) students in graduating class.” Example: Student A is ranked number 5 in a class of 545.

RANK IN CLASS:  
STUDENTS ENTERING  
GRADE 9 BEGINNING  
2007–08 SCHOOL  
YEAR AND  
THEREAFTER

Preliminary unofficial class standing reports will be issued to students following the second and fourth semesters of high school. Official class standing will be issued to students following six, seven, and seven and one-half semesters of high school. Class rank is determined using a weighted system that supports academic achievement and rigor. All courses taken in grades 9–12 and required for graduation will be counted. Class rank will be based upon a weighted grade point average.

These rank-in-class reports designate students within a range of their high school class, as follows:

- Top five percent
- Top ten percent
- Top quarter
- Second quarter
- Third quarter
- Fourth quarter

These reports also designate the position of each student relative to other students in the graduating class. The position or rank is reported as “number (\_\_\_\_) out of (\_\_\_\_) students in graduating class.” Example: Student A is ranked number 5 in a class of 545.

HONOR GRADUATES —  
STUDENTS ENTERING  
GRADE 9 PRIOR TO  
2004–05 SCHOOL YEAR

Students achieving high standards of academic excellence shall be recognized at the graduation ceremony as honor graduates listed alphabetically in each of the following categories:

Honor Graduate Designations	Cumulative Grade Average
Summa Cum Laude	100
Magna Cum Laude	95–99
Cum Laude	90–94

Students achieving a 100 cumulative grade average shall be considered by the school’s scholarship committee for awarding designated top-ranking scholarships. If no student achieves a 100 cumulative grade average, the next highest cumulative grade average will be considered for these scholarships.

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

HONOR GRADUATES —  
STUDENTS ENTERING  
GRADE 9 BEGINNING  
2004–05 SCHOOL YEAR

Students achieving high standards of academic excellence shall be recognized at the graduation ceremony as honor graduates based on the following criteria:

1. Completion of the Recommended or Advanced/Distinguished Achievement Graduation Program.
2. Accumulation of a minimum of 48 semester classes of coursework.
3. Overall weighted average greater than or equal to 90.

Honor graduates meeting the criteria specified above shall be designated as follows:

Honor Graduate Designations	Cumulative Grade Average
Summa Cum Laude	100+
Magna Cum Laude	95–99
Cum Laude	90–94

TOP TEN PERCENT

Students who rank within the top ten percent may be eligible for automatic admission to a Texas public college or university. The District shall adhere to the rules set by the Texas Higher Education Coordinating Board for reporting the exact numerical standing of the top ten percent.

EARLY GRADUATES

A student who completes high school requirements in fewer than four years shall be ranked in the class with which he or she entered in the ninth grade and shall be eligible for honor graduate status. Three-year graduates shall not be eligible for the top-ranking graduate scholarship. A specific scholarship is offered through the Texas Higher Education Coordinating Board for three-year graduates to attend Texas public colleges or universities.

CLASS RANK  
CALCULATION —  
STUDENTS ENTERING  
GRADE 9 PRIOR TO  
2004–05 SCHOOL  
YEAR

Following the sixth and seventh semesters, students are ranked within the class based on their cumulative grade average. All semester grades are converted to a weighted rank point value system that recognizes differences in levels of difficulty between Advanced (Honors/Pre-AP/Advanced Placement/Gifted-Talented), Regular, and Modified (Content Modification) courses. Courses modified as to methodology shall earn the same number of grade points assigned to regular courses.

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

CLASS RANK  
CALCULATION —  
STUDENTS ENTERING  
GRADE 9 BEGINNING  
2004–05 SCHOOL  
YEAR THROUGH  
2006–07 SCHOOL  
YEAR

Following the second, fourth, sixth, and seventh semesters, students are ranked within the class based on their cumulative rank points. All ranked courses (core academic courses, foreign language, all Pre-AP and AP) earned during the regular academic school year earn rank points. Beginning with the 2007–08 school year for students entering grade 9 in 2005–06 or 2006–07, only the top five rank courses will earn rank points, which must include all core academic courses taken each semester.

Rank points are determined by multiplying each semester grade of a ranked course by a rank factor, which recognizes differences in levels of difficulty between Advanced Placement, Pre-Advanced Placement, Regular, and Content Modified coursework. Courses modified as to methodology shall utilize the same rank factor assigned to regular courses.

Course Level	Rank Factor
Advanced Placement	1.29
Pre-Advanced Placement, Honors	1.15
Regular	1.00
Content Modified	.90

Example:

English 1 Pre-AP

Semester 1 – Grade 95

$$95 \times 1.15 = 109.25 \text{ rank points}$$

Semester 2 – Grade 98

$$98 \times 1.15 = 112.7 \text{ rank points}$$

Cumulative Rank Points

$$109.25 + 112.7 = 221.95$$

The total number of rank points are referred to as cumulative rank points. The cumulative rank points determine the rank in class. The student earning the highest number of cumulative rank points is ranked number one and all others take the following positions in increasing numeric order and decreasing cumulative rank points. Ties in rank points will be broken using the most courses taken given a weight of 1.15 and/or 1.29.

ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

CLASS RANK  
CALCULATION —  
STUDENTS ENTERING  
GRADE 9 BEGINNING  
2007–08 SCHOOL  
YEAR AND  
THEREAFTER

Following semesters two, four, six, seven, and seven and a half, students are ranked within the class based on their weighted grade point average. All courses taken in grades 9–12 and required for graduation will be included in the class ranking. This will include three and one-half elective courses for the Recommended Program and two and one-half elective courses for the Advanced/Distinguished Program. Elective courses that produce the highest weighted grade will be counted for class rank. [See EIF]

Rank points are determined by multiplying each semester grade of a ranked course by a rank factor, which recognizes differences in levels of difficulty between Advanced Placement, Pre-Advanced Placement, Regular, and Content Modified coursework. Courses modified as to methodology shall utilize the same rank factor assigned to regular courses.

Course Level	Rank Factor
Advanced Placement (AP) and dual credit AP	1.29
Pre-AP, Honors, GT non-AP, and dual credit non-AP	1.15
Regular	1.00
Content Modified	.90

Example:

English 1 Pre-AP

Semester 1 – Grade 95

$$95 \times 1.15 = 109.25 \text{ rank points}$$

Semester 2 – Grade 98

$$98 \times 1.15 = 112.7 \text{ rank points}$$

Weighted GPA

$$\frac{109.25 + 112.7}{2} = 110.975$$

The weighted grade point average determines the rank in class. The student earning the highest weighted GPA is ranked number one and all others take the following positions in increasing numeric order. Ties in rank points will be broken using the most courses taken given a weight of 1.15 and/or 1.29.



ACADEMIC ACHIEVEMENT  
CLASS RANKING

EIC  
(LOCAL)

EXCEPTIONS — STUDENTS ENTERING GRADE 9 PRIOR TO 2004–05 SCHOOL YEAR	Courses taken one or more times, summer school, night school, and local credit courses are counted. All courses are included except: second semester courses in the final year, pass/fail courses, high school credit earned in middle school, correspondence courses, credit by examination, summer foreign study programs, or grades exempted by an ARD committee.
EXCEPTIONS — STUDENTS ENTERING GRADE 9 BEGINNING 2004–05 SCHOOL YEAR THROUGH 2006–07 SCHOOL YEAR	Only core academic, foreign language, Pre-AP and AP courses are included except those courses taken in the second semester of the final year, any courses taken outside the school day including but not limited to those taken during summer school, during evening/night school, courses taken more than once in high school, courses in which credit is not earned, pass/fail courses, high school credit earned in middle school, correspondence courses, credit by examination, summer foreign study programs, or grades exempted by an ARD committee.
EXCEPTIONS — STUDENTS ENTERING GRADE 9 BEGINNING THE 2007–08 SCHOOL YEAR AND THEREAFTER	All courses required for graduation are included except those courses taken in the second semester of the final year, any courses taken outside the school day including but not limited to those taken during evening/night school, courses taken more than once in high school, courses in which credit is not earned, pass/fail courses, high school credit earned in middle school, correspondence courses, credit by examination, summer foreign study programs, or grades exempted by an ARD committee.
TRANSFER GRADES	In the case of a transfer student, grades accepted shall be based on the intent of the sending school. If the transfer grade from an accredited school has been designated as an honors course on the transcript, the grade shall be awarded honors rank points as long as the same course is offered at an honors level within the District. Numerical grades earned from an accredited school shall be accepted. Alpha grades shall be recorded as follows:
<u>CONVERSION SCALE</u>	
A	95
B	85
C	77
D	72
RANK POINT VALUES — STUDENTS ENTERING GRADE 9 PRIOR TO 2004–05 SCHOOL YEAR	Numerical semester grades are converted to weighted rank point values. The rank point average is truncated to one decimal place. The rank point average is converted on the regular grading scale to determine the cumulative grade average. The cumulative grade average is reported on a scale of 100 to 70.

WEIGHTED RANK POINT VALUES FOR STUDENTS  
ENTERING GRADE 9 PRIOR TO 2004–05 SCHOOL YEAR

Grade	Advanced	Regular	Modified
100	7.5	6.5	4.5
99	7.4	6.4	4.4
98	7.3	6.3	4.3
97	7.2	6.2	4.2
96	7.1	6.1	4.1
95	7.0	6.0	4.0
94	6.9	5.9	3.9
93	6.8	5.8	3.8
92	6.7	5.7	3.7
91	6.6	5.6	3.6
90	6.5	5.5	3.5
89	6.4	5.4	3.4
88	6.3	5.3	3.3
87	6.2	5.2	3.2
86	6.1	5.1	3.1
85	6.0	5.0	3.0
84	5.9	4.9	2.9
83	5.8	4.8	2.8
82	5.7	4.7	2.7
81	5.6	4.6	2.6
80	5.5	4.5	2.5
79	5.4	4.4	2.4
78	5.3	4.3	2.3
77	5.2	4.2	2.2
76	5.1	4.1	2.1
75	5.0	4.0	2.0
74	4.9	3.9	1.9
73	4.8	3.8	1.8
72	4.7	3.7	1.7
71	4.6	3.6	1.6
70	4.5	3.5	1.5

PROMOTION

A student may be promoted only on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level. *Education Code 28.021(a)* [See EI]

In addition to local policy relating to grade advancement, students in grades 3, 5, and 8 must demonstrate proficiency by meeting the passing standard on the appropriate assessment instrument listed at GRADE ADVANCEMENT TESTING or on a state-approved alternate assessment.

A student who does not demonstrate proficiency may advance to the next grade only if the student's grade placement committee (GPC) determines by unanimous decision, in accordance with the standards for promotion established by the Board, that the student is likely to perform at grade level at the end of the next year given additional accelerated instruction.

*19 TAC 101.2001(b)*

A student does not have a property interest in promotion. *Education Code 28.0211(e)*

RETENTION

The District is not precluded from retaining, in accordance with state law or Board policy, a student who performs satisfactorily on a grade advancement test. *Education Code 28.0211(g)*

Students who have been retained in grade 8 in accordance with the grade advancement testing requirements may earn course credit for high school graduation during the next school year in subject areas other than the required courses in the subject area which caused the student to be retained. *19 TAC 101.2019(a)*

GRADE  
ADVANCEMENT  
TESTING

The District shall test eligible students in accordance with the grade advancement requirements set forth below.

ELIGIBLE  
STUDENTS

An eligible student is subject to all grade advancement requirements, including the automatic retention component, if the following two criteria are met:

1. The student is enrolled in a District or charter school on any day between January 1 and April 15 of the school year during which the grade advancement test is administered; and
2. The student is eligible for enrollment in a Texas public school (as defined by legal residence in the state) during the week of the first general grade advancement test administration as established in the assessment calendar by the Commissioner.

An eligible student who does not meet the criteria specified above but enrolls in the District at any time after the week of the first general grade advancement test administration is subject to all grade

advancement requirements except for automatic retention and shall not be automatically retained if the student does not demonstrate proficiency on any of the grade advancement tests.

The District must provide the student with the other required services in the overall system of support for student academic achievement, including the opportunity to test, access to accelerated instruction, and the formation of a GPC.

*19 TAC 101.2003(b), (c)*

REQUIRED  
ASSESSMENT

A student may not be promoted to:

1. The fourth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the third grade reading assessment instrument;
2. The sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments; or
3. The ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments. This applies to the assessment instrument administered to students in eighth grade beginning with the 2007–08 school year.

*Education Code 28.0211(a), (n); 19 TAC 101.9*

TEST SCHEDULE

TEA shall provide three opportunities per year for the tests required for grade advancement. The Superintendent shall establish procedures to ensure that:

1. Each eligible student who is absent or does not receive a test score for any test administration shall receive appropriate accelerated instruction as warranted on an individual basis; and
2. Each eligible student who is absent or does not receive a test score for all three test opportunities and is consequently retained shall receive other appropriate means of evaluation, including an alternate assessment, so that the GPC has sufficient evidence for its review upon appeal by a parent or guardian.

*19 TAC 101.2005(c)*

The District must accommodate the request of an out-of-District student to participate in the third administration of a test required for grade advancement if the District is testing one or more local

students on the applicable test and if the out-of-District student has registered to take the test by a date determined by TEA. *19 TAC 101.2005(d)*

NOTICE OF GRADE  
ADVANCEMENT  
TESTING  
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 first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, of the testing requirements for grade advancement;
2. Notifying each student in grades 1–8 who is new to the District and the student's parent or guardian in writing of the testing requirements for grade advancement; and
3. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

*19 TAC 101.13*

UNSATISFACTORY  
PERFORMANCE ON  
ASSESSMENT  
INSTRUMENTS

The District shall provide to a student who initially fails to perform satisfactorily on a grade advancement test at least two additional opportunities to take the assessment instrument. *Education Code 28.0211(b)*

ACCELERATED  
INSTRUCTION

Each time a student fails to perform satisfactorily on a grade advancement test, the District shall provide the student with accelerated instruction in the applicable subject area. Accelerated instruction should be consistent with previous diagnostic testing and intervention activities, if any, the student has received. An accelerated instruction group for students who have failed an assessment may not have a ratio of more than ten students for each teacher per class.

Accelerated instruction required after the first and second testing opportunities should be designed to address student needs to the greatest extent possible before the next testing opportunity.

Accelerated instruction shall be based on the following:

1. Assessment of specific student needs, which may include, as appropriate, the following: teacher observations and evaluations; academic progress reports; previous identification of student needs and corresponding interventions; and performance on previous assessment instruments in the applicable subject.
2. Best instructional practices identified through research.

*Education Code 28.0211(c); 19 TAC 101.2013(a), (b), (d)*

If a student fails to perform satisfactorily on a grade advancement test after three attempts, the accelerated instruction shall be provided during the next school year according to an educational plan developed for the student by the student's GPC. The District shall provide the instruction regardless of whether the student has been promoted or retained. The educational plan shall be designed to enable the student to perform at the appropriate grade level by the conclusion of the school year. During the school year, the student shall be monitored to ensure the student is progressing in accordance with the plan. The District shall administer to the student the assessment instrument for the grade level in which the student is placed at the time the District regularly administers the assessment instrument for that school year. *Education Code 28.0211(f)*

The District must accommodate the request of an out-of-District student to participate in any established, on-campus summer accelerated program, provided the student is living away from his or her home district and the program matches the accelerated instruction prescribed by the student's GPC. *19 TAC 101.2013(d)*

NOTICE TO  
PARENTS OF  
PERFORMANCE  
AND ACCELERATED  
INSTRUCTION

In addition to providing the accelerated instruction, the District shall notify the student's parent or guardian of:

1. The student's failure to perform satisfactorily on the assessment instrument;
2. The accelerated instruction program to which the student is assigned; and
3. The possibility that the student might be retained at the same grade level for the next school year.

Whenever the District is required to notify a parent or guardian about the requirements related to promotion and accelerated instruction, the District shall make a good-faith effort to ensure that the notice is provided either in person or by regular mail, is clear and easy to understand, and is written in English or in the parent or guardian's native language.

*Education Code 28.0211(d), (h)*

AFTER EARLY  
IDENTIFICATION OF  
AT-RISK STUDENTS  
NOTICE

The District shall provide early notice to parents or guardians of students identified in a preceding grade to be at risk of failure on the first administration of the test required for grade advancement the next year. The Superintendent shall establish the instruments/procedures to be used to make this determination; however, in the case of students in grade 2, it must include the results of the reading inventory required by Education Code 28.006. This notice shall be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

AFTER FIRST  
TESTING  
OPPORTUNITY  
NOTICE

The District shall notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement test. This notification should be made within five working days of the District's receipt of student test results from this administration. This notice shall include the student's test results, a description of the District's grade advancement policy, the accelerated instruction to which the student has been assigned, and the possibility that the student might be retained at the same grade level for the next school year. In addition, the notice shall encourage parents or guardians to meet immediately with the student's teacher to outline mutual responsibilities to support the student during accelerated instruction. *19 TAC 101.2009(c)*

AFTER SECOND  
TESTING  
OPPORTUNITY  
NOTICE

Within five working days of the District's receipt of student test results for the second administration of the test required for grade advancement, the District shall notify the campus principal of results for each student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the test results. This notice shall include a description of the purpose and responsibilities of a GPC and the time and place for the first meeting of the GPC. *19 TAC 101.2007(c)*

GRADE  
PLACEMENT  
COMMITTEE

After a student fails to perform satisfactorily on an assessment instrument a second time, a GPC shall be established to prescribe the accelerated instruction the student is to receive before the assessment instrument is administered the third time.

Decisions by the GPC shall be made on an individual student basis to ensure the most effective way to support the student's academic achievement on grade level.

The GPC shall be composed of the principal or the principal's designee, the student's parent or guardian, and the student's teacher of the subject of the grade advancement test on which the student failed to perform satisfactorily. If this teacher is unavailable, the principal shall designate to serve on the committee a teacher certified in the subject of the assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.

If more than one parent or guardian has the authority to make educational decisions regarding the student, a good faith effort must be made to notify both parents, but participation of any one parent or guardian is sufficient. Either parent or only one guardian may initiate an appeal. If both parents or guardians serve on the GPC but do not agree, either may agree to promote the student (if the remaining members of the GPC also agree to the promotion). The District may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. The District

may accept a parent's or guardian's written and signed waiver of participation in the GPC and designation of the remaining members of the GPC as the decision-making entity for all purposes.

If a parent or guardian or designee is unable to attend a meeting, the District may use other methods to ensure parent participation, including individual or conference telephone calls. The District may designate another person to act on behalf of the student in place of a parent, guardian, or designee if no such person can be located. A surrogate parent named to act on behalf of a student with a disability shall be considered a parent for this purpose. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take any actions required.

*Education Code 28.0211(c); 19 TAC 101.2007(a), (b)*

ALTERNATE  
ASSESSMENT

For the third testing opportunity, the Board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If the Board adopts such a policy, the District shall select from a list provided annually by the Commissioner only one test for each applicable grade and subject. The alternate assessment must be given during the period established by the Commissioner in the assessment calendar to coincide with the date of the third administration of the statewide assessment.  
*19 TAC 101.2011(a)-(b)*

PARENTAL  
WAIVER

The Superintendent shall establish a waiver process by which a parent or guardian may request that a student not participate in the third test opportunity due to potential harm to the student. The waiver must provide documentation of potential harm, student need, and other appropriate information. If a parental waiver is granted, the student must still participate in all required accelerated instruction and is subject to retention based on the failure on the second test administration. *19 TAC 101.2015*

AFTER THIRD  
TESTING  
OPPORTUNITY  
NOTICE

The GPC must convene again if a student fails to demonstrate proficiency on the third administration of a test required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student test results for this administration, the District shall notify the campus principal of results for each student who fails to demonstrate proficiency. Upon receipt of this notice, the principal shall notify the teacher and parent or guardian of the time and place for the GPC to hold a meeting. This notice shall inform the parent or guardian of the opportunity to appeal the automatic retention of the student. The District shall establish a procedure to ensure a good faith effort is made toward securing the parent's or guardian's receipt of the retention notification. *19 TAC 101.2007(e)*



ACADEMIC ACHIEVEMENT  
RETENTION AND PROMOTION

EIE  
(LEGAL)

RETENTION AND  
APPEAL

A student who fails to perform satisfactorily after at least three attempts on one of the grade advancement tests shall be retained at the same grade level for the next school year. The parent or guardian may appeal the retention by submitting a request to the GPC within five working days of receipt of the retention notification. *Education Code 28.0211(e); 19 TAC 101.2007(e)*

The GPC may not agree to promote a student unless a parent, guardian, or designee has appealed. *19 TAC 101.2007(b)(2)*

If an appeal is initiated by the parent or guardian, the GPC may decide in favor of promotion only if the GPC concludes, upon review of all facts and circumstances, and in accordance with standards adopted by the Board, that the student is likely to perform on grade level given additional accelerated instruction during the next school year. A student may be promoted only if the decision of the GPC is unanimous.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the Board. These standards may include the following:

1. Evidence of satisfactory student performance, including grades, portfolios, work samples, local assessments, previous state assessments, and individual reading and mathematics diagnostic tests or inventories;
2. Improvement in student test performance over the three testing opportunities;
3. Extenuating circumstances that may have adversely affected the student's participation in instruction, the student's participation in the required assessments, or the student's participation in accelerated instruction; and
4. Consideration of whether the student was not enrolled in a Texas public school for part of the school year.

*19 TAC 101.2007(f)*

The placement decision by the GPC shall be made before the start of the next school year, or if applicable, upon re-enrollment of the student after this date. *19 TAC 101.2007(g)*

The committee's decision regarding placement is final and may not be appealed. *Education Code 28.0211(e)*

TRANSFER STUDENTS

The District shall determine a student's previous testing history and, if applicable, the accelerated instructional program he or she has received. *19 TAC 101.2003(g)*

	<p>A student who has been promoted upon completion of a school year in a school other than a Texas public school may be enrolled in that grade without regard to whether the student has successfully completed a grade advancement test. This does not limit the District's ability to appropriately place such a student. <i>19 TAC 101.2007(h)</i> [See FDA]</p>
LIMITED ENGLISH PROFICIENT (LEP) STUDENTS	<p>The language proficiency assessment committee (LPAC) shall determine appropriate assessment and acceleration options for a limited English proficient (LEP) student who is administered a grade advancement test in English or Spanish. The GPC for a LEP student shall make its decisions in consultation with a member of the student's LPAC. <i>19 TAC 101.2003(e)</i></p>
SPECIAL EDUCATION STUDENTS	<p>A student who is receiving special education services, including a LEP student, who is enrolled in grades 3, 5, or 8, and who is receiving instruction in the essential knowledge and skills in reading or mathematics is eligible for grade advancement testing. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and acceleration options for the student. <i>Education Code 28.0211(i); 19 TAC 101.2003(d), (f)</i></p>
DYSLEXIC STUDENTS	<p>In measuring the academic achievement or proficiency of a student who is dyslexic, the student's potential for achievement or proficiency in the area must be considered. <i>Education Code 28.021(b); 19 TAC 101.2003(f)</i> [See policies at EHB, EKB, and FB]</p>
AGE-APPROPRIATE ASSIGNMENT	<p>The Board may establish a policy that provides for the placement of retained students in an age-appropriate learning environment. In accordance with local grade configurations for elementary, middle, and high school campuses, the Board may specify the age by which a retained student should be placed on the next level campus even though not yet promoted to the grade of that campus. <i>19 TAC 101.2019(b)</i></p>
TRANSPORTATION TO ACCELERATED INSTRUCTION PROGRAMS	<p>The District shall provide students required to attend the accelerated programs described above with transportation to those programs if the programs occur outside of regular school hours. <i>Education Code 28.0211(j); 19 TAC 101.2013(c)</i></p>
OPTIONAL EXTENDED-YEAR PROGRAM	<p>A student who does not meet District standards or policies for promotion on the basis of academic achievement or demonstrated proficiency of the subject matter of the course or grade level shall be eligible for services under the optional extended-year program. <i>19 TAC 105.1001</i> [See EHBC]</p> <p>A student who attends at least 90 percent of the extended-year program days and who satisfies the requirements for promotion (academic achievement or demonstrated proficiency of the subject</p>

matter of the course or grade level) shall be promoted to the next grade level at the beginning of the next school year. However, if the student's parent presents a written request to the school principal asking that the student not be promoted, the principal shall hold a formal meeting with the parent, the teacher, and the counselor, as soon as practicable after receiving such a request. During the meeting, the principal, teacher, or counselor shall explain the possible effects of not promoting a student. If the parent withdraws the request after the meeting, the student shall be promoted, and the District shall continue to use innovative practices to ensure that the student is successful in school in succeeding school years.

If the District provides an extended-year program, it shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

*Education Code 29.082(e), (f)* [See EHBC]

Even though decisions regarding promotion and retention are functions delegated to the classroom teacher, they remain the responsibility of the principal. The classroom teacher shall monitor and evaluate the progress of a student and shall exert every effort to ensure the student's progress.

CURRICULUM  
MASTERY

Promotion, acceleration, grade-level advancement, and course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory/accelerated services. [See EHBC]

STANDARDS FOR  
MASTERY

Mastery shall be determined as follows:

1. Course assignments and unit evaluation shall be given to determine student grades in a subject. An average of 70 or higher shall be considered a passing grade.
2. Mastery of the skills necessary for success at the next level shall be validated by various methods of assessment that may either be incorporated into unit or final exams or may be administered separately. Mastery of at least 70 percent of the objectives shall be required.

KINDERGARTEN-  
GRADE 1

In kindergarten–grade 1, the District may grant promotions using assessment methods other than numerical scores including, but not limited to, skills checklists.

GRADES 2–5

In grades 2–5, promotion to the next grade level shall be based on an overall average of 70 on a scale of 100 based on course-level, grade-level standards (essential knowledge and skills) for language arts, mathematics, social studies, and science, and a grade of 70 or above in language arts and mathematics. Students in grades 3 and 5 must meet state testing requirements in order to be promoted to grades 4 and 6. [See EIE(LEGAL)]

GRADES 6–8

In grades 6–8, beginning with the 2007–08 school year, promotion to the next grade level shall be based on an overall average of 70 or above on a scale of 100 based on course-level, grade-level standards (essential knowledge and skills) for all subject areas and a grade of 70 or above in language arts, mathematics, social studies, and science. Students in grade 8 must meet state testing requirements in order to be promoted to grade 9. [See EIE(LEGAL)]

GRADES 9–12

Grade-level advancement for students in grades 9–12 shall be earned by course credits. [See EI(LEGAL), EIA(LOCAL) and EIF(LOCAL)] Changes in grade-level classification shall be made at the beginning of the fall and spring semesters. Grade-level advancement requires the following earned state credits for all stu-

dents entering the ninth grade beginning with the 2003–04 school year:

	Classification	Credits	Minimum Credit Requirements
1.	Freshman	0–4.5	
2.	Sophomore	5.0–10.5	1.0 credit of English and 1.0 credit of mathematics
3.	Junior	11–16.5	2.0 credits of English, 2.0 credits of mathematics, 1.0 credit of social studies, and 1.0 credit of science
4.	Senior	17+	3.0 credits of English, 2.0 credits of mathematics, 2.0 credits of social studies, and 2.0 credits of science

STUDENTS WITH  
DISABILITIES

Promotion standards and appropriate assessment and acceleration options, as established by the individualized educational program (IEP), or grade-level classification of students eligible for special education, shall be determined by the ARD committee.

LIMITED ENGLISH  
PROFICIENCY  
STUDENTS

In assessing students of limited English proficiency for mastery of the essential knowledge and skills, the District shall be flexible in determining methods to allow the students to demonstrate knowledge or competency independent of their English language skills in the following ways:

1. Assessment in the primary language.
2. Assessment using ESL methodologies.
3. Assessment with multiple varied instruments. [See EHBE]

STUDENT SUCCESS  
INITIATIVE

In addition to local standards for mastery and promotion, students in grades 3, 5, and 8 must meet the passing standard established by the State Board on an applicable assessment instrument in the subjects required under state law in order to be promoted to the next grade.

DEFINITION OF  
'PARENT'

For purposes of this policy and decisions related to the student success initiative, a student's "parent" shall be defined to include either of the student's parents or guardians; a person designated by the parent, by means of a Power of Attorney, to have responsibility for the student in all school-related matters (see FD); a surro-

gate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]

ALTERNATE  
ASSESSMENT  
INSTRUMENT

The District shall use only the statewide assessment instrument for the third testing opportunity.

STANDARDS FOR  
PROMOTION UPON  
APPEAL

If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law and shall apply the following standards in deciding to promote or retain the student:

1. Evidence of satisfactory student performance, including grades, portfolios, work samples, local assessments, previous state assessments, or individual reading or mathematics diagnostic tests or inventories, as appropriate;
2. Improvement in student test performance over the three testing opportunities;
3. Extenuating circumstances that may have adversely affected the student's participation in instruction, required assessments, or accelerated instruction; and
4. Consideration of whether a student was not enrolled in a Texas public school for part of the school year.

If all members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year, the student shall be promoted.

Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the parent to consult with the teacher or principal as needed. The principal or designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.

TRANSFER  
STUDENTS

When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The GPC shall review any available records of decisions regarding test-

ing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.

If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.

ASSIGNMENT OF  
RETAINED STUDENTS

In the event a student is not promoted to the next grade level, the District shall assign the student nevertheless to an age-appropriate campus, unless:

1. The student's parent requests that the student be assigned to the same or a similar campus setting; or
2. The student's GPC determines that it would be in the student's best interest to be assigned to the same or a similar campus setting. Criteria to be considered for this decision may include:
  - a. Recommendations from the student's teachers.
  - b. Observed social and emotional development of the student.

REDUCING STUDENT  
RETENTION

The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [See EHBC]

PROCEDURES TO  
REDUCE RETENTION

A campus review committee (Student and Teacher Assistance Team - STAT) designated by the building administrator, shall determine, on the basis of an individual student's strengths and weaknesses, acceleration strategies to be used for students at risk of failing.

ACCELERATION OF  
INSTRUCTION

Acceleration of student learning begins in the classroom with the implementation of effective instructional strategies and structures as recommended by the STAT or GPC based on the individual student's learning needs.

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 (IEP) developed under Education Code 29.005. [See EHBAB]

*Education Code 28.025(c); 19 TAC 101.4001(a)*

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 74.41(a), 74.51(a), 74.61(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 TAKS exit-level assessment 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)*

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.

A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level testing requirement.

*19 TAC 101.5(e), 101.7*

ALTERNATIVE  
ASSESSMENTS

An eligible student who has met the passing standard on a state-approved alternative assessment instrument, as set forth at 19 TAC 101.4001, in a particular area has satisfied the exit-level testing requirement in that subject area.

A student is eligible to substitute an alternative exit-level assessment for a TAKS exit-level assessment if the student, after Janu-



ary 1 of the year in which the student would otherwise be eligible to graduate:

1. Enrolls in a public school in Texas for the first time; or
2. Enrolls in a public school in Texas after an absence of at least four years from any public school in the state. A student meets this requirement if the student has not been enrolled for one or more days in a public school in Texas in the four years preceding the date on which the student enrolls.

VERIFICATION OF  
ELIGIBILITY

An eligible student is responsible for providing the District an official copy of the student's scores from the alternative assessment.

Each district shall be responsible for verifying a student's eligibility for the alternative exit-level assessment. Upon receipt of official results of an approved alternative exit-level assessment, the District must:

1. Verify the student's score on the alternative assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

*19 TAC 101.4001, 101.4003, 101.4005*

IMPLEMENTATION  
SCHEDULE

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.

STUDENTS WHO  
TAKE TAKS

Students who were enrolled in grade 8 or a lower grade on January 1, 2001, must fulfill testing requirements for graduation with the exit-level Texas Assessment of Knowledge and Skills (TAKS) tests. "Coursework necessary to graduate" means all coursework required under the student's graduation plan.

*19 TAC 101.3003*

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 on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone one time the initial administration of the exit-level test. 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 IEP 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 74.41(b), 74.51(b), 74.61(b)*

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**Note:** For current state graduation requirements, see <http://www.tea.state.tx.us/rules/tac/chapter074/index.html>.

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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 Distinguished/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); 19 TAC 74.51(d), 74.52.–.54, 74.61(c)*

MINIMUM HIGH  
SCHOOL PROGRAM

A student must earn at least 22 credits to complete the Minimum High School Program. A student must demonstrate proficiency in the program requirements listed at 19 TAC 74.11. *19 TAC 74.42, 74.52*

RECOMMENDED  
HIGH SCHOOL  
PROGRAM

A student entering grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 74 TAC 74.63. *19 TAC 74.63*

DISTINGUISHED  
ACHIEVEMENT  
PROGRAM

A student entering grade 9 in the 2007–08 school year or thereafter must earn at least 26 credits to complete the Distinguished

	<p>Achievement Program. A student must demonstrate proficiency in the program requirements listed at 19 TAC 74.64. <i>19 TAC 74.64</i></p>
SUBSTITUTIONS	<p>No substitutions are allowed for high school graduation requirements in the Recommended and Distinguished Achievement Programs, except as provided by State Board rule. <i>19 TAC 74.43(d), 74.44(e), 74.53(d), 74.54(e)</i></p>
CREDIT BY EXAMINATION	<p>Credit may be awarded with or without prior instruction if the student has earned credit by examination [see EEJA, EEJB]. <i>19 TAC 74.24(c)</i></p>
AP OR IB COURSES	<p>College Board Advanced Placement and International Baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. <i>19 TAC 74.41(g), 74.51(h)</i></p>
READING	<p>The District may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the District:</p> <ol style="list-style-type: none"><li>1. Adopts policies to identify students in need of additional reading instruction;</li><li>2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and</li><li>3. Monitors instructional activities to ensure that student needs are addressed.</li></ol> <p>Reading credits may be selected from Reading I, II, or III. <i>19 TAC 74.41(d), 74.51(e), 74.61(e)</i></p>
PHYSICAL EDUCATION SUBSTITUTIONS	<p>The Board may allow a student to substitute certain physical activities for the one and one-half required credits of physical education, including the one-half credit of Foundations of Personal Fitness. The substitutions must be based on the 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 two- or three-credit career and technology work-based training courses. <i>19 TAC 74.11(d)(7)(A)</i></p>
PRIVATE OR COMMERCIALY SPONSORED PHYSICAL ACTIVITY PROGRAMS	<p>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. <i>19 TAC 74.43(b)(7)(C), 74.52(b)(7)(C), 74.53(b)(7)(C), 74.54(b)(7)(C), 74.63(b)(7), 74.64(b)(7)</i></p>

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LEGAL)

TRANSFERS FROM  
OUT-OF-STATE OR  
NONPUBLIC SCHOOLS

Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all high school graduation requirements under 19 TAC 74.41, 74.51, or 74.61 as applicable. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 TAC 74.26. *19 TAC 74.11(f), 74.41(e), 74.51(f), 74.61(f)* [See EEJA, EEJB, EEJC, EHDE, and EI]

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  
GRADUATION

EIF  
(LOCAL)

GRADUATION REQUIREMENTS	Students entering high school shall enroll in the courses required to complete the graduation programs as defined by the District.
PRIOR TO 2007–08	Students who entered high school prior to the 2007–08 school year shall be required to earn 3 credits of mathematics in grades 9–12. High school courses taken in middle school shall earn credit that shall be reflected in the Academic Achievement Record (AAR) but shall not count as a required mathematics credit. Courses earned in middle school shall not be counted for class rank.
2007–08 AND THEREAFTER	Students who enter high school in the 2007–08 school year and thereafter shall be required to earn four credits for graduation in each of the core areas: English, mathematics, science, and social studies. High school courses taken in middle school shall earn credit that shall be reflected on the Academic Achievement Record, but only one credit of mathematics from middle school may count toward high school graduation. Middle school courses shall not be counted for class rank.
GRADUATION PROGRAMS	The following graduation requirements apply to students who entered grade 9 in the 2004–05 school year and thereafter.
ADVANCED / DISTINGUISHED ACHIEVEMENT PROGRAM	The District requires no additional credits for graduation under the Advanced/Distinguished Achievement Program beyond those mandated by the state.
RECOMMENDED PROGRAM	The District requires no additional credits for graduation under the Recommended Program beyond those mandated by the state.
TEXAS SCHOLARS	Students who meet all requirements of the state Recommended Program shall be designated Texas Scholars.
MINIMUM PROGRAM	The District requires no additional credits for graduation under the Minimum Program beyond those mandated by the state.  A student shall be permitted to take courses under the state Minimum High School Program only if the student’s parents or other person standing in parental relation to the student, in consultation with the school counselor and/or an administrator, agree.
FIFTH-YEAR SENIORS	Fifth-year seniors shall be permitted to enroll in only those courses needed for graduation. Such students shall not be eligible for participation in any extracurricular activities unless UIL requirements are met.
PROCEDURES FOR EARLY GRADUATION	In order for a student to graduate from the District in less than four years, the student shall have earned enough credits to satisfy state and District graduation requirements.

ACADEMIC ACHIEVEMENT  
GRADUATION

EIF  
(LOCAL)

PHYSICAL EDUCATION  
SUBSTITUTIONS

The District shall allow students to substitute certain physical activities for the 1.5 required credits of physical education. Such substitutions shall be based on the physical activity involved in:

1. Drill team, marching band, and cheerleading during the fall semester.
2. Junior Reserve Officer Training Corps (JROTC).
3. Athletics.
4. Dance I–IV.
5. Two- or three-credit career and technology work-based training courses.

OTHER PHYSICAL  
ACTIVITY PROGRAMS

The District shall award state graduation credit for physical education for appropriate private or commercially sponsored physical activity programs conducted either on or off campus, upon approval by the Commissioner of Education. [See also EHAC]

READING CREDITS

The District shall offer up to 3 credits of reading for state graduation credit. The Superintendent or designee shall be responsible for establishing procedures to assess individual student needs and evaluate student progress and shall monitor instructional activities to ensure that student needs are met. Students shall be identified as eligible to earn reading credit based on:

1. Recommendation by a teacher or counselor.
2. Scores on assessment instruments and/or achievement tests.



ACADEMIC GUIDANCE PROGRAM

EJ  
(LEGAL)

HIGHER EDUCATION  
COUNSELING

Each counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of higher education, coursework designed to prepare students for higher education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during a student's senior year, a counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of higher education;
2. The advantages of completing the recommended or advanced high school program;
3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
4. Financial aid eligibility;
5. Instruction on how to apply for federal financial aid;
6. The center for financial aid information established under Education Code 61.0776;
7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803; and
8. The eligibility and academic performance requirements for the TEXAS Grant.

*Education Code 33.007; 19 TAC 61.1071*

NOTICE OF GRANT  
PROGRAMS

The District shall notify students in middle school, junior high school, and high school and those students' teachers, counselors, and parents of:

1. The Toward Excellence, Access, and Success (TEXAS) program and the Teach for Texas program;
2. The eligibility requirements of each program;
3. The need for students to make informed curriculum choices to be prepared for success beyond high school; and
4. Sources of information on higher education admissions and financial aid in a manner that assists the District in implementing its strategies, contained in the District improvement plan, for resources needed to implement identified strategies.

NOTATION ON  
TRANSCRIPT OR  
DIPLOMA

In addition, the District shall ensure that each student's official transcript or diploma indicates:

1. Whether the student has completed or is on schedule to complete the recommended or the advanced high school curriculum required for grant eligibility.
2. That the District has certified to the Commissioner of Education that the high school did not offer all the necessary courses for a student to complete all parts of the recommended or advanced high school curriculum, but that the student completed all courses offered at the District's high school that would apply toward the completion of the recommended or advanced high school curriculum.

*Education Code 56.308*

ACADEMIC GUIDANCE PROGRAM

EJ  
(LOCAL)

GUIDANCE AND  
COUNSELING  
SERVICES

The District's guidance and counseling services shall be designed primarily to provide ongoing assistance to enhance the educational development of all students and shall be included in and monitored through the District and campus planning process. [See BQ series]

AREAS OF STUDENT  
NEED

The services may assist individuals or groups of students in:

1. Improving academic achievement.
2. Improving school attendance.
3. Improving school attitudes.
4. Developing self-confidence.
5. Developing healthy interpersonal relationships.
6. Developing life satisfaction.
7. Obtaining information to assist in choosing a potential career.

Guidance services shall be coordinated with the regular instructional program so that they contribute to a unified educational program. Guidance services shall operate with central coordination and shall be a cooperative project of the entire professional staff. Teachers shall use opportunities in the classroom, in extracurricular activities, and in contacts with parents to achieve guidance objectives. Qualified counselors shall supervise the standardized testing program and provide personal, academic, and career guidance to students who need such services. [See FFE]

TESTING PROGRAMS

EK  
(LEGAL)

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. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, "assessment instrument" means a District-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to the Board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to the District for verification. The District shall have 90 days to verify the accuracy of test data and report the results to the Board.

The company or organization shall provide test results in electronic form to the District and to TEA. If the District develops its own assessment instrument, it must report the results in electronic form to TEA.

The District shall follow procedures for test security and confidentiality set forth in 19 TAC Chapter 101 Subchapter C. [See EKB] The District may not use the same form of an assessment instrument for more than three years.

*Education Code 39.026, 39.032; 19 TAC 101.101*

TESTING PROGRAMS  
STATE ASSESSMENT

EKB  
(LEGAL)

STATE ASSESSMENT  
OF ACADEMIC SKILLS

The statewide assessment program shall be primarily knowledge and skills based to ensure accountability for student achievement that achieves the state goals for public education. The state-adopted criterion-referenced assessment program shall be designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Assessment instruments shall include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

The state-adopted exit-level assessment instrument shall be designed to be administered to students in grade 11 to assess essential knowledge and skills in mathematics, English language arts, social studies, and science.

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced tests, as required by Education Code 39.023(a), (b), (c), (l), and 39.027(e).

*Education Code 39.022, 39.023(a), (c), (f); 19 TAC 101.1, 101.5(a)*

To be eligible to receive a high school diploma, a nonexempt student must demonstrate satisfactory performance on the exit-level test. *Education Code 39.025(b); 19 TAC 101.7(a)* [See EIF]

ADMINISTRATION

The District shall follow the test administration procedures established by TEA in the applicable test administration materials. The Superintendent shall be responsible for:

1. Maintaining the integrity of the test administration process; and
2. Ensuring that every test administrator receives at least annual training in these procedures as provided by TEA through the education service centers.

*19 TAC 101.27*

SCHEDULE

The Commissioner shall specify the schedule for testing. The Superintendent shall be responsible for administering tests. The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state. *19 TAC 101.25*

ALTERNATE  
TEST DATES

The Commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates shall only be allowed if the campus or District is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect the District's or

campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause the District or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit the District or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the District, campus, and students.

*19 TAC 101.5003*

NOTICE TO PARENTS  
AND STUDENTS

In order to provide timely and full notification of graduation requirements and of testing requirements for advancement at certain grades, the Superintendent shall be responsible for:

1. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's seventh-grade year of the testing requirements for graduation;
2. Notifying each student in grades 7–12 new to the District and the student's parent or guardian in writing of the testing requirements for graduation;
3. Notifying each student who shall take the tests required for graduation and his or her parent or guardian, as well as out-of-school individuals, of the dates, times, and locations of testing;
4. Notifying each student and the student's parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in the District, of the testing requirements for grade advancement as specified in Education Code 28.0211 [see EIE];

5. Notifying each student in grades 1–8 who is new to the District and his or her parent or guardian in writing of the testing requirements for grade advancement; and
6. Notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

*19 TAC 101.13*

RETAKES

According to procedures specified in the applicable test administration materials, an eligible student or out-of-school individual who has not met graduation requirements may retest on a schedule determined by the Commissioner. A student who has been denied a diploma because the student failed to meet standards of performance on any sections of the instrument may retake the sections each time the instrument is administered. A student shall not be required to demonstrate performance at a standard higher than the one in effect when the student was first eligible to take the test. *Education Code 39.025(b); 19 TAC 101.7(a)(2), (d)*

ALL STUDENTS

All students, except students who are exempted, who are in special education programs, and whose ARD committees determine the assessment instrument would not provide an appropriate measure of achievement [see ALTERNATIVE ASSESSMENT, below], shall be assessed in:

1. Mathematics, annually in grades 3 through 7 without the aid of technology and in grades 8 through 11 with the aid of technology on any assessment instruments that include algebra;
2. Reading, annually in grades 3–9;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. English language arts in grade 10;
5. Social studies in grades 8 and 10; and
6. Science in grades 5, 8, and 10.

*Education Code 39.023(a)*

SPECIAL EDUCATION  
STUDENTS

A student receiving special education services enrolled in grades 3–10 and who is receiving instruction in the essential knowledge and skills shall take the assessment of academic skills unless the student's ARD committee determines that it is an inappropriate measure of the student's academic progress as outlined in the student's IEP. If the ARD committee determines that the assessment is an inappropriate measure of the student's academic progress in whole or part, the student shall take the alternative assessment of academic skills in whole or part. Each testing accommodation

shall be documented in the student's IEP in accordance with federal law. *19 TAC 101.5(b)*

The ARD committee shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with TEA rules. *Education Code 39.024(a)*

ALTERNATIVE  
ASSESSMENT

TEA shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program who receives modified instruction in the essential knowledge and skills identified under Education Code 28.002 for the assessed subject but for whom an assessment instrument, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee.

The alternative assessment instrument must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing and shall be administered on the same schedule as the assessment instruments administered to all other students.

*Education Code 39.023(b)*

The alternative assessment of academic skills will measure annual growth based on appropriate expectations for each special education student, as determined by the student's ARD committee in accordance with criteria established by the Commissioner. *19 TAC 101.23(b)*

PERMISSIBLE  
ACCOMMODATIONS

Testing accommodations on the assessments administered are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction.

For a student receiving special education services, the ARD committee shall determine the allowable accommodations necessary for the student to take the assessments and shall document them in the student's IEP. Permissible testing accommodations shall be described in the appropriate test administration materials.

*19 TAC 101.29*

EXEMPTIONS —  
SPECIAL  
EDUCATION

A student may be exempted from the administration of:

1. The state assessment instrument or an alternate assessment if the student is eligible for special education and the student's



IEP does not include instruction in the essential knowledge and skills at any grade level;

2. Exit-level exams if the student is eligible for special education, and:
  - a. The student's IEP does not include instruction in the essential knowledge and skills at any grade level; or
  - b. The assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's ARD committee.

*Education Code 39.027(a)(1), (2)*

A student receiving special education services enrolled in grades 3–10, according to the grade implementation schedule stated at SPECIAL EDUCATION STUDENTS, and who is not receiving any instruction in the essential knowledge and skills, shall be considered exempt. Each exemption shall be documented in the student's IEP in accordance with federal law. Each exempted student shall take an appropriate locally selected assessment, as determined by the student's ARD committee, in accordance with procedures developed by TEA. Student performance results on these alternate assessments must be reported to TEA. *19 TAC 101.5(c)*

LEP STUDENTS  
IN SPECIAL  
EDUCATION

Decisions regarding the selection of assessments for LEP students who receive special education services shall be made by the ARD committee, which includes a member of the language proficiency assessment committee (LPAC) to ensure that issues related to the student's language proficiency are duly considered. *19 TAC 1001.1009(a)*

An LEP student who receives special education services may be exempted from the English language proficiency assessments only if the ARD committee determines that these assessments cannot provide a meaningful measure of the student's annual growth in English language proficiency for reasons associated with the student's disability. *19 TAC 101.1009(c)*

The provisions at LEP STUDENTS AT OTHER GRADES apply to the assessment of academic skills and the state-developed alternative assessment of academic skills. *19 TAC 101.1009(d)*

An LEP student who receives special education services and whose parent or guardian has declined the services required by Education Code Chapter 29, Subchapter B [see EHBE], is not eligible for an exemption on the basis of limited English proficiency. *19 TAC 101.1009(e)*

STUDENTS WITH DYSLEXIA	TEA shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. 705(20), for whom the assessment instruments, even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the Board to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this provision. <i>Education Code 39.023(n)</i>
LIMITED ENGLISH PROFICIENCY (LEP) STUDENTS	In grades 3–12, an LEP student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the assessment of academic skills in accordance with Commissioner’s rules at 19 TAC Chapter 101, subchapter AA. In grades 3–6, the LPAC [see EHBE] shall determine whether a nonexempt LEP student whose primary language is Spanish will take the assessment of academic skills in English or in Spanish. The decision as to the language of the assessment shall be based on the assessment that will provide the most appropriate measure of the student’s academic progress. <i>19 TAC 101.5(d)</i>
ACADEMIC PROGRESS EVALUATION	An LEP student who is exempt from the administration of an assessment instrument who achieves reading proficiency in English as determined by the assessment system shall be administered the appropriate assessment instrument. <i>Education Code 39.027(e)</i>
TESTING IN SPANISH	Each LEP student whose primary language is Spanish, other than a student eligible for special education services, may be assessed using assessment instruments in Spanish for up to three years or assessment instruments in English. The LPAC shall determine which students are to be administered assessment instruments in Spanish. <i>Education Code 39.023(l), (m)</i>
ENGLISH LANGUAGE PROFICIENCY TESTS	In kindergarten through grade 12, LEP students shall be administered state-identified English language proficiency assessments annually in listening, speaking, reading, and writing to fulfill the state requirements for the assessment of academic skills and federal requirements under the No Child Left Behind Act. <i>19 TAC 101.1001</i>
LANGUAGE PROFICIENCY ASSESSMENT COMMITTEE	The LPAC shall select the appropriate assessment option for each LEP student in accordance with this policy at LEP STUDENTS AT THE EXIT LEVEL and LEP STUDENTS AT OTHER GRADES. Assessment decisions must be made on an individual student basis in accordance with administrative procedures established by TEA.

The LPAC must document the reason for the postponement or exemption in the student's permanent record file. The District shall make a reasonable effort to determine a student's previous testing history. *19 TAC 101.1003*

EXEMPTIONS

A student may be exempted from the administration of the state assessment of academic skills:

1. For up to one year if the student is of limited English proficiency and has not demonstrated proficiency in English as determined by the assessment system developed to evaluate academic progress of an LEP student; or
2. For an additional two years if the student received the one year exemption and is a recent unschooled immigrant or is in a grade for which no assessment instrument in the primary language of the student is available.

"Recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the administration of an assessment of academic skills and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum determined by the LPAC. [See EHBE] To the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required for enrollment. [See FD]

*Education Code 39.027(a)(3), (4), (g)*

LEP STUDENTS AT  
THE EXIT LEVEL

LEP students are not eligible for an exemption from the exit-level assessment of academic skills on the basis of limited English proficiency. However, LEP students who are recent immigrants may postpone one time the initial administration of the exit-level test. "Recent immigrant" means an immigrant who first enrolls in U.S. schools no more than 12 months before the administration of the test from which the postponement is sought. *19 TAC 101.1005*

LEP STUDENTS AT  
OTHER GRADES

In grades 3–6, the LPAC shall determine whether an LEP student is administered the assessment of academic skills in English or in Spanish. An LEP student may be administered a Spanish version of the assessment of academic skills for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.

IMMIGRANT  
STUDENTS

Certain immigrant LEP students who have had inadequate schooling outside the U.S. may be eligible for an exemption from the assessment of academic skills during a period not to exceed their first

three school years of enrollment in U.S. schools. "Immigrant" is defined as a student who has resided outside the 50 United States for at least two consecutive years.

1. An immigrant LEP student who achieves a rating of advanced high on the state-administered reading proficiency tests in English during the student's first school year of enrollment in U.S. schools is not eligible for an exemption in the second or third school year of enrollment in U.S. schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in U.S. schools is not eligible for an exemption in the third school year of enrollment in U.S. schools.
2. During the first school year of enrollment in U.S. schools, the immigrant student may be granted an LEP exemption if the LPAC determines that the student has not had the schooling outside the U.S. necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed.
3. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a primary language assessment is not available may be granted an LEP exemption if the LPAC determines that the student lacks the academic language proficiency in English necessary for an assessment of academic skills in English to measure the student's academic progress in a valid, reliable manner.
4. During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a Spanish-version assessment is available is not eligible for an LEP exemption and must take the assessment in either English or Spanish unless:
  - a. The student is in an English as a second language program that does not call for instruction in Spanish and the LPAC determines that the student lacks the language proficiency in English and the academic instruction and/or literacy in Spanish for the assessment in either English or Spanish to measure the student's academic progress in a valid, reliable manner; or
  - b. The student is in a bilingual education program and the LPAC has documentation, including signed verification by the parent or guardian whenever possible, that there

was an extensive period of time outside the U.S. in which the student did not attend school and that this absence of schooling resulted in such limited academic achievement and/or literacy that assessment in either English or Spanish is inappropriate as a measure for school accountability. The term "extensive period of time outside the U.S.," as used in this paragraph, shall be defined in the test administration materials.

Students exempted under the above provisions shall be administered assessments in subjects and grades required by federal law and regulations as delineated in the test administration materials. Exempt students assessed only for federal accountability purposes shall not be subject to the grade advancement requirements under the Student Success Initiative.

An LEP student whose parent or guardian has declined the services required by Education Code Chapter 29, Subchapter B [see EHBE], is not eligible for an exemption under the above provisions. The student shall take the assessments of academic skills in English and the English Language Proficiency Assessments.

The District may administer the assessment of academic skills in Spanish to a student who is not identified as LEP but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. However, the student may not be administered the Spanish-version assessment for longer than three years.

*19 TAC 101.1007*

EXIT-LEVEL TEST —  
STUDENTS FROM  
OTHER STATES

The Commissioner by rule shall adopt one or more alternative, nationally recognized, norm-referenced assessment instruments to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

1. For the first time in a public school in Texas; or
2. After an absence of at least four years from any public school in Texas.

*Education Code 39.025(d)*

FOREIGN EXCHANGE  
STUDENTS

A foreign exchange student who has waived in writing his or her intention to receive a Texas high school diploma may be excused from the exit-level assessment requirement. *19 TAC 101.7(a)(3)*

REPORTING RESULTS TO THE PUBLIC	Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and District, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers. <i>Education Code 39.030(b)</i>
TO THE BOARD	The Superintendent shall accurately report all test results with appropriate interpretations to the Board according to the schedule in the applicable test administration materials.
TO PARENTS AND STUDENTS	The District shall notify each of its students and his or her parent or guardian of test results, observing confidentiality requirements stated at CONFIDENTIALITY. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. [See BQ series, FD, and FL]  <i>19 TAC 101.81; No Child Left Behind Act, 20 U.S.C. 6311(h)(6)</i>
PARENTAL ACCESS	A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. <i>Education Code 26.005, 26.006(a)(2)</i>
SECURITY	The statewide assessment program is a secure testing program. Procedures for maintaining security shall be specified in the appropriate test administration materials. Secure test materials must be accounted for before, during, and after each test administration. Only authorized personnel may have access to secure test materials. <i>19 TAC 101.61</i>
CONFIDENTIALITY	The contents of each test booklet and answer document are confidential in accordance with state and federal law. Individual student performance results are confidential and may be released only in accordance with the Family Education Rights and Privacy Act of 1974. <i>Education Code 39.030(b); 19 TAC 101.63</i> [See FL and GBA]
PENALTIES	Violation of security or confidential integrity of any test shall be prohibited. A person who engages in prohibited conduct may be subject to sanction of credentials.  Procedures for maintaining the security and confidential integrity of a test shall be specified in the appropriate test administration materials. Conduct that violates the security and confidential integrity of a test is defined as any departure from the test administration procedures established by the Commissioner. Conduct of this nature may include the following acts and omissions:

1. Duplicating secure examination materials;
2. Disclosing the contents of any portion of a secure test;
3. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
4. Changing or altering a response or answer of an examinee to a secure test item or prompt;
5. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
6. Encouraging or assisting an individual to engage in the conduct described in 1–5 above; or
7. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in 1–6 above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidential integrity, and any person who fails to report such a violation are subject to the following penalties:

1. Placement of restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;
2. Issuance of an inscribed or non-inscribed reprimand;
3. Suspension of a Texas teacher certificate for a set term; or
4. Revocation or cancellation of a Texas teacher certificate without opportunity for reapplication for a set term or permanently.

Any irregularities in test security or confidential integrity may also result in the invalidation of student results.

The Superintendent and campus principal shall develop procedures to ensure the security and confidential integrity of the tests and shall be responsible for notifying TEA in writing of conduct that violates the security or confidential integrity of a test. Failure to report can subject the person responsible to the applicable penalties specified above.

*19 TAC 101.65*

TESTING PROGRAM  
READING ASSESSMENT

EKC  
(LEGAL)

ADOPTION OF  
READING  
INSTRUMENTS

The Commissioner shall adopt a list of reading instruments that the school District may use to diagnose student reading development and comprehension. The District-level committee may adopt a list of reading instruments for use in the District in addition to the reading instruments on the Commissioner's list. Each reading instrument adopted by the Commissioner or the District-level committee shall be based on scientific research concerning reading skills development and reading comprehension. A list of adopted reading instruments shall provide for diagnosing the reading development and comprehension of students participating in a bilingual or special language program.

The District shall administer, at the kindergarten and first- and second-grade levels, a reading instrument on the list adopted by the Commissioner or by the District-level committee. The District shall administer the reading instrument in accordance with the Commissioner's recommendations.

REPORTS

The Superintendent shall report to the Commissioner and the Board the results of the reading instruments and shall report, in writing, to a student's parent or guardian the student's results on the reading instrument.

The results of reading instruments may not be used for purposes of appraisals, incentives, or accountability.

The reading instruments specified in this policy are required only if funds are appropriated for administering them. Funds, other than local funds, may be used to pay the cost of administering a reading instrument only if the instrument is on the list adopted by the Commissioner.

NOTICE TO  
PARENTS

The District shall notify the parent or guardian of each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results, to be at risk for dyslexia or other reading difficulties. The District shall make a good-faith effort to ensure that this notice is provided in person or by regular mail, is clear and easy to understand, and is written in English and in the parent or guardian's native language.

ACCELERATED  
READING  
INSTRUCTION  
PROGRAM

The District shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to those students and shall determine the form, content, and timing of that program. [See ACCELERATED READING INSTRUCTION PROGRAM at EHBC(LEGAL)]

*Education Code 28.006*



TESTING PROGRAMS  
MATHEMATICS ASSESSMENT

EKD  
(LEGAL)

MATHEMATICS  
DIAGNOSIS

The Commissioner shall develop and make available or contract for the development and dissemination of assessment instruments that the District may use to diagnose student mathematics skills.

The results of such assessment instruments may not be used for purposes of appraisals and incentives under Education Code Chapter 21 or accountability under Chapter 39.

*Education Code 28.007*

END-OF-COURSE  
ASSESSMENT—  
ALGEBRA I

The Commissioner shall develop a standardized end-of-course assessment instrument in Algebra I.

SPECIAL  
EDUCATION  
STUDENTS

The ARD committee of a student in a special education program shall determine whether any allowable modification is necessary in administering the student an end-of-course assessment or whether the student should be exempted.

*Education Code 39.023(j)*

CHARTER CAMPUS OR PROGRAM

EL  
(LEGAL)

DEFINITION	<p>For the purpose of this policy, “parent” is the person who is indicated on the student registration form at the campus. The signature of only one parent of a student is required for a charter created by petition or a cooperative program charter. <i>Education Code 12.051(1), 12.052(b), 12.053(b)</i></p>
POLICY	<p>The District shall adopt a campus charter and program charter policy, which shall specify the:</p> <ol style="list-style-type: none"><li>1. Process for approval of a campus charter or program charter;</li><li>2. Statutory requirements with which a campus charter or program charter must comply; and</li><li>3. Items that must be included in a charter application.</li></ol> <p><i>Education Code 12.058</i></p>
CREATION BY PETITION	<p>The Board may grant a charter to parents and teachers for a campus or a program on a campus if the Board is presented with a petition signed by:</p> <ol style="list-style-type: none"><li>1. The parents of a majority of the students at that campus; and</li><li>2. A majority of the classroom teachers at that campus.</li></ol> <p>The Board may not arbitrarily deny a charter.</p> <p><i>Education Code 12.052</i></p>
CREATION WITHOUT PETITION	<p>The Board may grant a charter for:</p> <ol style="list-style-type: none"><li>1. A new District campus; or</li><li>2. A program that is operated:<ol style="list-style-type: none"><li>a. By an entity that has entered into a contract with the District under Education Code 11.157 [see EEL] to provide educational services to the District through the campus or program; and</li><li>b. At a facility located in the boundaries of the District.</li></ol></li></ol>
ENROLLMENT	<p>The District may not assign a student to the charter campus or program unless the student’s parent or guardian has voluntarily enrolled the student.</p>
REMOVAL	<p>A student’s parent or guardian may, at any time, remove the student from the campus or program and enroll the student at the campus to which the student would ordinarily be assigned.</p>
TEACHER ASSIGNMENT	<p>The District may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment.</p> <p><i>Education Code 12.0521</i></p>

CHARTER CAMPUS OR PROGRAM

EL  
(LEGAL)

COOPERATIVE  
CHARTER PROGRAM

The Board may grant a charter to parents and teachers at two or more campuses in the District for a cooperative charter program if the Board is presented with a petition signed by:

1. The parents of a majority of the students at each school; and
2. A majority of the classroom teachers at each school.

*Education Code 12.053*

STUDENT ELIGIBILITY

Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

*Education Code 12.065*

EXEMPTION

A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the Board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

CHARTER CONTRACT

A charter shall be in the form and substance of a written contract signed by the Board President and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs;
2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification the Board requires.

*Education Code 12.061*

CONTENT OF  
CHARTER

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;

2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments and on compliance with other applicable accountability provisions;
3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be placed on probation or revoked;
4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
5. Describe the governing structure of the campus or program;
6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees;
7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the District in which it is located to participate in PEIMS.

*Education Code 12.059*

REVISION

A charter created by petition or a cooperative charter program may be revised with Board approval and on a petition signed by a majority of the parents and a majority of the classroom teachers at the campus or in the program, as applicable.

A charter created without a petition may be revised with the approval of the board of trustees that granted the charter. The charter may be revised only before the first day of instruction or after the final day of instruction of a school year.

*Education Code 12.062*

APPLICABILITY OF LAWS

A charter campus or program is subject to federal and state laws and rules governing public schools, except that the charter campus or program is subject to the Education Code and rules adopted thereunder only to the extent that the code or rule specifically provides. *Education Code 12.055*

EDUCATION CODE

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;

2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:
  - a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;
  - b. Criminal history records under Subchapter C, Chapter 22;
  - c. High school graduation under Section 28.025;
  - d. Special education programs under Subchapter A, Chapter 29;
  - e. Bilingual education under Subchapter B, Chapter 29;
  - f. Prekindergarten programs under Subchapter E, Chapter 29;
  - g. Extracurricular activities under Section 33.081 (i.e., “no pass-no play”);
  - h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use, steroid use, access to medical records, and referrals to outside counselors); and
  - i. Public school accountability under Subchapter B, C, D, and G, Chapter 39.

*Education Code 12.056*

OPEN MEETINGS  
AND PUBLIC  
INFORMATION  
ACTS

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act).

TEACHER  
RETIREMENT  
SYSTEM

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

LIABILITY

The charter campus or program, and its employees and volunteers, are immune from liability to the same extent as the District, its employees, and volunteers, respectively.

*Education Code 12.057*

CHARTER CAMPUS OR PROGRAM

EL  
(LEGAL)

PLACEMENT ON  
PROBATION OR  
REVOCATION

The Board may place on probation or revoke a charter it grants if the Board determines that the campus or program:

1. Committed a material violation of the charter;
2. Failed to satisfy generally accepted accounting standards of fiscal management;
3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action the Board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

*Education Code 12.063*

PROCEDURE

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

*Education Code 12.064*

CHARTER CAMPUS OR PROGRAM

EL  
(LOCAL)

The Board shall consider an application for a campus charter or program charter if the applicant:

1. Complies with the statutory requirements for a campus charter or program charter;
2. Follows the application process established by the District; and
3. Supplies evidence to the Board that the applicant will comply with the statutory and District requirements for a campus charter or program charter.

COMPLIANCE WITH  
LAW

Campus charters and program charters shall comply with all federal law and with state law governing such charters and shall be nonsectarian.

APPLICATION  
PROCESS

The Superintendent or designee shall schedule an informational meeting for anyone expressing interest in establishing a charter campus or charter program. Applications and petition forms for charter campuses and charter programs shall be available in the Superintendent's or designee's office.

Applicants shall present a draft of the application to the Superintendent or designee in accordance with a time line established in administrative regulations. The Superintendent or designee shall work with the applicants in completing the application process.

A public forum shall be held to allow the applicants an opportunity to present their proposals to the Board and to the community prior to formal consideration by the Board.

Final applications and petitions for campus charters or program charters shall be submitted to the District prior to January 1 for a charter to be considered by the Board to begin the following school year.

CONTENT OF FINAL  
APPLICATION

A final application for a campus charter or program charter shall include the following:

1. The purpose and need for such a campus or program;
2. The unique distinction between the proposed program and the District's current program;
3. A mission and goals statement;
4. The curriculum to be offered;
5. A plan for measuring student achievement;

CHARTER CAMPUS OR PROGRAM

EL  
(LOCAL)

6. A governance and decision-making plan, including a list of local Board policies which shall apply, as well as a list of local policies the applicant is requesting the Board to waive;
7. An enrollment and withdrawal process;
8. A plan for maintaining and reporting PEIMS data in accordance with state requirements;
9. Discipline procedures;
10. A safety and security plan;
11. A plan for providing facilities and student transportation;
12. A facility and maintenance plan that includes routine maintenance as well as emergency procedures for managing potential danger to the health and safety of students and employees;
13. An employment plan consistent with federal and applicable state guidelines, due process requirements, and contract non-renewal and termination procedures; and
14. The role of the chief operating officer responsible for personnel, the budget, purchasing, program funds, and other areas of management.

Applicants shall submit with the application the required petitions indicating evidence of support for the approval of a campus charter or program charter.

CONTENT OF  
CHARTER

A charter shall be a written contract signed by the Board President, the Superintendent, and the chief operating officer of the campus charter or program charter.

Each charter shall:

1. Satisfy the requirements of the law governing campus charters or program charters.
2. Include the items listed in the application, with any modifications required by the Board.
3. Stipulate a term length for the charter.
4. Establish a date for review or renewal of the charter.

PROVISIONS FOR  
REVOCATION

The Board may revoke a charter if it finds that the charter campus or charter program:

1. Violates a provision of applicable state or federal law.
2. Violates a provision of the charter.



3. Fails to meet generally accepted accounting standards for fiscal management.

REVOCATION  
PROCEDURE

The Superintendent shall investigate any allegation that a charter campus or charter program has violated federal or applicable state law or provisions of the charter or fails to meet generally accepted accounting standards for fiscal management. The Superintendent shall hold a conference with the chief operating officer and governing body of the charter campus or program to discuss any such allegation.

If the Superintendent determines that a violation or mismanagement has occurred, the chief operating officer of the charter campus or program shall respond to the allegation at the next regularly scheduled Board meeting. The Superintendent shall ensure that the issue is on the agenda.

The Board shall hear the presentation and take action, if necessary, to place the charter campus or program on probation.

If the Board decides to consider revocation of the charter, it shall schedule a public hearing to be held on the campus where the program is located.

MISCELLANEOUS INSTRUCTIONAL POLICIES  
TEACHING ABOUT CONTROVERSIAL ISSUES

EMB  
(LEGAL)

EXEMPTION FROM  
INSTRUCTION

A parent or person standing in parental relation may remove the parent's child from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity.

LIMITATIONS

A parent or person standing in parental relation is not entitled to remove the parent's child from a class or other school activity to avoid a test or to prevent the child from taking a subject for an entire semester. This policy does not exempt a child from satisfying grade level or graduation requirements in a manner acceptable to the District and TEA.

*Education Code 26.002, 26.010*

MISCELLANEOUS INSTRUCTIONAL POLICIES  
TEACHING ABOUT CONTROVERSIAL ISSUES

EMB  
(LOCAL)

The District shall address controversial topics in an impartial and objective manner. Teachers shall not use the classroom to transmit personal beliefs regarding political or sectarian issues. Students and educators shall ensure that, to the extent possible, discussions are conducted fairly and courteously.

SELECTION OF  
TOPICS

A teacher selecting topics for discussion in the classroom shall be adequately informed about the issue and capable of providing instruction on the subject, free from personal bias. In addition, the teacher shall be certain that:

1. The issue in question is within the range, knowledge, maturity, and comprehension of the students.
2. The issue is current and educationally significant.
3. The consideration of the issue does not interfere with required instruction.
4. Sufficient relevant information on all aspects of the issue is provided.

If a teacher is unsure about a topic of discussion or about the methods to employ, the teacher may discuss the issue with the principal.

CLASSROOM  
DISCUSSION

In guiding classroom discussion of controversial issues, teachers shall:

1. Foster students' critical thinking skills.
2. Encourage discussion based on rational analysis.
3. Create an atmosphere in which students learn to respect others' opinions and disagree courteously.
4. Ensure that multiple viewpoints about the issue are presented by introducing an unexpressed viewpoint when necessary.
5. Avoid any attempt to coerce or persuade students to adopt the teacher's point of view.

STUDENT OR PARENT  
CONCERNS

A student or parent with concerns regarding instruction about controversial issues shall be directed to the complaint policy at FNG.

MISCELLANEOUS INSTRUCTIONAL POLICIES  
STUDY OF RELIGION

EMI  
(LEGAL)

- SECULAR PROGRAM      The District may instruct students in the study of comparative religion or the history of religion and its relationship to the advancement of civilization; the study of the Bible or of religion for its literary and historic qualities, when presented objectively as part of a secular program of education, is consistent with the First Amendment. *School Dist. of Abington v. Schempp*, 374 U.S. 203, 83 S. Ct. 1560 (1963).
- ACADEMIC FREEDOM      The District shall not require teaching and learning to be tailored to the principles or prohibitions of any religious sect or dogma. The District shall not adopt programs or practices that aid or oppose any religion. *Epperson v. Arkansas*, 393 U.S. 97, 89 S. Ct. 266 (1968) (holding unconstitutional a prohibition against teaching evolution); *Edwards v. Aguillard*, 482 U.S. 578, 107 S. Ct. 2573 (1987) (holding unconstitutional a requirement that creationism be taught with evolution)
- RELIGIOUS EXERCISES      The District shall not prescribe a religious exercise as part of the curricular activities of students even if the religious exercise is denominationally neutral or its observance on the part of the students is voluntary. *School Dist. of Abington v. Schempp*, 374 U.S. 203, 83 S. Ct. 1560 (1963) (holding unconstitutional a requirement of daily Bible readings and recitation of the Lord's Prayer); *Engel v. Vitale*, 370 U.S. 421, 82 S. Ct. 1261 (1962) (holding unconstitutional required recitation of state-adopted prayer)

MISCELLANEOUS INSTRUCTIONAL POLICIES  
STUDY OF RELIGION

EMI  
(LOCAL)

TEACHING ABOUT  
RELIGION

The inclusion of religion in the study of history, culture, literature, music, drama, and art is essential to a full and fair presentation of the curriculum. The inclusion of religious elements is appropriate as long as the material included is intrinsic to the field of study in which it is presented and as long as it is presented objectively.

The District's approach to teaching about religion shall be academic, not devotional. Emphasis on religious themes in the arts, literature, and history shall be only as extensive as necessary for a balanced and thorough study of these areas. Such studies shall not foster any particular religious tenet nor demean any religious beliefs, but shall attempt to develop mutual respect among students and advance their knowledge and appreciation of the role that religious heritage plays in the social, cultural, and historic development of civilization.

RELIGIOUS TEXTS

Use of religious texts in instruction shall be guided by the principles set forth above. Other than texts used in an appropriate course of study, the District shall not distribute religious texts or materials to students. Such materials may be indexed, shelved, and circulated as library materials. [See FNAA regarding student distribution of nonschool literature and GKD regarding nonstudent distribution of nonschool literature.]

RELIGIOUS MUSIC

District music groups may perform or receive instruction regarding religious music as part of the secular program of instruction. The primary purpose of the inclusion of religious music in performances or instruction shall be academic, not devotional. Performances and instruction shall reflect religious diversity when appropriate.

RELIGIOUS SYMBOLS

Religious symbols may be displayed as a teaching aid. Their display shall be temporary and limited to specific teaching activities; such displays shall not be permitted for devotional purposes.

RELIGIOUS ELEMENTS  
IN STUDENT WORK

Students may choose to include religious elements in their schoolwork, such as papers, presentations, or artwork; however, students' work must fulfill the purpose of the assignment and be evaluated by secular academic standards.

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

- NONDISCRIMINATION**      The District shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. *Education Code 1.002(a)*
- No officer or employee of the District shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. *Civ. Prac. & Rem. Code 106.001*
- The District may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. *Education Code 1.002(b)*
- FEDERAL FUNDING RECIPIENTS**      No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:
1. Sex.
  2. Race, color, or national origin.
  3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]
- 20 U.S.C. 1681 (Title VI); 42 U.S.C. 2000d (Title IX); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA])*
- HARASSMENT**      Sexual harassment of students is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See also DIA and FFH]
- HUMAN RIGHTS COORDINATOR**      The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The District shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.
- GRIEVANCE PROCEDURES**      The District shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]
- 34 CFR 106.8 (Title IX); 34 CFR 104.7 (Section 504)*
- RETALIATION**      The District shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. *34 CFR 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)*

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

STUDENTS WITH  
LEARNING  
DIFFICULTIES

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004. Each school year, each district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081*

SECTION 504  
DEFINITIONS

A "student with a disability" is one who has, has a record of having, or is regarded as having a physical or mental impairment that substantially limits one or more major life activities. "Major life activities" means such functions as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. *34 CFR 104.3(j)*

FREE  
APPROPRIATE  
PUBLIC EDUCATION  
(FAPE)

The District shall provide a free appropriate public education to each qualified student with a disability within the District's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *28 CFR 35.104(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

*34 CFR 104.33(b)*

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 CFR 104.33(b)(2)*

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**Note:** See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

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EDUCATIONAL  
SETTING

The District shall place a student with a disability in the regular educational environment, unless the District demonstrates that education in the regular environment with the use of supplemental

aids and services cannot be achieved satisfactorily. *34 CFR 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, the District shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 CFR 104.34(b), 104.37*

EVALUATION AND  
PLACEMENT

The District shall establish standards and procedures for the evaluation and placement of persons who, because of disability, need or are believed to need special education and related services. The District shall conduct an evaluation before the initial placement, or any significant change in placement, of the student. *34 CFR 104.35*

PROCEDURAL  
SAFEGUARDS

The District shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 CFR 104.36*

HOMELESS CHILDREN

The District shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See EHBD and FDC]

LIAISON

The District shall designate an appropriate staff person as the District liaison for homeless children. The District shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison. [See FFC]

*No Child Left Behind Act of 2001, 42 U.S.C. 11432(g)(1)(J)(i), (ii)*

RELIGIOUS FREEDOM

The District may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]

DISCRIMINATION ON  
THE BASIS OF SEX

No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)*



EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

The District shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocational, technical, home economics, music, and adult education courses. *34 CFR 106.34*

SEPARATE  
FACILITIES

The District may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. *34 CFR 106.33*

HUMAN SEXUALITY  
CLASSES

Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls. *34 CFR 106.34*

VOCAL MUSIC  
ACTIVITIES

The District may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. *34 CFR 106.34*

SINGLE-SEX  
PROGRAMS

The District shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the District unless the District otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. *34 CFR 106.35*

PREGNANCY AND  
MARITAL STATUS

A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 CFR 106.40* [See FND]

PHYSICAL  
EDUCATION  
CLASSES

The District may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex. *34 CFR 106.34*

SKILLS  
ASSESSMENT

Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, the District shall use appropriate standards that do not have such effect. *34 CFR 106.34*

CONTACT  
SPORTS

The District may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. *34 CFR 106.34*

ATHLETIC  
PROGRAMS

The District shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LEGAL)

SINGLE-SEX  
TEAMS

The District may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

EQUAL ATHLETIC  
OPPORTUNITIES

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether the District provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

*34 CFR 106.41*

The Superintendent shall serve as coordinator for purposes of District compliance with antidiscrimination laws, except as provided below.

TITLE IX  
COORDINATOR

The District designates the following employee to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended:

Name: Bruce Schneider  
Position: Executive Director/Pupil Personnel Services  
Address: 8961 Tesoro Drive, San Antonio, TX 78217  
Telephone: (210) 804-7070

SECTION 504  
COORDINATOR

The District designates the following employee to coordinate its efforts to comply with Section 504 of the Rehabilitation Act of 1973, as amended:

Name: Judith Moening  
Position: Executive Director/Special Education  
Address: 8961 Tesoro Drive, San Antonio, TX 78217  
Telephone: (210) 804-7200

COMPLAINTS

Allegations of unlawful discrimination shall be directed to the appropriate coordinator and shall be heard through FNG(LOCAL). Reports regarding prohibited harassment, including sexual harassment, shall be made according to FFH(LOCAL).

RECORDS  
RETENTION

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

SECTION 504  
COMMITTEE

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

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

EQUAL EDUCATIONAL OPPORTUNITY

FB  
(LOCAL)

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

ADMISSIONS

FD  
(LEGAL)

- GENERAL ELIGIBILITY      The Board or its designee shall admit into the public schools of the District free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought if any of the following conditions exist:
- STUDENT AND PARENT      1.    The person and either parent reside in the District.
  - CONSERVATOR            2.    The person does not reside in the District, but one of the parents resides in the District and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person.
  - GUARDIAN OR PERSON HAVING LAWFUL CONTROL      3.    The person and his or her guardian or other person having lawful control under an order of a court reside in the District.
  - STUDENTS LIVING SEPARATE AND APART      4.    The person is under the age of 18 and has established a separate residence in the District apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the District is not for the primary purpose of participation in extracurricular activities. The Board is not required to admit such person, however, if the person has:
    - a.    Engaged in conduct that resulted in removal to a disciplinary alternative education program or expulsion within the preceding year;
    - b.    Engaged in delinquent conduct or "conduct in need of supervision" and is on probation or other conditional release for that conduct; or
    - c.    Been convicted of a criminal offense and is on probation or other conditional release.
- Education Code 25.001(a), (b), (d)*
- HOMELESS STUDENTS      5.    The person is a homeless child. [See also FDC]
    - a.    A child is "homeless," under the McKinney-Vento Homeless Education Act, if the child lacks a fixed, regular, and adequate nighttime residence. This includes:
      - (1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in emergency or transitional shelters; are abandoned in hospitals; or are awaiting foster care placement;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

“Migratory child” means a child who is, or whose parent, spouse, or guardian is, a migratory agricultural worker, including a migratory dairy worker, or a migratory fisher, and who, in the preceding 36 months, in order to obtain, or accompany such parent, spouse, or guardian in order to obtain, temporary or seasonal employment in agricultural or fishing work:

- (a) Has moved from one school district to another; or
- (b) Resides in a school district of more than 15,000 square miles, and migrates a distance of 20 miles or more to a temporary residence to engage in a fishing activity.

*20 U.S.C. 6399*

- b. A child is homeless, under state law, regardless of the residence of the child, either parent, or the child’s guardian or other person having lawful control, if:
  - (1) The child lacks a fixed, regular, and adequate nighttime residence; or
  - (2) The child has a primary nighttime residence in a supervised publicly or privately operated shelter designed to provide temporary living accommodations (including welfare hotels, congregate shelters, and transitional housing for the mentally ill), an institution providing temporary residence for individuals intended to be institutionalized, or a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.

*Education Code 25.001(b); 42 U.S.C. 11434(a)*

ADMISSIONS

FD  
(LEGAL)

- FOREIGN EXCHANGE STUDENTS
6. The person is a foreign exchange student placed with a host family that resides in the District by a nationally recognized foreign exchange program, unless the District has applied for and been granted a waiver by the Commissioner because:
- a. This requirement would impose a financial or staffing hardship on the District;
  - b. The admission would diminish the District's ability to provide high quality education services for the District's domestic students; or
  - c. The admission would require domestic students to compete with foreign exchange students for educational resources.
- Education Code 25.001(b)(6), (e)*
- STUDENTS IN RESIDENTIAL FACILITY
7. The person resides at a residential facility, as defined in Education Code 5.001, located in the District. For purposes of enrollment, a person who resides in a residential facility is considered a resident of the district in which the facility is located. *Education Code 25.001(b)(7), 29.012(c)*
- STUDENTS OVER 18
8. The person resides in the District and is 18 or older or the person's disabilities of minority have been removed. *Education Code 25.001(b)(8)*
- RESIDENT GRANDPARENT
9. The person does not reside in the District but the grandparent of the person:
- a. Resides in the District; and
  - b. Provides a substantial amount of after-school care for the person as determined by the Board.
- Education Code 25.001(b)(9)*
- PROOF OF ELIGIBILITY
- The District may require evidence that a person is eligible to attend the public schools of the District at the time it considers an application for admission of the person. The Board or its designee shall establish minimum proof of residency acceptable to the District. The Board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, the Board shall determine whether an applicant qualifies as a resident of the District and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*
- The District may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

ILLEGAL ALIENS	Denying enrollment to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. <i>Plyler v. Doe, 457 U.S. 202 (1982)</i>
HIGH SCHOOL EQUIVALENCY CERTIFICATE	A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. <i>Education Code 29.087(h)</i>
SUBSTITUTE FOR PARENT OR GUARDIAN	The Board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. <i>Education Code 25.001(j)</i>
STUDENTS IN FOSTER CARE	<p>A student placed in foster care by an agency of the state or a political subdivision, and whose foster parents reside in the District, shall be permitted to attend District schools free of any charge to the foster parents or to the agency. No durational residency requirement shall be used to prohibit such a student from fully participating in all activities sponsored by the District. <i>Education Code 25.001(f)</i></p> <p>A student enrolled in high school in grade 9, 10, 11, or 12 who is placed in temporary foster care by the Department of Human Services at a residence outside the attendance area for the school or outside the District is entitled to complete high school at the school in which the student was enrolled at the time of placement without payment of tuition. <i>Education Code 25.001(g)</i></p>
TRANSFERS FROM OTHER STATES	The District shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the Commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to the District. <i>Education Code 25.003</i>
TEXAS YOUTH COMMISSION	A school-age child of an employee of the Texas Youth Commission (TYC) residing in an adjacent district may attend school in the District free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TYC facility. <i>Education Code 25.042</i>
MILITARY DEPENDENTS	The District may not charge tuition for the attendance of a student who is domiciled in another state and resides in military housing that is located in the District but is exempt from taxation by the District. <i>Education Code 25.004</i>



ENROLLMENT

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. The District shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

LEGAL SURNAME

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

REQUIRED DOCUMENTATION

If a parent or other person with legal control of a child enrolls the child in a District school, the parent or other person, or the school district in which the child most recently attended school, shall furnish to the District all of the following:

1. The child's birth certificate, or another document suitable as proof of the child's identity as defined by the Commissioner of Education in the *Student Attendance Accounting Handbook*;
2. A copy of the child's records from the school the child most recently attended if he or she was previously enrolled in a school in Texas or in another state;

Students shall not be denied enrollment or be removed solely because they fail to provide the documentation required in items 1 and 2, above.

3. A record showing that the child has the immunizations required by Education Code 38.001, proof that the child is not required to be immunized, or proof that the child is entitled to provisional admission. [See FFAB]

*Education Code 25.002(a); 19 TAC 129.1(a), (b)*

The District must furnish information under items 1 and 2 not later than the tenth working day after the date the District receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that the District transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

*Education Code 25.002(a-1)*

ADMISSIONS

FD  
(LEGAL)

CHILD IN FPS POSSESSION	The District shall enroll a child without the required documentation if the Department of Family and Protective Services (FPS) has taken possession of the child. FPS shall ensure that the required documentation is furnished to the District not later than the 30th day after the date the child is enrolled. <i>Education Code 25.002(g)</i>
INCONSISTENT DOCUMENTATION	If a child is enrolled under a name other than the name that appears in the identifying documents or records, the District shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.
MISSING DOCUMENTATION	If the required documents and other records are not furnished to the District within 30 days after enrollment, the District shall notify the police department of the city or the sheriff's department of the county in which the District is located and request a determination of whether the child has been reported as missing.  <i>Education Code 25.002(b), (c)</i>
STUDENTS UNDER 11	On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall: <ol style="list-style-type: none"><li data-bbox="435 1072 1289 1137">1. Request from the person enrolling the child the name of each previous school attended by the child;</li><li data-bbox="435 1159 1289 1327">2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and</li><li data-bbox="435 1356 1289 1640">3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:<ol style="list-style-type: none"><li data-bbox="501 1480 1177 1513">a. A certified copy of the child's birth certificate; or</li><li data-bbox="501 1535 1289 1640">b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.</li></ol></li></ol>
FALSE INFORMATION	When accepting a child for enrollment, the District shall inform the parent or other person enrolling the child that presenting a false

document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in the District is liable to the District if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee the District may charge [see FDA] or the amount the District has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

The District may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

PLACEMENT OF  
TRANSFERS  
CREDITS AND  
RECORDS

The District shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at the District's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

The District shall grant a student credit toward the academic course requirements for high school graduation for courses the student successfully completes in Texas Youth Commission educational programs. *Education Code 30.104*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a District school. *Education Code 37.001(d)*

NONPUBLIC  
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. The District may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

KINDERGARTEN

The District shall establish and maintain one or more kindergarten programs for the training of resident children who are at least five years of age on or before September 1 of the current school year. *Education Code 29.151 [See EC]*

ADMISSIONS

FD  
(LEGAL)

FIRST GRADE	A child may be enrolled in the first grade if the child is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school. <i>Education Code 42.003(c)</i>
UNDERAGE STUDENTS	A student younger than five years of age is entitled to the benefits of the Foundation School Program if the student performs satisfactorily on the state assessment instrument administered to third graders and the District has adopted a policy to admit students younger than five years of age. <i>Education Code 42.003(d)</i>
SCREENING	The principal of each District school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and acanthosis nigricans screening, or has submitted an affidavit of exemption. <i>Health and Safety Code 36.005, 37.002, 95.003(c)</i> [See FFAA]
PEST CONTROL INFORMATION	At the time a student is registered, District personnel shall inform parents, guardians, or managing conservators that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. <i>Occupations Code 1951.455</i> [See CLB]

ADMISSIONS

FD  
(LOCAL)

REGISTRATION  
FORMS

Appropriate registration forms shall be completed annually and signed by the student's parent, legal guardian, or other person having lawful control. Students who have reached age 18 shall be permitted to complete and sign these forms themselves.

MINOR LIVING APART  
PERSON STANDING  
IN PARENTAL  
RELATION

A minor student residing in the District but whose parent, guardian, or other person having lawful control under a court order does not reside in the District shall present a Power of Attorney assigning responsibility for the student in all school-related matters to an adult resident of the District.

MISCONDUCT

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

CONSULTATION  
WITH ADULTS  
RESPONSIBLE FOR  
MINOR STUDENTS

When admission is sought for a child who has established a separate residence in the District apart from his or her parent, guardian, or other person having lawful control under an order of a court, the Board or its designee shall determine whether an applicant qualifies as a resident of the District.

In order to be in compliance with the Family Educational Rights and Privacy Act (FERPA), the District may require documentation to consult with adults responsible for minor students. One or more of the following types of documentation will be acceptable for purposes of consultation concerning educational programming, discipline, special education, emergency medical treatment, access to student records, and other matters relating to the student's educational process:

1. Power of Attorney.
2. Notarized letter or sworn affidavit from the parent, guardian, or the adult responsible for the minor child.
3. Assignment letter from the Department of Human Services, Juvenile Probation, or other agency.
4. Death certificate of the natural parent(s).
5. Proof of receipt of federal assistance.
6. Other documentation deemed appropriate by the Superintendent or designee. [See FD(EXHIBIT)]

EXCEPTIONS

Based on the individual student's circumstance, the Superintendent or designee shall have authority to grant exceptions to the Power of Attorney requirement and to the exclusion for misconduct.

ADMISSIONS

FD  
(LOCAL)

RESIDENCY REVIEW  
FOR  
EXTRACURRICULAR  
ACTIVITIES

The Superintendent or designee shall determine whether a minor student residing in the District separate and apart from a parent, guardian, or other person having lawful control under order of a court is present in the District for the primary purpose of participating in extracurricular activities.

NONRESIDENT  
STUDENT IN  
GRANDPARENT'S  
AFTER-SCHOOL CARE

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

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

PLACEMENT  
ACCREDITED  
SCHOOLS

Students entering a District school from accredited public, private, or parochial schools after grade 1 shall provide evidence of prior schooling outside the District. They shall be placed initially at the grade level reached elsewhere, pending observation by the classroom teacher, guidance personnel, and the principal. On the basis of these observations and results of tests that may be administered by appropriate District personnel, the principal shall determine the final grade placement.

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

NONACCREDITED  
SCHOOLS

Students entering a District school from nonaccredited public, private, or parochial schools, including homeschools, shall be placed initially at the discretion of the principal, pending observation by classroom teachers, guidance personnel, and the principal. Criteria for placement may include:

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

TRANSFER  
CREDIT

The District shall validate high school credit for courses of transfer students from nonaccredited public, private, or parochial schools by testing or by other evidence that the courses meet State Board requirements and standards.

North East ISD  
015910

ADMISSIONS

FD  
(LOCAL)

WITHDRAWAL

Minor students may withdraw from school by presenting a request signed by the student's parent or guardian and stating the reason for the withdrawal. Students 18 or older may request withdrawal without a parent's or guardian's signature.

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

ADMISSIONS  
INTERDISTRICT TRANSFERS

FDA  
(LEGAL)

AGREEMENT BETWEEN DISTRICTS	The Board may, by means of a mutual agreement with the board of an adjoining district, transfer any student to the jurisdiction of that adjoining district. All transfers shall be made pursuant to the requirements of Education Code 25.032 through 25.034. The Board, together with the board of the adjoining district, shall agree to the transfer of school funds proportionate to the transfer of attendance when such interdistrict transfers are made. <i>Education Code 25.035</i>
INITIATED BY STUDENT OR PARENT	Any student, other than a high school graduate, who is under 21 years of age and eligible for enrollment on September 1, may transfer to another Texas district, provided that both the receiving district and the applicant's parent, guardian, or person having lawful control agree in writing to the transfer. <i>Education Code 25.036</i> [See also FD]
BASIS FOR TRANSFER	The Board or its designee must make transfer decisions on an individual basis and may not consider as a factor in arriving at any decision regarding assignments any matter relating to the national origin of the student or the student's ancestral language. <i>Education Code 25.032</i> [See FDAA]
FUNDING FOR TRANSFERS	Upon the filing and certification of any transfer, the state per capita apportionment shall transfer with the student. For purposes of computing state allotments to districts eligible under the Foundation School Program, the student's attendance prior to the date of transfer shall be counted by the sending district and the student's attendance after transfer shall be counted by the receiving district. <i>Education Code 25.037</i>
TUITION	The District may charge a tuition fee to the extent that the District's actual expenditure per student in average daily attendance exceeds the sum of state available school fund apportionment benefits transferred to the District under Education Code 25.037. However, unless a tuition fee is prescribed and set out in a transfer agreement prior to its execution by the parties, no increase in tuition charge shall be made for the year of that transfer that exceeds the tuition charge, if any, of the preceding school year. <i>Education Code 25.038</i>
TUITION FOR EDUCATION OUTSIDE DISTRICT	Home districts that do not offer each grade, K-12, shall pay tuition to the District if they have a contract to educate students in grades not taught in the home district. If the home district has contracted for students to attend another district(s), it shall not be required to pay tuition to any district with which it has not contracted. A contract under this section may not be for a period exceeding five years.



The amount of tuition paid may not exceed the greater of:

1. The amount by which the District's actual expenditure per student in average daily attendance exceeds the sum the District receives from state aid sources, as provided by Section 25.037. However, the District may not charge more than the tuition charge for the preceding school year unless a tuition fee is set out in a transfer agreement; or
2. The calculated tuition limit specified by Commissioner's rule.

Under the Commissioner's rule, tuition charged to the home district for a transfer student in payment for that student's education may not exceed the District's calculated tuition limit. The calculated tuition limit applies only to tuition paid to the District for the education of a student at a grade level not offered in the home district.

The calculated tuition limit is the sum of the excess M&O revenue per enrollee, the excess debt revenue per enrollee, and the base tuition limit, as calculated in accordance with 19 TAC 61.1012(b).

*Education Code 25.038, 25.039; 19 TAC 61.1012*

CREDITS AND  
RECORDS

Credits earned in local credit courses may be transferred at the enrolling district's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended.  
*19 TAC 74.26(a)(1)*

NONPUBLIC  
SCHOOLS

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. The District may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

An eligible student may attend a public school in the district in which the student resides or may use a public education grant to attend any other district chosen by the student's parent. *Education Code 29.201*

ELIGIBLE STUDENT

A student is eligible to receive a public education grant or to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus:

1. At which 50 percent or more of the students did not perform satisfactorily on the state-mandated assessments in any two of the three preceding years; or
2. That was considered academically unacceptable at any time in the preceding three years.

After a student has used a public education grant to attend a school in a district other than the district in which the student resides:

1. The student does not become ineligible for the grant if the school on which the student's initial eligibility is based no longer meets the criteria; and
2. The student becomes ineligible for the grant if the student is assigned to attend a school that does not meet the criteria described above.

*Education Code 29.201, 29.202*

FUNDING

The District is entitled to a public education grant allotment for each eligible student using a public education grant.

The District is entitled to additional facilities assistance under Education Code 42.4101 if the District agrees to:

1. Accept a number of students using public education grants that is at least one percent of the District's average daily attendance for the preceding school year; and
2. Provide services to each student until the student either voluntarily decides to attend a school in a different district or graduates from high school.

AVERAGE DAILY  
ATTENDANCE

A student who uses a public education grant to attend a public school in a district other than the district in which the student resides is included in the average daily attendance of the district in which the student attends school.

*Education Code 29.203(a)-(c); 19 TAC 61.1011*

INTERDISTRICT TRANSFERS  
PUBLIC EDUCATION GRANTS

FDA  
(LEGAL)

ADMISSION	A district chosen by a student's parent under Education Code section 29.201 is entitled to accept or reject the application for the student to attend school in that district, but may not use criteria that discriminate on the basis of the student's race, ethnicity, academic achievement, athletic abilities, language proficiency, sex, or socio-economic status.
PRIORITIES	If the District has more acceptable applicants for attendance under public education grants than available positions, it must give priority to students at risk of dropping out of school, as defined by Education Code section 29.081 [see EHBC] and must fill the available positions by lottery.
EXCEPTION	To achieve continuity in education, however, the District may give preference over at-risk students to: <ol style="list-style-type: none"><li>1. Enrolled students; or</li><li>2. Siblings or other children residing in the same household as enrolled students, for the convenience of parents, guardians, or custodians of those children.</li></ol>
TUITION	A district chosen by a student's parent under a public education grant may not charge the student tuition. <i>Education Code 29.203(b), (c)</i>
TRANSPORTATION	The district in which a student resides shall provide each student attending a school in another district under a public education grant transportation free of charge to and from the school the student would otherwise attend. <i>Education Code 29.203(f)</i>
CONTRACT FOR SERVICES	The Board may contract for the provision of educational services to a student eligible to receive a public education grant. <i>Education Code 29.205</i>
COMMISSIONER'S NOTICE	Not later than February 1 of each year, the District shall notify the parent of each student in the District assigned to attend a campus described by Education Code 29.202 that the student is eligible for a public education grant. The notice must contain a clear, concise explanation of the public education grant program and of the manner in which the parent may obtain further information about the program. <i>Education Code 29.204</i>

ASSIGNMENTS

The Board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. *Education Code 25.031*

The Board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032*

PETITIONS AND  
OBJECTIONS

The parent or person standing in parental relation may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the Board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

*Education Code 25.033; 26.003(a)(1)*

PROCEDURE

Upon receiving a written petition, the Board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by the Board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The Board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

BOARD'S  
DECISION

The decision of the Board, with or without a hearing, shall be final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, the Board may reconsider its decision. If the Board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If the exception is overruled, an appeal of the Board's decision may

be filed in the district court of the county in which the Board is located.

*Education Code 25.034*

VICTIM OF BULLYING

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, the Board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the District other than the campus to which the victim was assigned at the time the bullying occurred.

“Bullying” means engaging in written or verbal expression or physical conduct that the Board or its designee determines:

1. Will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property; or
2. Is sufficiently severe, persistent, or pervasive that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

The Board or designee shall verify that a student has been a victim of bullying before transferring the student. The Board may consider past student behavior when identifying a bully.

The determination by the Board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 (see PROCEDURE, above) do not apply to a transfer under this provision.

The District is not required to provide transportation to a student who transfers to another campus under this provision.

*Education Code 25.0341*

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**Note:** For bullying rising to the level of prohibited harassment, see also FFH.

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OTHERS IN SPECIAL  
EDUCATION  
STUDENT’S  
HOUSEHOLD

If the District assigns a student to a District campus other than the campus the student would attend based on the student’s residence, for purposes of receiving special education services, the District shall permit the student’s parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the house-

hold of the student receiving special education services, subject to the conditions below.

A student residing in the same household as the transferred special education student is eligible for a transfer if:

1. The other student is entitled to attend school in the District [see FD];
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code section 25.034 [see PETITIONS AND OBJECTIONS, PROCEDURE, above] does not apply to a transfer under this provision.

TRANSPORTATION

The District is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by the District in accordance with other law for students receiving special education services.

*Education Code 25.0343*

STUDENTS IN  
ACADEMICALLY  
UNACCEPTABLE  
SCHOOLS

A student is eligible to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus:

1. At which 50 percent or more of the students did not perform satisfactorily on the state-mandated assessment in any two of the three preceding years; or
2. That was considered academically unacceptable at any time in the preceding three years.

*Education Code 29.202(a)* [See FDAA]

STUDENTS IN  
SCHOOLS IDENTIFIED  
FOR IMPROVEMENT

If a school is identified for school improvement, pursuant to the No Child Left Behind Act, the District shall provide all students enrolled in the school with the option to transfer to another public school served by the District, which may include a public charter school, that has not been identified for school improvement, unless such an option is prohibited by state law. The District shall provide this option not later than the first day of the school year following such identification.

The District shall give priority to the lowest achieving children from low-income families. Students who use the option to transfer shall be enrolled in classes and other activities in the public school to

which the students transfer in the same manner as all other children at the public school.

The District shall permit a child who transferred to another school to remain in that school until the child has completed the highest grade in that school. The obligation of the District to provide, or to provide for, transportation for the child ends at the end of a school year if the District determines that the school from which the child transferred is no longer identified for school improvement or subject to corrective action or restructuring.

*No Child Left Behind Act of 2001, 20 U.S.C. 6316(b)(1)(E), (F), 6316(b)(13)*

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**Note:** See also EHBD for identification for school improvement and FDD for the school safety transfer option in Title I programs.

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CLASS CHANGES

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of the Board regarding such a request is final and may not be appealed. *Education Code 26.002, 26.003(a)(2), (b)* [See FNG]

ADMISSIONS  
INTRADISTRICT TRANSFERS

FDB  
(LOCAL)

IN-DISTRICT CAMPUS  
ASSIGNMENTS

Students entering elementary, middle, or high school shall be assigned to the campus that serves the school attendance zone in which they live. Boundaries of attendance zones are established by the Board and may be adjusted as deemed necessary.

CLASS CHANGES

The campus principal shall be authorized to investigate and approve transfers of students from one classroom to another on that campus.

TRANSFERS  
BETWEEN SCHOOLS

The Superintendent or designee shall be authorized to investigate and approve transfers between schools.

CONTINUED  
ENROLLMENT

If, during the school year, a student moves out of the school attendance zone, the student must apply to the principal for continued enrollment for the remainder of the school year, if such enrollment is desired. The application should be submitted prior to the move. The principal shall review the student's records and may approve or disapprove the continued enrollment. Approval for continued enrollment shall be contingent on the family furnishing transportation and the student maintaining grade, attendance, and conduct criteria. In general, continued enrollment is for the current school year only. Continued enrollment for subsequent years shall not be approved except for seniors who will graduate in the school year following the change of residence.

EMPLOYEE'S  
CHILDREN

As a benefit to a full-time employee of the District who resides in the District, an employee's children may transfer to the campus at which the employee is assigned.

In order for children of full-time employees who reside in the District to transfer to the campus at which their parent or guardian has been assigned, the following are required:

1. The application shall be submitted under the school choice process.
2. Fulfilling the request does not alter the 22:1 ratio such that additional staff will be required and it does not displace a child at the requested school. (Current District policy is that the 22:1 ratio waiver is sought from TEA after the first six weeks of the first semester.) Campuses capped to new residents shall also be capped to employee's children.
3. The transfer must take place at the beginning of the academic year not later than the end of the first grading period.

TRANSPORTATION

Transportation for the transferred student shall be the responsibility of the parent or guardian.



TERMINATION	Transferred students who have one or more failing grades for the semester or who consistently violate rules of discipline or attendance shall be subject to having their transfer revoked. If at any time the employee moves out of the District or terminates employment, the privilege of transferring his or her child(ren) shall become void.
ELIGIBILITY	The District shall follow all dictates under UIL rules and regulations.
CAPPED SCHOOL	<p>A capped school is defined as a school that is not enrolling students who are new to the attendance area on or after the date the Board or its designee determined to limit enrollment.</p> <p>A student moving into the attendance zone of a capped school after the date the school is capped will be required to enroll in another designated District school. Such students will be eligible to participate in UIL activities at the designated school subject to UIL rules.</p> <p>If a capped school capacity changes and students are given an option to return to the home campus, such students may:</p> <ol style="list-style-type: none"><li>1. Continue enrollment at the current campus and maintain uninterrupted UIL eligibility, or</li><li>2. Elect to attend the home campus and be eligible for UIL participation subject to UIL rules.</li></ol> <p>The offer to attend the home school must be accepted or declined within five school days. A student who fails to respond will be continued at the current school. Any student who declines the initial offer to attend the home campus and elects to return to the home campus at a later date is ineligible to participate in any UIL activity for one calendar year.</p>

ADMISSIONS  
HOMELESS STUDENTS

FDC  
(LEGAL)

HOMELESS CHILDREN	As a condition of receiving funds under the McKinney-Vento Homeless Education Assistance Improvements Act, the District shall serve homeless children according to their best interests. [See FD for definition of homeless students]
DEFINITIONS	In determining the “best interest” of a child, the District shall:
BEST INTEREST	<ol style="list-style-type: none"><li>1. To the extent feasible, keep a homeless child in the school of origin, except when doing so is contrary to the wishes of the child’s parent or guardian;</li><li>2. Provide a written explanation to the homeless child’s parent or guardian, including a statement of appeal rights, if the District sends the child to a school other than the school of origin or a school requested by the parent or guardian; and</li><li>3. In the case of an unaccompanied youth, consider the views of the child and provide the notice required in the event of an enrollment dispute.</li></ol>
ENROLLMENT	“Enroll” and “enrollment” include attending classes and participating fully in school activities.
HOMELESS CHILDREN OR YOUTH	“Homeless child” means a child or youth. “Unaccompanied youth” includes a child not in the physical custody of a parent or guardian.”
SCHOOL OF ORIGIN	“School of origin” means the school that the child attended when permanently housed or the school in which the child was last enrolled.
CONTACT INFORMATION	The District may require the parent or guardian of a homeless child to submit contact information.
ENROLLMENT	The school selected in accordance with the McKinney-Vento Homeless Education Assistance Improvements Act shall immediately enroll a homeless child even if the child is unable to produce records normally required for enrollment. The school shall immediately contact the last school attended to obtain relevant academic and other records. If the child needs to obtain immunizations, or immunization or medical records, the enrolling school shall immediately refer the child’s parent or guardian to the District’s homeless liaison for assistance. [See FFC]
ENROLLMENT DISPUTES	If a dispute arises over school selection or enrollment in a school, the child shall be immediately admitted to the school in which enrollment is sought, pending resolution of the dispute. The District shall provide the child’s parent or guardian with a written explanation of the decision regarding school selection or enrollment, including the right to appeal the decision. The District shall refer the

child, parent, or guardian to the homeless liaison, who shall carry out the dispute resolution process as expeditiously as possible.

SCHOOL PLACEMENT

The District shall not segregate homeless children. The District shall, according to the child's best interest:

1. Continue the child's education in the school of origin for the duration of homelessness, if the child's family becomes homeless between academic years or during an academic year;
2. Continue the child's education in the school of origin for the duration of the academic year, if the child becomes permanently housed during an academic year; or
3. Enroll the child in any school that nonhomeless students who live in the attendance area in which the child is actually living are eligible to attend.

The District shall make the choice regarding placement without regard to whether the child lives with the homeless parents or has been temporarily placed elsewhere.

COMPARABLE  
SERVICES

The District shall provide a homeless child with services that are comparable to services offered to other students in the school in which the child is enrolled, including:

1. Transportation services;
2. Educational services for which the child meets the eligibility criteria;
3. Programs in vocational and technical education;
4. Programs for gifted and talented students; and
5. School nutrition programs.

COORDINATION

The District shall coordinate the provision of services to homeless children with:

1. Local social services agencies and other agencies or programs providing services to homeless children and their families;
2. Other local educational agencies, on interdistrict issues such as transportation or transfer of school records; and
3. As applicable, state and local housing agencies responsible for developing the comprehensive housing affordability strategy described in the Cranston-Gonzalez National Affordable

Housing Act (42 U.S.C. 12705), to minimize educational disruption for homeless children.

The coordination shall be designed to ensure that homeless children have access and reasonable proximity to available education and related support services and to raise the awareness of school personnel and service providers of the effects of short-term stays in a shelter and other challenges associated with homelessness.

BARRIERS TO  
ENROLLMENT

The District shall review and revise any policies that may act as barriers to the enrollment of homeless children. The District shall give consideration to issues concerning transportation, immunization, residency, birth certificates, school records and other documentation, and guardianship. The District shall give special attention to ensuring the enrollment and attendance of homeless children who are not currently attending school.

In addition, the District shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status.

NOTICE OF RIGHTS

At enrollment and at least twice annually while the homeless child is enrolled in the District, the District shall provide written notice to the parent or guardian of the child (or directly to an unaccompanied youth) that is signed by the parent, guardian, or unaccompanied youth and sets forth the general rights provided under the McKinney-Vento Act, specifically including:

1. The choice of schools homeless children are eligible to attend;
2. That no homeless child is required to attend a separate school for homeless children;
3. That homeless children shall be provided comparable services, including transportation, education, and meals through school meals programs;
4. That homeless children shall not be stigmatized by school personnel; and
5. Contact information for the District's homeless liaison [see FFC] and the state coordinator for education of homeless children and youths.

The notice must be in a manner and form understandable to the parent, guardian, or unaccompanied youth including, if necessary and to the extent feasible, in the native language of such parent, guardian, or youth.

North East ISD  
015910

ADMISSIONS  
HOMELESS STUDENTS

FDC  
(LEGAL)

*McKinney-Vento Homeless Education Assistance Improvements  
Act of 2001, part of No Child Left Behind Act of 2001, 42 U.S.C.  
11432, 11434a)*

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Other Related Policies:

CNA — STUDENT TRANSPORTATION

EHBD — FEDERAL TITLE I PROGRAMS

FB — EQUAL EDUCATIONAL OPPORTUNITIES

FD — ADMISSIONS

FFAB — IMMUNIZATIONS

FL — STUDENT RECORDS

FP — STUDENT FEES, FINES, AND CHARGES

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ADMISSIONS  
HOMELESS STUDENTS

FDC  
(LOCAL)

LIAISON FOR  
HOMELESS  
STUDENTS

The Superintendent shall appoint an appropriate staff person as the District liaison for homeless students. [See FFC]

ADMISSIONS

The principal shall notify the homeless liaison within one school day of admission of a homeless student.

ENROLLMENT IN  
SCHOOL OF ORIGIN

In determining feasibility of educating a homeless student in his or her school of origin, the District shall consider the best interests of the student with regard to such relevant factors as:

1. Continuity of instruction
2. Age and grade placement of the student
3. Distance of the commute and its impact on the student's education or special needs
4. Personal safety of the student
5. Student's need for special instruction, such as Section 504 or special education and related services
6. Length of anticipated stay in a temporary shelter or other temporary location
7. Likely area of the family's or youth's future housing
8. Time remaining in the school year
9. School placement of siblings

Services, including transportation, that the District is required to provide shall not be considered in determining feasibility.

CONTINUATION OF  
TRANSPORTATION

The District shall provide transportation to a homeless student assigned to attend the school of origin, as provided by law. If such a student ceases to be homeless, the District shall continue to provide transportation to and from the school of origin through the end of the school year, upon request from the parent or guardian. [See CNA]

DISPUTE RESOLUTION  
PROCESS

In the event that a homeless student, or his or her parent or guardian, has a complaint about admission, placement, or services provided by the District, that person shall use the complaint resolution procedures set out in FNG(LOCAL), beginning at Level Two.

When the principal becomes aware of a complaint, he or she shall notify the liaison for homeless students within one school day. At all times the liaison for homeless students or designee shall accompany and assist the student, parent, or guardian in the dispute resolution process. Throughout the dispute resolution process, the homeless student shall be permitted to attend classes, receive the requested services, and participate fully in school activities.

SCHOOL SAFETY  
CHOICE OPTION

TEA shall establish and implement a statewide policy requiring that a student be allowed to attend a safe public elementary or secondary school within the District, including a public charter school, if the student:

1. Attends a persistently dangerous public elementary or secondary school, as defined by TEA; or
2. Becomes a victim of a violent criminal offense, as determined by state law, while in or on the grounds of the public elementary or secondary school that the student attends.

*No Child Left Behind Act of 2001, 20 U.S.C. 7912*

SEXUAL ASSAULT  
TRANSFER

For the purposes of the following provisions:

1. "Assailant" means a student who has been adjudicated for a sexual assault or aggravated sexual assault if the assault was committed against another student who, at the time of the offense, was assigned to the same campus as the assailant, regardless of whether the conduct occurred on or off of school property.
2. "Victim" means the victim of the sexual assault.

TRANSFER OF  
VICTIM

On the request of a parent or other person with authority to act on behalf of the victim of the sexual assault, the Board shall transfer the victim to:

1. A District campus other than the campus to which:
  - a. The victim was assigned at the time the conduct occurred;
  - b. The assailant is assigned, if the assailant has been assigned to a different campus since the conduct occurred; or
2. A neighboring school district, if there is only one campus in the District serving the grade level in which the victim is enrolled.

The transfer must be to a campus or school district, as applicable, agreeable to the parent or other person with authority to act on the victim's behalf.

TRANSFER OF  
ASSAILANT

If the victim does not wish to transfer to another campus or district, the Board shall transfer the assailant to:

1. A District campus other than the campus to which the victim is assigned; or

2. The District's disciplinary alternative education program or juvenile justice alternative education program, if there is only one campus in the District serving the grade level in which the assailant is enrolled. [See FOC]

To the extent permitted under federal law [see FL], the District shall notify the parent or other person with authority to act on behalf of the victim of the campus or program to which the assailant is assigned.

Education Code 25.034 [see FDB] does not apply to a transfer under this provision.

The District is not required to provide transportation to a student who transfers to another campus or district under this provision.

*Education Code 25.0341*



SAFE SCHOOLS DATA     The Superintendent or designee shall ensure that the District complies with TEA guidelines for the collection and maintenance of data regarding:

1.     Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD], and
2.     Any student who becomes a victim of one of the following violent criminal offenses, as defined by the Penal Code, while in or on the grounds of the school the student attends:
  - a.     Attempted murder;
  - b.     Indecency with a child;
  - c.     Aggravated kidnapping;
  - d.     Assault resulting in bodily injury or aggravated assault; or
  - e.     Sexual assault or aggravated sexual assault.

SCHOOL SAFETY TRANSFERS     The parent of a student who becomes a victim of a violent criminal offense as described above or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

FROM A PERSISTENTLY DANGEROUS SCHOOL     The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent or designee an application for transfer. The Superintendent or designee shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

FOR A VICTIM OF A VIOLENT CRIMINAL OFFENSE	<p>Within 14 calendar days after a violent criminal offense described above occurs in or on the grounds of the school the student attends, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent or designee an application for transfer. The Superintendent or designee shall approve or disapprove the request within 14 calendar days of its submission.</p> <p>Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.</p> <p>For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.</p>
ADDITIONAL TRANSFER OPTIONS	<p>In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus. [See also FDA and FDB]</p>

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

GENERAL RULE

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their eighteenth birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. Students enrolled in prekindergarten or kindergarten shall attend school.

STUDENTS 18 AND OVER

A person who voluntarily enrolls in school or voluntarily attends school after the person's eighteenth birthday shall attend school each school day for the entire period the program of instruction is offered. The District may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester. A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

ACCELERATED /  
COMPENSATORY  
PROGRAMS

A student must also attend:

1. An extended-year program for which the student is eligible that is provided by the District for students identified as likely not to be promoted to the next grade level or tutorial classes required by the District under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];
4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or
5. A summer program provided:
  - a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete each course in which the student was enrolled at the time of removal. [See FO]
  - b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. [See FOCA]

*Education Code 25.085*

EXEMPTIONS

Students who meet one or more of the following conditions shall be exempt from compulsory attendance requirements:

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

- |  |    |  |
|--|----|--|
| EQUIVALENCY<br>DIPLOMA                             | 1. | The student is at least 17 years of age and has been issued a high school equivalency certificate or diploma.  |
| PRIVATE OR HOME<br>SCHOOL                          | 2. | <p>The student attends a private or parochial school that includes in its course a study of good citizenship.</p> <p>A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. <i>TEA v. Leeper, 893 S.W.2d 432 (Tex. 1994)</i></p> |
| SPECIAL<br>EDUCATION —<br>NONDISTRICT<br>PLACEMENT | 3. | The student is eligible to participate in the District's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.  |
| MEDICAL<br>CONDITION                               | 4. | The student has a temporary and remediable physical or mental condition that renders attendance infeasible and the student has a certificate from a qualified physician that specifies the condition, indicates the prescribed treatment, and covers the anticipated time of absence needed for receiving and recuperating from remedial treatment.  |
| EXPULSION —<br>NO JJAEP                            | 5. | The student has been expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]   |
| 17-YEAR-OLD IN<br>GED COURSE                       | 6. | <p>The student is at least 17 years old, is attending a course of instruction to prepare for the high school equivalency examinations, and:</p> <ul style="list-style-type: none"><li>a. Has the permission of the student's parent or guardian to attend the course;</li><li>b. Is required by court order to attend the course;</li><li>c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; or</li><li>d. Is homeless as defined by 42 U.S.C. 11302.</li></ul>  |
| HIGH SCHOOL<br>REPLACEMENT<br>PROGRAMS             | 7. | The student is enrolled in the Texas Academy of Leadership in the Humanities or Texas Academy of Mathematics and Science.  |

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

16-YEAR-OLD IN GED PROGRAM OR JOB CORPS	<p>8. The student is at least 16 years old and is attending a course of instruction to prepare for the high school equivalency examinations, if:</p> <ul style="list-style-type: none"><li>a. The student is recommended to take the course by a public agency that has supervision or custody of the student under a court order; or</li><li>b. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.</li></ul>
OTHER EXEMPTION	<p>9. The student is specifically exempted under another law. <i>Education Code 25.086</i></p>
EXCUSED ABSENCES TEMPORARY ABSENCES	<p>A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. <i>Education Code 25.087</i></p>
SPECIAL EDUCATION MATTERS	<p>Students may be excused for special education assessment procedures and for special education-related services. <i>19 TAC 129.21(l)</i></p>
COURT PROCEEDINGS	<p>A student who has been referred to a juvenile court for delinquent conduct or conduct indicating a need for supervision shall receive an excused absence for any missed class when:</p> <ul style="list-style-type: none"><li>1. The assigned juvenile judge or probation officer has detained the student or required the student to participate in activities related to the student's referral;</li><li>2. Detention or participation in such activities resulted in absence from class;</li><li>3. The probation officer communicates the cause of the absence in writing to District personnel; and</li><li>4. The student successfully completes all missed assignments.</li></ul> <p><i>19 TAC 129.22(a)</i></p>
HUMAN SERVICES ACTIVITIES	<p>A student who has been referred to the Texas Department of Human Services or a county or local welfare unit on the basis that he or she has been abused or is neglected shall be excused when:</p> <ul style="list-style-type: none"><li>1. The assigned caseworker has required the student to participate in activities related to the student's referral;</li><li>2. Participation in such activities resulted in an absence from class;</li></ul>

3. The caseworker communicates the cause of the absence in writing to District personnel; and
4. The student successfully completes all missed assignments.

*19 TAC 129.22(b)*

HOLY DAYS

The District shall excuse a student from attending school for the purpose of observing religious holy days, including traveling for that purpose. Excused days for travel shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the religious holy days.

HEALTH CARE  
APPOINTMENTS

The District shall excuse a student for temporary absence resulting from an appointment with a health-care professional if that student commences classes or returns to school on the same day of the appointment.

*Education Code 25.087; 19 TAC 129.21(k)* [See FEB]

MAKE-UP WORK

A student who is excused for the observance of a religious holy day or for a temporary medical absence shall be allowed a reasonable time to make up school work missed on those days. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance. The student shall not be penalized for the absence. *Education Code 25.087*

In the case of a student who has missed class due to court proceedings or human services activities, it is the responsibility of the liaison for court-related children [see FFC(LEGAL)] to assist students and teachers to ensure that students are provided the opportunity to complete all missed assignments. *19 TAC 129.22(c)*

NOTICES TO PARENTS  
WARNING NOTICE

The District shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to prosecution under Education Code 25.094 or to referral to a juvenile court in a county with a population less than 100,000.

NOTICE OF  
ABSENCES

The District shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
  - a. It is the parent's duty to monitor the student's school attendance and require the student to attend school, and

- b. The parent is subject to prosecution under Education Code 25.093; and
2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense to prosecution for the parent's failure to require a child to attend school nor for the student's failure to attend school.

*Education Code 25.095*

NON-ATTENDANCE  
PARENT LIABILITY

If a warning notice is issued, a parent or person standing in parental relation with criminal negligence fails to require the child to attend school as required by law, and the child has absences for the amount of time specified under Education Code 25.094, the attendance officer [see FED] or other appropriate school official shall file a complaint against him or her in an appropriate court, as permitted under Education Code 25.093.

AFFIRMATIVE  
DEFENSE —  
PARENT

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

*Education Code 25.093*

STUDENT LIABILITY

A student who is required to attend school under the compulsory attendance laws and fails to attend school on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period may be prosecuted for nonattendance in:

1. The constitutional county court of the county in which the individual resides or in which the school is located, if the county has a population of two million or more;
2. The justice court of any precinct in the county in which the student resides;
3. The justice court of any precinct in the county in which the school is located;
4. The municipal court in the municipality in which the child resides; or
5. The municipal court in the municipality in which the school is located.

*Education Code 25.094(a), (b)*

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LEGAL)

CONDUCT IN  
NEED OF  
SUPERVISION

Conduct indicating a need for supervision includes the absence of a child on ten or more days or parts of days within a six-month period in the same school year or on three or more days or parts of days within a four-week period from school. *Family Code 51.03(b)(2)*

AFFIRMATIVE  
DEFENSE —  
STUDENT

It is an affirmative defense to prosecution for nonattendance or to an allegation of conduct in need of supervision that one or more of the absences required to be proven were excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute an offense.

A decision by the court to excuse an absence for this purpose does not affect the ability of the District to determine whether to excuse the absence for another purpose.

*Education Code 25.094(f), (g); Family Code 51.03(d)*

DISTRICT COMPLAINT  
OR REFERRAL

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, the District shall within seven school days of the student's last absence:

1. File a complaint against the student or the student's parent or both in a county, justice, or municipal court for an offense under Education Code 25.093 or 25.094, as appropriate, or refer the student to a juvenile court in a county with a population of less than 100,000; or
2. Refer the student to a juvenile court for conduct indicating a need for supervision under Family Code 51.03(b)(2).

A court shall dismiss a complaint or referral by the District that does not comply with these requirements.

The District may take the actions listed above if a student fails to attend school without excuse on three or more days or parts of days within a four-week period, but does not fail to attend school for the time specified above.

*Education Code 25.0951*



ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LOCAL)

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.

RECORDS

The District shall maintain records to reflect the average daily attendance (ADA), as required by the Commissioner. The Superintendent, principals, and teachers shall be responsible to the Board and the state to maintain accurate, current attendance records. *19 TAC 129.21(a)*

Districts shall use the student attendance accounting standards established by the Commissioner to maintain records and make reports on student attendance and student participation in special programs. The official standards are described in TEA's *Student Attendance Accounting Handbook*. *19 TAC 129.1023–1025*

The Superintendent is responsible for the safekeeping of attendance records and reports. The Superintendent may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the District. Regardless of where such records are filed or stored, they must be readily available for audit by TEA. *19 TAC 129.21(m)*

MINIMUM  
ENROLLMENT

A student must be enrolled for at least two hours to be considered in membership for a half-day, and for at least four hours to be considered in membership for one full day.

HALF-DAY  
STUDENTS

Students enrolled on a half-day basis may earn only half-day attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half-day they are scheduled to be present.

ATTENDANCE FOR  
STATE FUNDING  
PURPOSES

Attendance for all grades shall be determined by the absences recorded in the second or fifth period of the day, unless the District has obtained permission from TEA for an alternate period to record absences.

The established period in which absences are recorded may not be changed during the school year.

Students absent during the daily period selected by the District for taking attendance shall be counted absent for the entire day. Students present at the time attendance is taken shall be counted present for the entire day.

*19 TAC 129.21*

A student in a disciplinary alternative education program shall be counted in computing the average daily attendance of students in the District for the student's time in actual attendance in the program. *Education Code 37.008(f)*

EXCEPTIONS	A student not actually on campus when attendance is taken may be considered in attendance for Foundation School Program purposes if:
BOARD-APPROVED ACTIVITIES	1. The student is participating in a Board-approved activity under the direction of a member of the District's professional staff, or an adjunct staff member who has a bachelor's degree and is eligible for participation in TRS. [See FM]
MENTORSHIPS	2. The student is participating in a mentorship approved by District personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement Program outlined in 19 TAC 74.13(a)(3). [See Exhibit C at EIF(EXHIBIT)]
MEDICAID STUDENTS	3. The student is Medicaid-eligible and participating in the Early and Periodic Screening, Diagnosis, and Treatment Program. Such students may be excused for up to one day at any time without loss of ADA.
RELIGIOUS HOLY DAYS	4. The student is observing religious holy days, including days of travel to or from a site where the student will observe holy days. Excused days for travel shall be limited to not more than one day for travel to and one day for travel from the site where the student will observe the religious holy days. [See FEA]
HEALTH CARE APPOINTMENTS	5. The student has a documented appointment with a health care professional during regular school hours, if that student commences classes or returns to school on the same day of the appointment. The appointment should be supported by a document such as a note from the health care professional.  6. The student is in attendance at a dropout recovery education program.
	<i>Education Code 25.087, 29.081(e); 19 TAC 129.21</i>
PARENTAL CONSENT TO LEAVE CAMPUS	Before the District or a charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the District or charter school shall adopt a policy addressing parental consent for a student to leave campus and distribute the policy to staff and to all parents of students in the District or charter school. <i>19 TAC 129.21(d)</i>

The Superintendent or designee shall be responsible for maintaining a student attendance accounting system in accordance with statutory and TEA requirements.

The Superintendent or designee shall report annually to the Board concerning the operation and effectiveness of the District's student attendance system, and may present recommendations for improvement.

PARENTAL CONSENT  
TO LEAVE CAMPUS

A student absent from school for any portion of a school day shall provide a note that describes the reason for the absence. The note shall be signed by the student's parent or, if the student is 18 or older or is an emancipated minor, by the student.

A student shall be given credit for a class only if the student has been in attendance 90 percent of the days the class is offered, unless an attendance committee appointed by the Board gives the student credit because there were extenuating circumstances for the absences.

The Board shall establish guidelines for determining what constitutes extenuating circumstances and shall adopt policies that establish alternative ways for students to make up work or regain credit lost because of absences.

The alternative ways must include at least one option that does not require a student to pay a fee, but the option must be substantially the same as the availability of the educational program for which the District may charge a fee. [See FP] This policy does not affect a student's right to excused absences to observe religious holy days. [See FEB]

ATTENDANCE  
COMMITTEE HEARING

Classroom teachers shall comprise a majority of the attendance committee. The attendance committee shall hear each case in which a student's attendance falls below the 90 percent threshold and a petition by the student or his or her parent or legal guardian has been filed. The committee may give class credit to a student because of extenuating circumstances according to policies adopted by the Board that establish ways for a student to make up work or regain credit lost because of absences.

*Education Code 25.092*

APPEAL

If a student is denied credit for a class by an attendance committee, the student may appeal the decision to the Board. The Board's decision may be appealed to the district court of the county in which the District's central administrative office is located. *Education Code 25.092(d)*

ATTENDANCE  
ATTENDANCE ENFORCEMENT

FED  
(LEGAL)

ATTENDANCE  
OFFICER

The Board may select a school attendance officer. A school attendance officer also may be selected by two or more boards to serve their districts jointly. *Education Code 25.088*

In districts where no attendance officer has been selected, the Superintendent and the peace officers in the District shall perform the duties of attendance officer, but no additional compensation shall be paid for the services. *Education Code 25.090*

POWERS AND DUTIES  
PEACE OFFICERS

A peace officer serving as an attendance officer has the following powers and duties concerning enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of compulsory school attendance requirements referred to the peace officer;
2. To enforce compulsory school attendance requirements by:
  - a. Referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); and
  - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To serve court-ordered legal process;
4. To review school attendance records for compliance by each student investigated by the officer;
5. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner, to provide a record to the individual or entity requesting the record;
6. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that a peace officer may not enter a residence without the permission of the parent of a student required to attend school or of the tenant or owner of the residence except to lawfully serve court-ordered legal process on the parent; and
7. To take a student into custody with the permission of the student's parent or in obedience to a court-ordered legal process.

ATTENDANCE  
ATTENDANCE ENFORCEMENT

FED  
(LEGAL)

OTHER  
ATTENDANCE  
OFFICER

An attendance officer employed by the District who is not commissioned as a peace officer has the following powers and duties with respect to enforcement of compulsory school attendance requirements:

1. To investigate each case of a violation of the compulsory school attendance requirements referred to the attendance officer;
2. To enforce compulsory school attendance requirements by:
  - a. Referring a student to a juvenile court or filing a complaint against a student in a county, justice, or municipal court if the student has unexcused absences for the amount of time specified under Education Code 25.094 or under Family Code 51.03(b)(2); and
  - b. Filing a complaint in a county, justice, or municipal court against a parent who violates Education Code 25.093;
3. To monitor school attendance compliance by each student investigated by the officer;
4. To maintain an investigative record on each compulsory school attendance requirement violation and related court action and, at the request of a court, the Board, or the Commissioner, to provide a record to the individual or entity requesting the record;
5. To make a home visit or otherwise contact the parent of a student who is in violation of compulsory school attendance requirements, except that the attendance officer may not enter a residence without permission of the parent or of the owner or tenant of the residence;
6. At the request of a parent, to escort a student from any location to a school campus to ensure the student's compliance with compulsory school attendance requirements; and
7. If the attendance officer has or is informed of a court-ordered legal process directing that a student be taken into custody and the district employing the officer does not employ its own police department, to contact the sheriff, constable, or any peace officer to request that the student be taken into custody and processed according to the legal process.

*Education Code 25.091*

JUVENILE CASE  
MANAGER

On approval of the Board, the District may employ or agree in accordance with Government Code Chapter 791 to jointly employ a case manager to provide services in cases involving juvenile of-

North East ISD  
015910

ATTENDANCE  
ATTENDANCE ENFORCEMENT

FED  
(LEGAL)

fenders before a court consistent with the court's statutory powers. The District may apply to the criminal justice division of the governor's office for reimbursements of the costs of employing a juvenile case manager. *Code of Criminal Procedure 45.056*



WELLNESS POLICY

By the first day of school of the 2006-07 school year, each district participating in a program authorized by the Richard B. Russell National School Lunch Act, 42 U.S.C. 1751 et seq., or the Child Nutrition Act, 42 U.S.C. 1771 et seq., shall establish a local school wellness policy for schools in the district. The policy shall, at a minimum:

1. Include goals for nutrition education, physical activity, and other school-based activities that are designed to promote student wellness in a manner that the District determines is appropriate;
2. Include nutrition guidelines selected by the District for all foods available on each school campus during the school day with the objectives of promoting student health and reducing childhood obesity;
3. Provide an assurance that guidelines for reimbursable school meals shall not be less restrictive than the regulations and guidance issued by the U.S. secretary of agriculture pursuant to the Child Nutrition and National School Lunch Acts;
4. Establish a plan for measuring implementation of the local wellness policy, including designation of one or more persons within the District or at each school, as appropriate, charged with operational responsibility for ensuring that the school meets the local wellness policy; and
5. Involve parents, students, representatives of the school food authority, the Board, administrators, and the public in the development of the school wellness policy.

*Child Nutrition and WIC Reauthorization Act of 2004, Pub. L. No. 108-265, sec. 204, 118 Stat. 729 (2004)* [See EHAA for state law requirements relating to health education]

CHANGE IN HEALTH  
SERVICES

Before the District or a school may expand or change the health care services available at a school in the District from those that were available on January 1, 1999, the Board must:

1. Hold a public hearing at which the Board provides an opportunity for public comment and discloses all information on the proposed health care services, including:
  - a. All health care services to be provided;
  - b. Whether federal law permits or requires any health care service provided to be kept confidential from parents;
  - c. Whether a child's medical records will be accessible to the parent;

- d. Information concerning grant funds to be used;
  - e. The titles of persons who will have access to the medical records of a student; and
  - f. The security measures that will be used to protect the privacy of students' medical records.
2. Approve the expansion or change by a record vote.

*Education Code 38.012*

STUDENT WELFARE  
WELLNESS AND HEALTH SERVICES

FFA  
(LOCAL)

WELLNESS

The District shall follow nutrition guidelines that advance student health and reduce childhood obesity and shall promote the general wellness of all students through nutrition education, physical activity, and other school-based activities.

DEVELOPMENT OF  
GUIDELINES AND  
GOALS

The District shall develop nutrition guidelines and wellness goals in consultation with the local school health advisory council and with involvement from representatives of the student body, school food service, school administration, the Board, parents, and the public. [See BDF and EHAA]

NUTRITION  
GUIDELINES

The District shall ensure that nutrition guidelines for reimbursable school meals shall be at least as restrictive as federal regulations and guidance and that all foods available on each campus are in accordance with the Texas Public School Nutrition Policy and District established standards. [See CO]

In addition to legal requirements, the District shall:

1. Establish age-appropriate guidelines for food and beverages at classroom parties or school celebrations [see CO];
2. Provide teachers with education and guidelines on the use of food as a reward in the classroom;
3. Establish guidelines for school-sponsored fund-raising activities that involve serving or selling food; and
4. Require that healthy food and beverage options be included at concessions at school-related events outside of the school day.

WELLNESS GOALS  
NUTRITION  
EDUCATION

The District shall implement, in accordance with law, a coordinated health program with a nutrition education component [see EHAB and EHAC] and shall use health course curriculum that emphasizes the importance of proper nutrition [see EHAA].

In addition, the District establishes the following goals for nutrition education:

1. Students will receive nutrition education that fosters the adoption and maintenance of healthy eating behaviors.
2. Nutrition education will be a Districtwide priority and will be integrated into other areas of the curriculum, as appropriate.
3. Staff responsible for nutrition education will be adequately prepared and will participate in professional development activities to effectively deliver the program as planned.

4. The food service staff, teachers, and other school personnel will coordinate the promotion of nutrition messages in the cafeteria, the classroom, and other appropriate settings.
5. Educational nutrition information will be shared with families and the general public to positively influence the health of students and community members.

PHYSICAL ACTIVITY

The District shall implement, in accordance with law, a coordinated health program with physical education and physical activity components and shall offer at least the required amount of physical activity for all grades [see EHAB and EHAC].

In addition, the District establishes the following goals for physical activity:

1. The District will provide an environment that fosters safe and enjoyable fitness activities for all students, including those who are not participating in competitive sports.
2. Physical education classes will regularly emphasize moderate to vigorous activity.
3. The District will encourage teachers to integrate physical activity into the academic curriculum where appropriate.
4. Before-school and after-school physical activity programs will be offered and students will be encouraged to participate.
5. Teachers and other school staff will receive training to promote enjoyable, life-long physical activity for themselves and students.
6. The District will encourage parents to support their children's participation, to be active role models, and to include physical activity in family events.
7. The District will encourage students, parents, staff, and community members to use the District's recreational facilities to the extent such facilities are available and such use does not conflict with regularly scheduled District use. [See GKD]

SCHOOL-BASED  
ACTIVITIES

The District establishes the following goals to create an environment conducive to healthful eating and physical activity and to express a consistent wellness message through other school-based activities:

1. Sufficient time will be allowed for students to eat meals in lunchroom facilities that are clean, safe, and comfortable.
2. Wellness for students and their families will be promoted at suitable school activities.

3. Employee wellness education and involvement will be promoted at suitable school activities.

IMPLEMENTATION

The Superintendent or designee shall oversee the implementation of this policy and shall develop administrative procedures for periodically measuring the implementation of the wellness policy.

WELLNESS AND HEALTH SERVICES  
PHYSICAL EXAMINATIONS

FFAA  
(LEGAL)

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 State Health Services (TDSHS). <i>Health and Safety Code 36.005(a)</i>
DISTRICT RESPONSIBILITY	The Superintendent shall ensure that each student admitted to the District complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). <i>Health and Safety Code 36.005(c)</i>
SCREENING SCHEDULE ROUTINE SCREENING	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 TDSHS, the screening of vision and hearing may instead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.23(d), (f)</i>
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. <i>25 TAC 37.23(e)(1)</i>
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. <i>25 TAC 37.23(e)(3), 37.26(a), (b)</i>
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. <i>25 TAC 37.23(g)</i>
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 reli-

	<p>gious denomination of which the affiant is an adherent or member. <i>Health and Safety Code 36.005(b); 25 TAC 37.23(h)</i></p>
RECORDS	<p>The District shall maintain the screening records required by statute and regulation. <i>Health and Safety Code 36.006; 25 TAC 37.24</i></p>
TRANSFER OF RECORDS	<p>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. <i>Health and Safety Code 36.006(c); 25 TAC 37.28</i></p>
REPORTS	<p>On or before June 30 of each year, the District shall submit to TDSHS 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 TDSHS. <i>Health and Safety Code 36.006; 25 TAC 37.26(c)(1)</i></p>
ACANTHOSIS NIGRICANS SCREENING	<p>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. <i>Health and Safety Code 95.002(d), 95.003(a)</i></p> <p>"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. <i>Health and Safety Code 95.001(1)</i></p>
DISTRICT RESPONSIBILITY	<p>The Superintendent shall ensure that each student admitted to the District complies with the screening requirements or submits an affidavit of exemption. <i>Health and Safety Code 95.003(c)</i></p>
APPLICABILITY	<p>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. <i>Health and Safety Code 95.002(b)</i></p>
OUTSIDE SCREENING	<p>The student or minor student's parent, managing conservator, or guardian may elect to substitute a professional examination for the screening. <i>Health and Safety Code 95.003(a)</i></p>
EXEMPTION—RELIGIOUS BELIEFS	<p>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</p>

WELLNESS AND HEALTH SERVICES  
PHYSICAL EXAMINATIONS

FFAA  
(LEGAL)

	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. <i>Health and Safety Code 95.003(b)</i>
RECORDS	The Superintendent shall maintain the screening records required by the statute and regulations. <i>Health and Safety Code 95.004(a)</i>
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. <i>Health and Safety Code 95.004(c)</i>
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. <i>Health and Safety Code 95.004(e)</i>
SPINAL SCREENING	Each student required by rule of the TDSHS to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
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). <i>Health and Safety Code 37.002(c), 25 TAC 37.148(m)</i>
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. <i>25 TAC 37.148(a), (b)</i>
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. <i>25 TAC 37.148(c)</i>
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 TDSHS 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 TDSHS. *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)*

WELLNESS AND HEALTH SERVICES  
PHYSICAL EXAMINATIONS

FFAA  
(LOCAL)

UIL PARTICIPATION	A student desiring to participate in the UIL athletic program shall submit annually a statement from a health care provider authorized under UIL rules indicating that the student has been examined and is physically able to participate in the athletic program.
ADDITIONAL SCREENING	The District may provide additional screening as District and community resources permit.
REFERRALS	Parents of students identified through any screening programs as needing treatment or further examination shall be advised of the need and referred to appropriate health agencies.

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

IMMUNIZATION  
REQUIREMENT

Each student shall be fully immunized against diphtheria, 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 State Health Services (TDSHS) 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 TDSHS's Web site at [http://www.dshs.state.tx.us/immunize/imm\\_sched.shtm](http://www.dshs.state.tx.us/immunize/imm_sched.shtm).

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 TDSHS 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.
MILITARY DEPENDENTS	A dependent of a person who is on active duty with the armed forces of the United States can be enrolled provisionally for no

more than 30 days if the student transfers from one 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 TDSHS. *Education Code 38.002(a); 25 TAC 97.67*

WELLNESS AND HEALTH SERVICES  
IMMUNIZATIONS

FFAB  
(LEGAL)

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. <i>Education Code 38.002(b)</i>
ANNUAL REPORT	Districts shall submit annual reports of the immunization status of students, in a format prescribed by TDSHS, 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. <i>Education Code 38.002(c); 25 TAC 97.71</i>
CONSENT TO IMMUNIZATION	<p>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:</p> <ol style="list-style-type: none"><li>1. A guardian of the child; and</li><li>2. A person authorized under the law of another state or a court order to consent for the child.</li></ol> <p><i>Family Code 32.101(a)</i></p> <p>The district in which the child is enrolled may give consent to the immunization if:</p> <ol style="list-style-type: none"><li>1. The persons listed above are not available; and</li><li>2. The District has written authorization to consent from a person listed above.</li></ol> <p><i>Family Code 32.101(b)(5)</i></p> <p>The District may not consent for the child if it has actual knowledge that a person listed above has:</p> <ol style="list-style-type: none"><li>1. Expressly refused to give consent to the immunization;</li><li>2. Been told not to consent for the child; or</li><li>3. Withdrawn a prior written authorization for the District to consent.</li></ol> <p><i>Family Code 32.101(c)</i></p>
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 re-

quested 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*

WELLNESS AND HEALTH SERVICES  
MEDICAL TREATMENT

FFAC  
(LEGAL)

CONSENT TO  
MEDICAL TREATMENT

The school in which a minor student is enrolled may consent to medical, dental, psychological, and surgical treatment of that student, provided all of the following conditions are met:

1. The person having the power to consent as otherwise provided by law cannot be contacted.
2. Actual notice to the contrary has not been given by that person.
3. Written authorization to consent has been received from that person.

*Family Code 32.001(a)(4)*

FORM OF CONSENT

Consent to medical treatment under this policy shall be in writing, signed by the school official giving consent, and given to the doctor, hospital, or other medical facility that administers the treatment. The consent must contain:

1. The name of the student.
2. The name of one or both parents, if known, and the name of the managing conservator or guardian of the student, if either has been appointed.
3. The name of the person giving consent and the person's relation to the student.
4. A statement of the nature of the medical treatment to be given.
5. The date on which the treatment is to begin.

*Family Code 32.002*

MINOR'S CONSENT TO  
TREATMENT

A minor may consent to medical, dental, psychological, and surgical treatment furnished by a licensed physician or dentist if the minor:

1. Is 16 years of age and residing separate and apart from the minor's parents, managing conservator, or guardian, with or without the consent of the parents, conservator, or guardian and regardless of the duration of the residence, and is managing his or her own financial affairs, regardless of the source of the income;
2. Consents to the diagnosis and treatment of any infectious, contagious, or communicable disease required to be reported to the Texas Department of State Health Services, including all reportable diseases under Health and Safety Code 81.041;



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(LEGAL)

3. Is unmarried and pregnant, and consents to hospital, medical, or surgical treatment, other than abortion, related to her pregnancy; or
4. Consents to examination and treatment for drug or chemical addiction, drug or chemical dependency, or any other condition directly related to drug or chemical use.

*Family Code 32.003; Planned Parenthood of Cent. Mo. v. Danforth, 428 U.S. 52 (1976); Bellotti v. Baird, 443 U.S. 622 (1979)*

ADMINISTERING  
MEDICATION

Upon adoption of policies concerning the administration of medication to students by District employees, the District, the Board, and the District's employees are immune as described below, provided:

1. The District has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student.
2. When administering prescription medication, the medication is administered either:
  - a. From a container that appears to be the original container and to be properly labeled; or
  - b. From a properly labeled unit dosage container filled by a registered nurse or another qualified District employee, as determined by District policy, from a container that appears to be the original container and to be properly labeled.

BY VOLUNTEER  
PROFESSIONALS

If the District provides liability insurance for a licensed physician or registered nurse who provides volunteer services to the District, the Board may allow the physician or nurse to administer to any student nonprescription medication or medication currently prescribed for the student by the student's personal physician.

IMMUNITY FROM  
CIVIL LIABILITY

The District, the Board, and its employees shall be immune from civil liability for damages or injuries resulting from the administration of medication to a student in accordance with this policy.

*Education Code 22.052(a), (b)*

[See DG regarding Protection of Nurses for refusal to perform acts]

SELF-  
ADMINISTRATION OF  
ASTHMA OR  
ANAPHYLAXIS  
MEDICINE

A student with asthma or anaphylaxis may possess and self-administer prescription asthma or anaphylaxis medicine while on school property or at a school-related event or activity if:

1. The medicine has been prescribed for that student as indicated by the prescription label on the medicine;

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2. The student has demonstrated to the student's physician or other licensed health care provider and the school nurse, if available, the skill level necessary to self-administer the prescription medication, including the use of any device required to administer the medication;
3. The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and
4. A parent of the student provides to the school:
  - a. Written authorization, signed by the parent, for the student to self-administer the prescription medicine while on school property or at a school-related event or activity; and
  - b. A written statement, signed by the student's physician or other licensed health care provider, that states:
    - (1) That the student has asthma or anaphylaxis and is capable of self-administering the medicine;
    - (2) The name and purpose of the medicine;
    - (3) The prescribed dosage for the medicine;
    - (4) The times at which or circumstances under which the medicine may be administered; and
    - (5) The period for which the medicine is prescribed.

The physician's statement must be kept on file in the school nurse's office, or, if there is no school nurse, in the office of the principal of the school the student attends.

NO WAIVER OF  
IMMUNITY

The provisions above neither waive any liability or immunity nor create any liability for or a cause of action against the District, the Board, or its employees.

*Education Code 38.015*

DIETARY  
SUPPLEMENTS

A District employee commits a Class C misdemeanor offense if the employee:

1. Knowingly sells, markets, or distributes a dietary supplement that contains performance enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's District duties; or
2. Knowingly endorses or suggests the ingestion, intranasal application, or inhalation of a dietary supplement that contains

performance enhancing compounds by a primary or secondary education student with whom the employee has contact as part of the employee's District duties.

*Education Code 38.011(a), (c)*

PRESCRIPTION  
MEDICATION AND  
SPECIAL EDUCATION  
STUDENTS

An employee of the District is prohibited from requiring a child to obtain a prescription for a substance covered under the federal Controlled Substances Act (21 U.S.C. 801 et seq.) as a condition of attending school, receiving an evaluation for special education, or receiving special education and related services.

An employee is not prohibited from consulting or sharing classroom-based observations with parents regarding a student's academic and functional performance, behavior in the classroom or school, or the need for evaluation for special education or related services.

*20 U.S.C. 1412(a)(25)*

PSYCHOTROPICS AND  
PSYCHIATRIC  
EVALUATIONS

A District employee may not:

1. Recommend that a student use a psychotropic drug; or
2. Suggest any particular diagnosis; or
3. Use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

Psychotropic drug means a substance that is used in the diagnosis, treatment, or prevention of a disease or as a component of a medication and intended to have an altering effect on perception, emotion, or behavior.

Education Code 38.016(b) does not:

1. Prevent an appropriate referral under the Child Find system required under 20 U.S.C. Section 1412, as amended; or
2. Prohibit a District employee who is a registered nurse, advanced nurse practitioner, physician, or certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or
3. Prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another District employee.

The Board shall adopt a policy to ensure implementation and enforcement of Education Code 38.016.

A violation of Education Code 38.016(b) does not override the immunity from personal liability granted in Education Code 22.051 or other law or the District's sovereign or governmental immunity.

*Education Code 38.016*

WELLNESS AND HEALTH SERVICES  
MEDICAL TREATMENT

FFAC  
(LOCAL)

STUDENT ILLNESS	Procedures shall be established by the administration to ensure that proper attention is given any student who becomes ill during the course of a school day.
ACCIDENTS INVOLVING STUDENTS	Emergency procedures shall be established by the administration to ensure proper attention for any student injured at school. Records shall be maintained on all accidents that require the attention of a medical doctor.
EMERGENCY TREATMENT FORMS	Each year, students and parents shall complete and sign a form that provides emergency information and authorizes school officials to obtain emergency medical treatment, as provided by law.
STANDARDS FOR ALL MEDICATIONS	All medications shall be FDA-approved pharmaceuticals (prescription and nonprescription) administered within their therapeutic range and within standards of acceptable medical regimen. Research pharmaceuticals may be administered if they are a part of a University Institutional Review Board-approved protocol. Intravenous (IV) medications and treatments shall not be administered by school personnel.
ADMINISTERING MEDICATION	No employee shall give any student prescription medication, non-prescription medication, herbal substances, anabolic steroids, or dietary supplements of any type, except as provided below.
EXCEPTIONS	Employees authorized by the Superintendent or designee may administer to students:
PROVIDED BY PARENT	<ol style="list-style-type: none"><li data-bbox="431 1236 1233 1458">1. Prescription medication in accordance with legal requirements. [See FFAC(LEGAL)]  All prescription medications shall have been prescribed by a physician licensed to practice medicine in the United States. All medications shall have been manufactured in the United States.</li><li data-bbox="431 1485 1279 1581">2. Nonprescription medication, upon a parent's written request, when properly labeled and in the original container. [See STANDARDS, above]</li></ol>
PROVIDED BY DISTRICT	<ol style="list-style-type: none"><li data-bbox="431 1607 1303 1884">3. Nonprescription medication provided on an emergency basis by the District and consistent with:<ol style="list-style-type: none"><li data-bbox="498 1699 1303 1803">a. Protocols established by the District's medical advisor who must be licensed to practice medicine in the state of Texas; and</li><li data-bbox="498 1830 1243 1884">b. Parental consent given on the emergency treatment form.</li></ol></li></ol>

WELLNESS AND HEALTH SERVICES  
MEDICAL TREATMENT

FFAC  
(LOCAL)

PSYCHOTROPICS

Except as permitted by Education Code 38.016, an employee shall not:

1. Recommend to a student or a parent that the student use a psychotropic drug;
2. Suggest a particular diagnosis; or
3. Exclude the student from a class or a school-related activity because of the parent's refusal to consent to psychiatric evaluation or examination or treatment of the student.

DO-NOT-  
RESUSCITATE (DNR)  
ORDERS

Do-not-resuscitate (DNR) orders apply only to health care professionals. District health care professionals shall use professional judgment and follow procedures developed by the department of health services when treating students with DNR orders. If a DNR order is presented to a Section 504 Committee or an admission, review, and dismissal (ARD) committee, the order shall be provided to the director of health services. In addition, emergency medical services personnel and other health care professionals who may be called to the school should be presented with the DNR order should a student with such an order experience medical difficulties.

WELLNESS AND HEALTH SERVICES  
COMMUNICABLE DISEASES

FFAD  
(LEGAL)

REPORTS	School authorities, including the Superintendent, principal, teacher, school health official, or counselor, shall report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Board of Health. If there is no local health authority appointed or if the District is outside the jurisdiction of a local health authority, the report shall be made to the regional director. <i>25 TAC 97.2(d), 97.5(a); Health and Safety Code 81.041, 81.042</i>
SEXUALLY TRANSMITTED DISEASES	School administrators who are not medical directors are exempt from reporting AIDS, chancroid, Chlamydia trachomatis infection, gonorrhea, HIV infection, or syphilis to the local health authority or regional director. <i>25 TAC 97.132</i> [See FFG(LEGAL) regarding reports to the Department of Family and Protective Services]  "School administrator" means the city or county superintendent of schools or the principal of any school not under the jurisdiction of a city or county board of education. <i>25 TAC 97.1(24)</i>
EXCLUSION	The principal shall exclude from attendance any student suffering from a communicable condition, as defined by the Texas Board of Health, until one of the criteria for readmittance is fulfilled. <i>25 TAC 97.7(b)</i>
READMITTANCE	Students excluded for reason of communicable disease shall be readmitted by one or more of the following methods, as determined by the local health authority: <ol style="list-style-type: none"><li>1. Certificate of the attending physician attesting to their recovery and noninfectiousness.</li><li>2. Permit for readmission issued by the local health authority.</li><li>3. After a period of time corresponding to the duration of the communicability of the disease, as established by the commissioner of health.</li></ol> <i>25 TAC 97.7(c)</i>
BACTERIAL MENINGITIS	TEA shall prescribe procedures by which each district shall provide information relating to bacterial meningitis to its students and their parents each school year. The procedures must ensure that the information is reasonably likely to come to the attention of the parents of each student. The agency shall prescribe the form and content of the information.  With the written consent of TEA, the District may provide the information to its students and their parents by a method different from the method prescribed by the agency if the agency determines that method would be effective in bringing the information to the attention of the parents of each student.  <i>Education Code 38.0025</i>

WELLNESS AND HEALTH SERVICES  
COMMUNICABLE DISEASES

FFAD  
(LOCAL)

CHRONIC  
REPORTABLE  
DISEASES

Unless otherwise provided below, a student with a chronic reportable disease (Hansen's disease, viral hepatitis type B, AIDS or HIV infection) shall be allowed to attend school in his or her usual instructional setting with the approval of his or her doctor. The school nurse shall function as the liaison with the student's doctor and shall coordinate services provided by other staff. [See FFA]

CONFIDENTIALITY

Only those persons with a direct need to know, such as the principal, school nurse, or other person responsible for the school health program, shall be informed of the condition of the student who has a chronic reportable disease.

However, the parents of a minor student or an adult student may give written authorization specifying other persons or positions to whom such information may be released. District personnel who have such knowledge shall be provided with information concerning any precautions that may be necessary and shall be advised of confidentiality requirements. [See FL]

RISK OF  
TRANSMISSION

The District health services director and the local health authority, in consultation with the person responsible for the school health program and the student's doctor, shall determine whether a significant risk of transmitting a chronic reportable disease exists. If it is determined that a significant risk of transmission exists, the student may be temporarily removed from the classroom until one of the following events occurs:

1. An appropriate school program adjustment is made.
2. An appropriate alternative or special education program is established.
3. The local health authority determines that the significant risk has abated and the student can return to class.

Each removal of a student from school attendance under this circumstance shall be reviewed by the District health services director in consultation with the student's doctor at least once a month to determine whether the condition precipitating the removal has changed.

RISK TO AFFECTED  
STUDENT

A decision to remove a student from the classroom for his or her own protection when cases of communicable diseases are occurring in the school population shall be made in accordance with Texas Department of Health guidelines [see FFAD(EXHIBIT)]; however, the placement of a special education student can be changed only by an ARD committee.



WELLNESS AND HEALTH SERVICES  
COMMUNICABLE DISEASES

FFAD  
(LOCAL)

REFERRAL TO  
SPECIAL  
PROGRAMS

A student removed from the classroom under this policy may be referred to the ARD committee for assessment and a determination of eligibility for special education. A student determined to be ineligible for special education services may nevertheless be eligible for other special services as a student who has a disability under Section 504 of the Rehabilitation Act.

Any decisions regarding restrictions on school attendance, participation in school activities, and hygiene procedures shall be made by the ARD committee (in the case of a special education student) or a group of professionals who are knowledgeable about the student (in the case of a student who has a disability under Section 504). These committees shall consult the local health authority and the student's physician and parents in making such decisions. They shall also consider the significant health risk posed to and by the student in determining an appropriate individualized education program or other services to be provided.

WELLNESS AND HEALTH SERVICES  
SCHOOL-BASED HEALTH CENTERS

FFAE  
(LEGAL)

SCHOOL-BASED  
HEALTH CENTERS

The District may, if it identifies the need, design a model for the delivery of cooperative health-care programs for students and their families and may compete for grants to provide such programs. The model program may provide for delivery of conventional health services and disease prevention of emerging health threats that are specific to the District.

On the recommendation of an advisory council, the District may establish a school-based health center at one or more campuses in the District to meet the health-care needs of students and their families. The District may contract with a person to provide services at a school-based health center.

*Education Code 38.051*

PROGRAMS GOALS

All health-care programs should be designed to meet the following goals:

1. Reducing student absenteeism;
2. Increasing a student's ability to meet the student's academic potential; and
3. Stabilizing the physical well-being of a student.

*Education Code 38.063(c)*

CONSENT  
REQUIRED

A school-based health center may provide services to a student only if the District or the provider with whom the District contracts obtains the written consent of the student's parent or guardian or another person having legal control of the student. The student's parent or guardian or another person having legal control of the student may give consent to receive ongoing services or may limit consent to one or more services provided on a single occasion. The consent form must list every service the center delivers in a format that complies with all applicable state and federal laws and allows a person to consent to one or more categories of services.

*Education Code 38.053*

PERMISSIBLE  
SERVICES

The permissible categories of services are:

1. Family and home support;
2. Health care, including immunizations;
3. Dental health care;
4. Health education; and
5. Preventive health strategies.

*Education Code 38.054*

WELLNESS AND HEALTH SERVICES  
SCHOOL-BASED HEALTH CENTERS

FFAE  
(LEGAL)

SERVICES NOT  
PERMITTED

Reproductive services, counseling, or referrals may not be provided through a school-based health center using grant funds awarded under Education Code Chapter 38, Subchapter B. Any service provided using grant funds must be provided by an appropriate professional who is properly licensed, certified, or otherwise authorized under state law to provide the service. *Education Code 38.055, 38.056*

The staff of a school-based health center and the person who consents to treatment shall jointly identify any health-related concerns of a student that may be interfering with the student's well-being or ability to succeed in school. If it is determined that a student should be referred for mental health services, the staff of the center shall notify verbally and in writing the person who has authority to consent, and the referral shall not be made unless the person provides written consent for the service to be provided and specific written consent for each treatment occasion. *Education Code 38.057*

ADVISORY  
COUNCIL

The Board may establish and appoint members to a local health education and health-care advisory council to make recommendations on the establishment of school-based health centers and to assist the District in ensuring that local community values are reflected in the operation of each center and in the provision of health education. A majority of the members must be parents of students enrolled in the District. In addition to the appointees who are parents, the Board shall also appoint at least one teacher, one administrator, one licensed health-care professional, one member of the clergy, one person from law enforcement, one member of the business community, one senior citizen, and one student. *Education Code 38.058*

The District may seek assistance in establishing and operating a school-based health center from any public agency in the community. *Education Code 38.059*

If the District is located in a county with a population not greater than 50,000 or that has been designated as a health professional shortage area, a medically underserved area, or a medically underserved community, the District shall make a good-faith effort to identify and coordinate with existing providers. *Education Code 38.060*

PRIMARY CARE  
PHYSICIAN

If a person receiving a medical service from a school-based health center has a primary care physician, the staff of the center shall provide notice of the service to that physician. Before delivering service to a person with a primary care physician under the state Medicaid program, a state children's health plan program, or a private health insurance or health benefit plan, the staff of the center shall notify that physician to share medical information and obtain

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WELLNESS AND HEALTH SERVICES  
SCHOOL-BASED HEALTH CENTERS

FFAE  
(LEGAL)

authorization for delivering the medical service. *Education Code 38.061*

FUNDING

The District shall comply with the funding requirements and limitations set out in Education Code 38.062–.063 and with rules adopted by the commissioner of public health. *Education Code 38.062–.063*

STANDARDS FOR  
STATE-FUNDED  
CENTERS

If the District receives a grant from the Texas Department of State Health Services (TDSHS) to assist with the costs of operating school-based health centers, it must comply with TDSHS standards for funded centers. *25 TAC 37.531, 37.538*

WELLNESS AND HEALTH SERVICES  
INDIVIDUALIZED HEALTH PLAN

FFAF  
(LEGAL)

DIABETES  
MANAGEMENT AND  
TREATMENT PLAN

The parent or guardian of a student who will seek care for diabetes while at school or while participating in a school activity, and the physician responsible for the student's diabetes treatment, shall develop a diabetes management and treatment plan (DMTP).

REQUIRED  
ELEMENTS

The DMTP must:

1. Identify the health-care services the student may receive at school;
2. Evaluate the student's ability to manage and level of understanding of the student's diabetes; and
3. Be signed by the parent or guardian and the physician.

SUBMISSION TO  
SCHOOL

The parent or guardian must submit the DMTP to the school:

1. Before or at the beginning of the school year;
2. On enrollment of the student, if the student enrolls after the beginning of the school year; or
3. As soon as practicable following a diagnosis of diabetes for the student.

*Health and Safety Code 168.002*

INDIVIDUALIZED  
HEALTH PLAN

Upon receiving the student's DMTP, the school principal, or designee, and the school nurse, if a school nurse is assigned to the school, shall develop an individualized health plan (IHP) for the student. The IHP shall be developed in collaboration with the student's parent or guardian and, to the extent practicable, the physician responsible for the student's diabetes treatment and one or more of the student's teachers.

A student's IHP must incorporate components of the student's DMTP, including the information required under Health and Safety Code 168.002(b) [see REQUIRED ELEMENTS, above].

*Health and Safety Code 168.001(3); 168.003*

REQUIRED CARE

Each school shall adopt a procedure to ensure that a school nurse or at least one unlicensed diabetes care assistant (UDCA) is present and available to provide the required care to a student with diabetes during the regular school day. The District may not restrict the assignment of a student with diabetes to a particular campus on the basis that the campus does not have the required UDCA's.

*Health and Safety Code 168.007(c), (d)*

If a school nurse is assigned to a campus and the nurse is available, the nurse shall perform the tasks necessary to assist a student with diabetes in accordance with the student's IHP.

SCHOOL NURSE  
NOT AVAILABLE

If a school nurse is not assigned to the campus or a school nurse is not available, a UDCA shall perform the tasks necessary to assist the student in accordance with the student's IHP and in compliance with any guidelines provided during UDCA training. A UDCA may perform these tasks only if the parent or guardian of the student signs an agreement that:

1. Authorizes a UDCA to assist the student; and
2. States that the parent or guardian understands that a UDCA is not liable for civil damages [see IMMUNITY FROM LIABILITY, below].

*Health and Safety Code 168.007(a)*

If a school nurse is not assigned to a campus:

1. A UDCA must have access to an individual with expertise in the care of persons with diabetes, such as a physician, a registered nurse, a certified diabetes educator, or a licensed dietitian; or
2. The principal must have access to the physician responsible for the student's diabetes treatment.

*Health and Safety Code 168.007(b)*

UNLICENSED  
DIABETES CARE  
ASSISTANTS

At each school in which a student with diabetes is enrolled, the principal shall:

1. Seek school employees who are not health-care professionals to serve as UDCAs and to care for students with diabetes; and
2. Make efforts to ensure the school has:
  - a. At least one UDCA if a full-time nurse is assigned to the school; and
  - b. At least three UDCAs if a full-time nurse is not assigned to the school.

"School employee" means a person employed by a school, a local health department that assists the school under Health and Safety Code Chapter 168 (Care of Students with Diabetes), or another entity with whom the school has contracted to perform its duties under that chapter.

“Unlicensed diabetes care assistant” means a school employee who has successfully completed the required training [see UDCA TRAINING, below].

A school employee may not be subject to any penalty or disciplinary action for refusing to serve as a UDCA.

A UDCA shall serve under the supervision of the principal.

*Health and Safety Code 168.004*

UDCA TRAINING

Training for UDCA's must be provided by a health-care professional with expertise in the care of persons with diabetes or by a school nurse. The training must include instruction in the elements set forth at Health and Safety Code 168.005(d).

Training must be provided before the beginning of the school year or as soon as practicable following:

1. The enrollment of a student with diabetes at a campus that previously had no students with diabetes; or
2. A diagnosis of diabetes for a student at a campus that previously had no students with diabetes.

The school nurse or principal shall maintain a copy of the training guidelines and any records associated with the training.

*Health and Safety Code 168.005*

INFORMATION TO  
EMPLOYEES

The District shall provide to each District employee who is responsible for providing transportation for a student with diabetes or supervising a student with diabetes during an off-campus activity a one-page information sheet that:

1. Identifies the student who has diabetes;
2. Identifies potential emergencies that may occur as a result of the student's diabetes and the appropriate responses to such emergencies; and
3. Provide the telephone number of a contact person in case of an emergency involving the student with diabetes.

*Health and Safety Code 168.006*

IMMUNITY FROM  
LIABILITY

A school employee may not be subject to any disciplinary proceeding, as defined by Education Code 22.0512(b), resulting from any action taken in compliance with Health and Safety Code Chapter 168. The requirements of Chapter 168 are considered to involve the employee's judgment and discretion and are not considered

ministerial acts for purposes of immunity under Education Code 22.0511. *Health and Safety Code 168.009(b)* [See DH]

A school nurse is not responsible for and may not be subject to disciplinary action under Occupations Code Chapter 301 for actions performed by a UDCA. *Health and Safety Code 168.009(b)*

A UDCA who assists a student as provided above [see REQUIRED CARE] in compliance with the student's IHP:

1. Is not considered to be engaging in the practice of professional or vocational nursing under Occupations Code Chapter 301 or other state law; and
2. Is exempt from any applicable state law or rule that restricts the activities that may be performed by a person who is not a health-care provider.

A UDCA may exercise reasonable judgment in deciding whether to contact a health-care provider in the event of a medical emergency involving a student with diabetes.

*Health and Safety Code 168.007(e), (f)*



LIAISONS FOR  
COURT-RELATED  
STUDENTS

The District shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students.

The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. The liaison shall assist students and teachers so that students have the opportunity to complete all assignments missed because of their status as court-related students.

*Education Code 37.014; 19 TAC 129.22(c)*

LIAISON FOR  
HOMELESS  
STUDENTS

The District shall designate an appropriate staff person as the District liaison for homeless children. The District shall inform school personnel, service providers, and advocates working with homeless families of the duties of the liaison.

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through coordination activities with other entities and agencies;
2. Homeless children enroll in, and have a full and equal opportunity to succeed in, District schools;
3. Homeless families and children receive educational services for which they are eligible, including Head Start, Even Start, and District preschool programs, and referrals to health care, dental, mental health, and other appropriate services;
4. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
5. Public notice of the educational rights of homeless children is disseminated where such children receive services, such as schools, family shelters, and soup kitchens;
6. Enrollment disputes are mediated; and
7. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment.

*42 U.S.C. 11432(g)(6)(A)*

SCHOOL- COMMUNITY  
GUIDANCE CENTER

The District may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of District personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

*Education Code 37.051*

Upon request from the Superintendent, a governmental agency concerned with children that has jurisdiction in the District shall cooperate with the school-community guidance center and shall designate a liaison to work with the center in identifying and correcting problems affecting school-age children in the District. The governmental agency may establish or finance a school-community guidance center jointly with the District according to terms approved by the governing body of each participating entity. *Education Code 37.053*

COOPERATIVE  
PROGRAMS

The Board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

PARENTAL NOTICE  
AND ACCESS TO  
INFORMATION

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

*Education Code 37.054*

PARENTAL  
INVOLVEMENT

On admitting a student to a school-community guidance center, a representative of the District, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the District, to aid student remediation.

The Superintendent may obtain a court order from a district court in the District requiring a parent to comply with such an agreement. A parent who violates such a court order may be punished for contempt of court.

COURT  
SUPERVISION

If the District, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

*Education Code 37.055, 37.056*

PUBLIC SCHOOL  
CHILD CARE

The District shall annually consider, during at least two public hearings, the need for and availability of child care before, after, or both before and after the school day and during school holidays and vacations for the District's school-age students. The District shall effectively publicize the hearings and hold all hearings before the start of the school year.

For purposes of this requirement, "school-age" means children enrolled as students in prekindergarten through grade 7.

By May 1 of each year, the Work and Family Policies Clearinghouse in the Texas Workforce Commission shall distribute to each affected district information that describes model prekindergarten and school-age child care programs and explains how the District may obtain federal or state funds to operate such programs. The District shall distribute the information to the public at the hearings.

*Education Code 33.902; 40 TAC Ch. 809, Subch. J*

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**Note:** This section applies only to districts that: (1) on September 1 of a school year have a student membership of 5,000 or more; and (2) do not provide directly or by contract child care services before and after the school day and during school holidays and vacations for the District's school-age students.

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North East ISD  
015910

STUDENT WELFARE  
STUDENT SUPPORT SERVICES

FFC  
(LOCAL)

LIAISON FOR  
HOMELESS  
STUDENTS

The District has designated the following staff person as the liaison for homeless students:

Name: Barbara Bading

Position: Director of the McKinney-Vento Project

Address: 8438 Ahern Drive, San Antonio, TX 78216

Telephone: (210) 442-0640

STUDENT WELFARE  
STUDENT INSURANCE

FFD  
(LEGAL)

PURCHASING  
INSURANCE

The Board may purchase insurance against bodily injury sustained by students while training for or engaging in interscholastic athletic competition or while engaging in school-sponsored activities on a school campus. Such insurance shall be purchased from a reliable insurance company authorized to do business in Texas and shall be on forms approved by the commissioner of insurance. The amount shall be in keeping with the financial condition of the District and shall not exceed the amount that the Board considers reasonably necessary to afford adequate medical treatment of students so injured.

PAYMENT OF  
PREMIUMS

The cost of student insurance shall constitute a legitimate part of the total cost of operating the District.

NO LIABILITY FOR  
FAILURE TO  
PURCHASE

The failure of the Board to purchase student insurance shall not be construed as placing any legal liability upon the District or its officers, agents, or employees, for any injury that may result.

*Education Code 33.085*

OTHER COVERAGE

The District is not authorized to spend public funds on insurance to benefit persons to whom it owes no legal duty and shall not expend public funds for that purpose. Unauthorized insurance includes no-fault personal injury protection and uninsured motorist coverage. *Tex. Const., Art. 3, Secs. 50–52; Atty. Gen. Op. H-602 (1975)*

STUDENT WELFARE  
STUDENT ASSISTANCE PROGRAMS/COUNSELING

FFE  
(LEGAL)

CONSENT TO  
EXAMINATIONS,  
TESTS, OR  
TREATMENT

A District employee must obtain the written consent of a child's parent before the employee may conduct a psychological examination, test, or treatment, unless the examination, test, or treatment is required by:

1. TEA's policy concerning child abuse investigations and reports under Education Code 38.004; or
2. State or federal law regarding requirements for special education.

*Education Code 26.009(a)(1)* [See FNG]

CONSENT TO  
COUNSELING

A child may consent to counseling for:

1. Suicide prevention,
2. Chemical addiction or dependency; or
3. Sexual, physical, or emotional abuse.

*Family Code 32.004(a)*

PROFESSIONAL'S  
AUTHORITY

A licensed or certified physician, psychologist, counselor, or social worker having reasonable grounds to believe that a child has been sexually, physically, or emotionally abused; is contemplating suicide; or is involved in chemical or drug addiction or dependency may:

1. Counsel the child without the consent of the child's parents, managing conservator, or guardian;
2. With or without the consent of a child who is a client, advise the parents, managing conservator, or guardian of the treatment given to or needed by the child;
3. Rely on the written statement of the child containing the grounds on which the child has capacity to consent to his or her own treatment as provided above.

EXCEPTION: COURT  
ORDER

The physician, psychologist, counselor, or social worker may not counsel a child if consent is prohibited by a court order, unless consent is obtained as otherwise allowed by law.

*Family Code 32.004(b), (c)*

PROFESSIONAL  
IMMUNITY

A psychologist, counselor, or social worker licensed or certified by the state is not liable for damages except those damages that may result from his or her negligence or willful misconduct.

*Family Code 32.004(d)*

OUTSIDE  
COUNSELORS

Neither the District nor an employee of the District may refer a student to an outside counselor for care or treatment of a chemical dependency or an emotional or psychological condition unless the District does all of the following:

1. Obtains prior written consent for the referral from the student's parent, managing conservator, or guardian.
2. Discloses to the student's parent, managing conservator, or guardian any relationship between the District and the outside counselor.
3. Informs the student and the student's parent, managing conservator, or guardian of any alternative public or private source of care or treatment reasonably available in the area.
4. Requires the approval of appropriate District personnel before a student may be referred for care or treatment or before a referral is suggested as being warranted.
5. Specifically prohibits any disclosure of a student record that violates state or federal law.

*Education Code 38.010*

[See FFEA for information on the comprehensive guidance program]



STUDENT ASSISTANCE PROGRAMS/COUNSELING  
COMPREHENSIVE GUIDANCE PROGRAM

FFEA  
(LEGAL)

- COUNSELOR DUTIES      The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a counselor shall:
1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
    - a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
    - b. In need of modified instructional strategies; or
    - c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged.
  2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians.
  3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success.
  4. Coordinate people and resources in the school, home, and community.
  5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans.
  6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum.

*Education Code 33.006*

- PROGRAM DESIGN      The counselor shall design the developmental guidance and counseling program to include:
1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.
  2. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.

STUDENT ASSISTANCE PROGRAMS/COUNSELING  
COMPREHENSIVE GUIDANCE PROGRAM

FFEA  
(LEGAL)

3. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.
4. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

*Education Code 33.005*

PARENTAL REVIEW  
AND CONSENT

Before implementing a comprehensive and developmental counseling and guidance program, each school shall annually conduct a parents' preview of the program. All materials, including curriculum to be used during the year, shall be available on the campus for any parent or guardian to preview during school hours. No material or curriculum may be used in the counseling and guidance program that is not included in the materials available for preview.

Each school shall obtain and keep as part of the student's permanent record written consent by the parent or legal guardian for the student to participate in those activities for which the District requires parental consent. The consent form shall include specific information on the content of the program and the types of activities in which the student will be involved.

*Education Code 33.003, 33.004*

CONSENT  
GUIDELINES

The Board shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or other person showing evidence of legal responsibility other than a court order for the student to participate in those activities for which parental consent is required. *Education Code 25.001(j), 33.003*

The District shall attempt to ensure student safety through supervision of students in all school buildings, at all school-sponsored events or activities, and on all school grounds through special attention to the following:

1. Maintaining a reasonably safe school environment. [See CK, CLB]
2. Observing safe practices in those areas of instruction or extracurricular activities that offer special hazards. [See CKB]
3. Developing age-appropriate safety programs and activities for students at each grade level.
4. Emphasizing safety education to students enrolled in laboratory courses in science, industrial arts, health, and physical education. [See CK]
5. Providing first aid for students in case of accident or sudden illness. [See FFAC]
6. Annually reviewing the adequacy of emergency procedures at each campus in the District and providing for staff training in such procedures. [See CKC]
7. Implementing appropriate crisis management procedures when emergencies occur. [See CKC]

The Superintendent and the principals shall develop plans and procedures for acquainting students with safe conduct and behavior in a variety of conditions and circumstances, including play and recreation, fire, severe weather, use of bicycles and automobiles, and use of school transportation. Teachers and administrators shall promote these procedures among students as appropriate.

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LEGAL)

ANTIVICTIMIZATION  
PROGRAM

The District shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

DUTY TO REPORT  
BY ANY PERSON

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

BY A  
PROFESSIONAL

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

*Family Code 261.101(b)*

PSYCHOTROPIC  
DRUGS AND  
PSYCHOLOGICAL  
TESTING

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

*Education Code 26.0091; Family Code 261.111(a)* [See FFAC]

CONTENTS OF  
REPORT

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

*Family Code 261.103, 261.104*

TO WHOM REPORTED If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to the Texas Department of Family and Protective Services (DFPS), unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJA-EPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. The DFPS, including a local office where available;
3. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred; or
4. The agency designated by the court to be responsible for the protection of children.

*Family Code 261.103; 19 TAC 61.1051(a)(1)*

JJAEPS Any report of alleged abuse, neglect, or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Probation Commission and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program.

*Family Code 261.405(a)(2)(A), (b)*

IMMUNITY FROM LIABILITY A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

The District may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110* [See DG]

CRIMINAL OFFENSES  
FAILURE TO REPORT A person commits a class B misdemeanor if he or she has cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect and knowingly fails to report it as provided by law. *Family Code 261.109*

Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 TAC 249. *19 TAC 61.1051*

FALSE REPORT A person commits an offense if the person knowingly or intentionally makes a report of abuse and neglect that the person knows is

false or lacks factual foundation. The offense is a class A misdemeanor, except that it is a felony if the person has previously been convicted of the offense. *Family Code 261.107(a)*

COERCION	An employee who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i>
CONFIDENTIALITY	<p>A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. <i>Family Code 261.201</i></p> <p>Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. <i>Family Code 261.101(d)</i></p>
INVESTIGATIONS REPORTS TO DISTRICT	<p>If the DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public primary or secondary school, and that the child is a student at the school, the department shall orally notify the Superintendent of the district in which the employee is employed. <i>Family Code 261.105(d)</i></p> <p>The DFPS shall send a written report of its investigation, as appropriate, to the school principal, unless the principal is alleged to have committed the abuse or neglect, to the Board, and to the Superintendent. The report shall be edited to protect the identity of the person who made the report. <i>Family Code 261.406(b)</i></p>
INTERVIEW OF STUDENT	The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. <i>Family Code 261.302(b)</i> [See GRA]
INTERFERENCE WITH INVESTIGATION	A person may not interfere with an investigation of a report of child abuse or neglect conducted by the DFPS. <i>Family Code 261.303(a)</i>
REPORTING POLICY	<p>The Board shall establish and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.</p> <p>The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above (see TO WHOM REPORTED) within 48 hours or less, as determined by the Board, after learning of facts giving rise to the suspicion.</p>

The policies must also be consistent with 40 TAC Chapter 700 regarding investigations by the DFPS, including regulations governing investigation of abuse by school personnel and volunteers.  
*19 TAC 61.1051 [See GRA]*

The policies must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 TAC 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
  - a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
  - b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with the District's reporting policy;
6. The prohibition under Education Code 26.0091 (see PSYCHOTROPIC DRUGS AND PSYCHOLOGICAL TESTING, above); and
7. The current toll-free number for the DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

*19 TAC 1051*

ANNUAL  
DISTRIBUTION AND  
STAFF  
DEVELOPMENT

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by the Board. *19 TAC 61.1051(b)*

ABUSE OF DISABLED  
PERSONS

A person having cause to believe that a disabled person over the age of 18 or who has had the disabilities of minority removed is in

a state of abuse, neglect, or exploitation shall report the information immediately to the DFPS.

A person commits a class A misdemeanor if the person has cause to believe that a disabled person has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

*Human Resources Code 48.051, 48.052, 48.054*



## 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 the director of health services at (210) 804-7147.

### **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:

- 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.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Probation Commission as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or to another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

### **Will my report be kept confidential?**

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

### **Will I be liable in any way for making a report?**

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

### **What will happen if I don't report suspected child abuse or neglect?**

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

### **What are my responsibilities regarding investigations of abuse or neglect?**

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

The District may develop and implement a sexual harassment policy to be included in the District improvement plan. *Education Code 37.083* [See BQA]

Sexual abuse of a student by an employee, when there is a connection between the physical sexual activity and the employee's duties and obligations as a District employee, violates a student's constitutional right to bodily integrity. Sexual abuse may include fondling, sexual assault, or sexual intercourse. *U.S. Const. Amend. 14; Doe v. Taylor ISD, 15 F.3d 443 (5th Cir. 1994)*

Sexual harassment of students may constitute discrimination on the basis of sex in violation of Title IX. *20 U.S.C. 1681; 34 CFR 106.11; Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See FB regarding Title IX]

DEFINITION OF  
SEXUAL  
HARASSMENT

Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling among school children, however, even when the comments target differences in gender. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*

EMPLOYEE-STUDENT  
SEXUAL  
HARASSMENT

A District official who has authority to address alleged harassment by employees on the District's behalf shall take corrective measures to address the harassment or abuse. *Gebser v. Lago Vista ISD, 118 S.Ct. 1989 524 U.S. 274 (1998); Doe v. Taylor ISD, 15 F.3d 443 (5th Cir. 1994)*

STUDENT-STUDENT  
SEXUAL  
HARASSMENT

The District must reasonably respond to known student-on-student harassment where the harasser is under the District's disciplinary authority. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*

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**Note:** This policy addresses harassment of District students. For provisions regarding harassment of District employees, see DIA. For reporting requirements related to child abuse and neglect, see FFG.

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SEXUAL  
HARASSMENT  
BY AN EMPLOYEE

The District prohibits sexual harassment and harassment based on a person's race, color, gender, national origin, disability, or religion.

Employees shall not tolerate harassment of students and shall make reports as required at REPORTING PROCEDURES, below.

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

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

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

BY OTHERS

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

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

STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

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

EXAMPLES

Examples of sexual harassment of a student may include, but are not limited to, sexual advances; touching intimate body parts or coercing physical contact that is sexual in nature; jokes or conversations of a sexual nature; and other sexually motivated conduct, communications, or contact.

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

OTHER PROHIBITED  
HARASSMENT

Prohibited harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, gender, national origin, disability, or religion that is so severe, persistent, or pervasive that the conduct:

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

EXAMPLES

Examples of prohibited harassment may include, but are not limited to, offensive or derogatory language directed at another person's religious beliefs or practices, accent, skin color, or need for accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other negative stereotypes; or other kinds of aggressive conduct such as theft or damage to property.

REPORTING  
PROCEDURES

Any student who believes that he or she has experienced prohibited harassment should immediately report the alleged acts to a teacher, counselor, principal, or other District employee.

Any District employee who receives notice that a student has or may have experienced prohibited harassment is required to immediately report the alleged acts to an appropriate person designated below.

Any other person who knows or believes that a student has experienced prohibited harassment should immediately report the alleged acts to the appropriate person designated below.

Reports of known or suspected child abuse or neglect shall be made as required by law. [See FFG]

TIMELY REPORTING	<p>Reports of harassment shall be made as soon as possible after the alleged acts. A failure to promptly report alleged harassment may impair the District's ability to investigate and address the harassment.</p> <p>Oral or written reports of prohibited harassment shall normally be made to the campus principal. A person shall not be required to report harassment to the alleged harasser; nothing in this policy prevents a person from reporting harassment directly to one of the District officials below:</p>
DISTRICT OFFICIALS	<ol style="list-style-type: none"><li>1. For sexual harassment, the Title IX coordinator. [See FB(LOCAL)]</li><li>2. For all other prohibited harassment, the Superintendent.</li></ol> <p>A report against the Title IX coordinator may be made directly to the Superintendent; a report against the Superintendent may be made directly to the Board.</p>
NOTIFICATION OF REPORT	<p>Upon receipt of a report of harassment, a principal shall immediately notify the appropriate District official listed above.</p>
NOTICE TO PARENTS	<p>The principal or District official shall promptly notify the parents of any student alleged to have experienced prohibited harassment by a District employee or another adult associated with the District. In cases of student-to-student harassment, the District shall promptly notify the parents of any student alleged to have experienced harassment when the allegations presented, if proven, would constitute sexual harassment or other prohibited harassment as defined by District policy.</p>
CONFIDENTIALITY	<p>To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation and comply with applicable law.</p>
INVESTIGATION OF THE REPORT	<p>The District may request, but shall not insist upon, a written report. If a report is made orally, the District official shall reduce the report to written form.</p> <p>Upon receipt or notification of a report, the District official shall determine whether the allegations, if proven, would constitute sexual harassment or other prohibited harassment as defined by District policy. If so, the District official shall immediately authorize or undertake an investigation.</p>

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

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

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

The District's obligation to conduct an investigation is not satisfied by the fact that a criminal or regulatory investigation regarding the same or similar allegations is pending.

#### CONCLUDING THE INVESTIGATION

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

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

#### DISTRICT ACTION

If the results of an investigation indicate that prohibited harassment occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the harassment.

The District may take disciplinary action based on the results of an investigation, even if the District concludes that the conduct did not rise to the level of harassment prohibited by law or District policy.

#### APPEAL

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

#### RETALIATION PROHIBITED

Retaliation against a student alleged to have experienced harassment, a witness, or another person who makes a report or participates in an investigation is strictly prohibited. A person who makes a good faith report of prohibited harassment shall not suffer retaliation for making the report. A person who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding prohibited harassment is subject to appropriate discipline.

North East ISD  
015910

STUDENT WELFARE  
FREEDOM FROM HARASSMENT

FFH  
(LOCAL)

RECORDS RETENTION      Retention of records shall be in accordance with FB(LOCAL).

ACCESS TO POLICY      Information regarding this policy shall be distributed annually to District employees and included in the student handbook. Copies of the policy shall be readily available at each campus and the District's administrative offices.



North East ISD  
015910

GIFTS AND SOLICITATIONS

FJ  
(LEGAL)

CHARITABLE RAFFLES    The District is not a “qualified nonprofit organization” for purposes of the Charitable Raffle Enabling Act and shall not sponsor or conduct raffles, i.e., award one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.001 et seq.; Atty. Gen. Op. JM-1176 (1990)* [See also GE]

STUDENT RECORDS

FL  
(LEGAL)

This introductory page outlines the contents of the student records policy. See the following sections for statutory provisions on:

SECTION I	Education Records	pages 2–3
	<ol style="list-style-type: none"><li>1. Definition of ‘Education Records’</li><li>2. Screening Records</li><li>3. Immunization Records</li><li>4. Medical Records</li><li>5. Assessment Instruments</li><li>6. Academic Achievement Record</li></ol>	
SECTION II	Access, Disclosure, and Amendment	pages 3–9
	<ol style="list-style-type: none"><li>1. Access to Education Records: Parent, Student, and Other Persons</li><li>2. Request Procedure</li><li>3. Destruction of Requested Records</li><li>4. Subpoenaed Records</li><li>5. Transfer by Third Parties to Other Persons</li><li>6. Record of Access to Student Record</li><li>7. Right to Amend Records</li><li>8. Fees for Copies</li><li>9. Records of Students with Disabilities: Access, Consent, Confidentiality, Destruction</li><li>10. Annual Notification of Rights</li></ol>	
SECTION III	Directory Information	pages 9–12
	<ol style="list-style-type: none"><li>1. Definition and Disclosure of Directory Information</li><li>2. Designation of Directory Information</li><li>3. Annual Notice, Contents</li><li>4. Student Recruiting Information, Parental Consent to Release</li></ol>	
SECTION IV	Videotapes and Recordings	page 12
	<ol style="list-style-type: none"><li>1. Parental Consent</li><li>2. Exceptions to Consent</li></ol>	
SECTION V	Information from Law Enforcement	pages 12–14
	<ol style="list-style-type: none"><li>1. Criminal Records: Disclosure, Retention</li><li>2. Duty to Flag Records of Missing Children<ol style="list-style-type: none"><li>a. Requests Made in Person and in Writing</li><li>b. Removal of Flag</li></ol></li></ol>	

STUDENT RECORDS

FL  
(LEGAL)

'EDUCATION  
RECORDS' DEFINED

For the purposes of this policy, the term "education records" means those records, files, documents, and other materials that contain information directly related to a student and are maintained by an education agency or institution or by a person acting for such agency or institution.

The term "education records" does not include:

1. Records that contain only information about a student after he or she is no longer a student in the District.
2. Records made by District personnel that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to anyone other than a temporary substitute for the maker of the record.
3. Records maintained by a law enforcement unit of the District that were created by that law enforcement unit for the purpose of law enforcement.

*20 U.S.C. 1232g; 34 CFR 99.3*

SCREENING  
RECORDS

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and acanthosis nigricans screening for each student in the school. Records shall be open for inspection by the state or local health department. The Texas-Mexico Border Health Coordination Office may, directly or through local health departments, enter a school and inspect records relating to screening for acanthosis nigricans. Individual screening records may be transferred among schools in accordance with provisions below concerning ACCESS BY OTHER PERSONS. *20 U.S.C. 1232g; Health & Safety Code 36.006, 37.003, 95.004; 25 TAC 37.148(o)* [See FFAA]

IMMUNIZATION  
RECORDS

The District shall maintain an individual immunization record during the period of attendance for each student admitted. The records shall be open for inspection at all reasonable times by the Texas Education Agency or by representatives of local health departments or the Texas Department of Health. The District shall cooperate with other districts in transferring student's immunization records between other schools. Specific approval from students, parents, or guardians is not required prior to making such record transfers. *Education Code 38.002* [See FFAB]

MEDICAL RECORDS

The parent or guardian of a student is entitled to access to the student's medical records maintained by the District. On request of a student's parent or guardian, the District shall provide a copy of the student's medical records to the parent or guardian. The District may not impose a charge that exceeds the amount authorized by

STUDENT RECORDS

FL  
(LEGAL)

Section 552.261 of the Government Code [see GBA]. *Education Code 38.0095*

PRIVACY RULE FOR  
NON-EDUCATION  
RECORDS'

To the extent the District is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the District must comply with the Privacy Rule, 45 CFR Part 164, with respect to protected health information that is not an education record. *45 CFR 160.103, 164.501* [See CRD]

ASSESSMENT  
INSTRUMENTS

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by the District are confidential and may be made available only to the student, the student's parent or guardian, and to the school personnel directly involved with the student's educational program. However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district, and made available to the public, with appropriate interpretations, at regularly scheduled Board meetings. The information may not contain the names of individual students or teachers. *Education Code 39.030(b)* [See EKB]

ACADEMIC  
ACHIEVEMENT  
RECORD (GRADES  
9-12)

The District shall use the academic achievement record (transcript) form adopted by the State Board. This form shall serve as the academic record for each student and shall be maintained permanently by the District. Copies of the record shall be made available to students transferring to another district. The information may be provided to the student or to the receiving district or to both. The District shall respond promptly to all requests for student records from receiving districts. *19 TAC 74.14(b)* [See EI]

ACCESS TO  
EDUCATION  
RECORDS

Access to the education records of a student who is or has been in attendance at a school in the District shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes. "Parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian. *34 CFR 99.3, 99.10, 99.31(a)(8)*

The District shall presume that a parent has authority to inspect and review the student's records unless it has been provided with evidence that there is a court order, state statute, or legally binding document that specifically revokes these rights. A court may order the custodian of records to delete all references in a child's records to the place of residence of either party appointed as conservator before their release to another party appointed as conservator. *34 CFR 99.4; Family Code 153.012, 153.073*

A parent is entitled to access to all written records of the District concerning the parent's child, including attendance records, test scores, grades, disciplinary records, counseling records, psycho-

STUDENT RECORDS

FL  
(LEGAL)

logical records, applications for admission, health and immunization information, teacher and counselor evaluations, and reports of behavioral patterns. *Education Code 26.004*

ACCESS BY  
STUDENT

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student. *34 CFR 99.5*

If material in the education record of a student includes information on another student, only the portion of the material relating to the student whose records were requested may be inspected and reviewed. *34 CFR 99.12(a)*

ACCESS BY OTHER  
PERSONS

Personally identifiable information in education records shall not be released without the written consent of the student's parents, except to the following:

1. School officials, including teachers, who have legitimate educational interests. An administrator, nurse, or teacher is entitled to access to a student's medical records maintained by the District for reasons determined in District policy. *34 CFR 99.36; Education Code 38.009* [See DMA]
2. Officials of other schools or school systems in which the student seeks or intends to enroll, provided that the District either:
  - a. Includes in its policies a statement that notifies the parent or student that it forwards education records on request of the other school to such officials; or
  - b. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, the District shall furnish a copy of the transferred records to the parent if requested, and give the parent an opportunity for a hearing to challenge the content of the record.

3. Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, or state and local educational authorities who require access to student or other records necessary in connection with the audit and evaluation of federal- or state-supported education programs or in connection with the enforcement of or compliance with federal legal requirements that relate to such programs. *34 CFR 99.35*

The District may not refuse to report information concerning a student holding an F, J, or M visa on the basis of the Family Educational Rights and Privacy Act (FERPA) and any regulation implementing FERPA. The District is authorized and required to report information that would ordinarily be protected by FERPA only to the extent required by 8 U.S.C. 1372, 8 CFR 214.3, or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 CFR 214.1(h)*

4. Personnel involved with a student's application for, or receipt of, financial aid.
5. State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute adopted:
  - a. Prior to November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve the student whose records are released, or
  - b. After November 19, 1974, if:
    - (1) The allowed reporting or disclosure concerns the juvenile justice system and its ability to effectively serve, prior to adjudication, the student whose records are released; and
    - (2) The officials and authorities to whom such information is disclosed certify in writing to the District that the information will not be disclosed to any other party except as provided under state law without the prior written consent of the parent of the student.
6. Organizations conducting studies for educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. Such studies must be conducted so that personal identification of students and their parents will not be revealed to persons other than authorized personnel of the organizations conducting the studies. Such information must be destroyed when no longer needed for the original purposes of the studies.
7. Accrediting organizations that require the information for purposes of accreditation.
8. Parents of a student who is a dependent for tax purposes.

STUDENT RECORDS

FL  
(LEGAL)

9. Appropriate persons who, in an emergency, must have such information in order to protect the health or safety of the student or other person. *34 CFR 99.36*
10. Any person requesting directory information after the District has given public notice of that definition. *34 CFR 99.37*

*20 U.S.C. 1232g(b); 34 CFR 99.31*

The parent shall provide a signed and dated written consent before the District discloses personally identifiable information from a student's education records to any individual, agency, or organization other than the parent, the student, or those listed above. Such consent shall specify records to be released, the reason for such release, and to whom the records are to be released. *34 CFR 99.30*

REQUEST  
PROCEDURE

Upon request of a properly qualified individual, access to a student's education record shall be granted within a reasonable period of time, not to exceed 45 days. The District shall respond to reasonable requests for explanations and interpretations of the records. *34 CFR 99.10*

DESTRUCTION OF  
RECORDS

The District shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 CFR 99.10(e)*

SUBPOENAED  
RECORDS

The District shall release student records to an entity or persons designated in a subpoena. The District shall not disclose to any person the existence or contents of the subpoena if a court orders the District to refrain from such disclosure. Unless the court or other issuing agency orders the District to refrain from such disclosure, the District shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 CFR 99.31(9)*

TRANSFER NOT  
PERMITTED

Personal information from student education records shall be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student's parent. If a third party permits access to information in violation of this policy, the District shall not permit access to information from education records to that third party for a period of not less than five years. *20 U.S.C. 1232g(b)(4)(B); 34 CFR 99.33(a)(1)*

The District shall inform a party to whom a disclosure is made of the requirements of *34 CFR 99.33*, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; or the disclosure

is made to a parent of a student who is not an eligible student or to a student. *34 CFR 99.33(c), (d)*

The District may disclose personally identifiable information with the understanding that the party receiving the information may make further disclosures of the information on behalf of the District if:

1. The disclosures meet the requirements of 34 CFR 99.31; and
2. The District has complied with the requirements of 34 CFR 99.32(b) regarding the record of disclosure.

*34 CFR 99.33(b)*

RECORD OF ACCESS  
TO STUDENT RECORD

Each school shall maintain a record, kept with the education record of each student, that indicates all individuals, agencies, or organizations that have requested or obtained access to a student's education records. The records shall include at least the name of the person or agency that made the request and the legitimate interest the person or agency had in the information. The record will be maintained as long as the District maintains the student's education record. The record of access shall be available only to parents, school officials responsible for custody of the records, and those state, local, and federal officials authorized to audit the operation of the system. *20 U.S.C. 1232g(b)(4)(A)*

The record shall not include requests for access by, or access granted to, parents of the student or officials of the District, requests accompanied by prior written consent of the parent, or requests for directory information. *34 CFR 99.32(d)*

RIGHT TO AMEND  
RECORDS

The parent of a student whose records are covered by this policy may ask the District to amend the student's record if the parent believes it contains information that is inaccurate, misleading, or in violation of the student's right of privacy or other rights. If the District decides not to amend the education records requested, it shall inform the parent of its decision and his or her right to a hearing to challenge the content of the student's education records.

If the District decides to amend the records as a result of the hearing, it shall inform the parent in writing. If, as a result of the hearing, the District decides not to amend the records, it shall inform the parent of the right to place a statement in the records commenting on the contested information and/or stating why the parent disagrees with the decision of the District. Any explanation shall be maintained with the contested part of the record for as long as the record is maintained and shall be disclosed whenever the contested portion of the record is disclosed.



STUDENT RECORDS

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(LEGAL)

*34 CFR 99.20, 99.21*

FEES FOR COPIES

No fee shall be charged to search for or to retrieve the education records of a student. A fee may be charged for copies of education records that are made for the parents or students under this policy provided that the fee does not effectively prevent them from exercising their right to inspect and review those records. Hardship cases shall be dealt with on an individual basis. *20 U.S.C. 1232g; 34 CFR 99.11; Education Code 26.012*

RECORDS OF  
STUDENTS WITH  
DISABILITIES

The District shall permit parents to inspect and review education records collected, maintained, or used for purposes of identifying, evaluating, placing, or educating students with disabilities. *34 CFR 300.613(a)*

ACCESS RIGHTS

In addition to policies applicable to all student records, the following guidelines shall apply when parents of a student with disabilities request to review or inspect District records relating to the education of their child:

1. Parents may request that a representative inspect and review the records. *34 CFR 300.613(b)(3)*
2. The District shall comply with a request without unnecessary delay and before any meeting regarding an individualized education program (IEP) or hearing relating to the identification, evaluation, or placement of the child, and in no case longer than 45 days after the request. *34 CFR 300.613(a)*
3. The District shall keep a record of persons obtaining access to these student records (except access by parents and authorized employees), including name, date of access, and the purpose for which the person is authorized to use the records. *34 CFR 300.614*

LIST OF TYPES AND  
LOCATIONS OF  
INFORMATION

The District shall provide parents on request a list of types and locations of education records. *34 CFR 300.616*

PARENTAL  
CONSENT

Parental consent must be obtained before personally identifiable information is used for any purpose other than meeting a requirement under the Individuals with Disabilities Education Act or disclosed to anyone other than officials of agencies collecting or using this information. The District may not release information from these records without parental consent except as provided in the Family Educational Rights and Privacy Act (FERPA). *34 CFR 300.622*

CONFIDENTIALITY

The District shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of

STUDENT RECORDS

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(LEGAL)

records. One official in the District shall assume responsibility for ensuring confidentiality of personally identifiable information. All persons collecting or using this information shall receive training or instruction concerning the legal requirements involved in handling these records. The District shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 CFR 300.623*

DESTRUCTION OF  
INFORMATION

The District shall inform parents when personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide educational services to the student. Such information shall be destroyed at the request of the parents.

A permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and year completed may be maintained without time limitation.

*34 CFR 300.624*

ANNUAL  
NOTIFICATION OF  
RIGHTS

The District shall give parents of students in attendance and eligible students in attendance annual notification of their rights under the Family Educational Rights and Privacy Act of 1974 and of the places where copies of this policy may be located, including notice of the right to file complaints concerning alleged failures by the District to comply with the provisions of the Act. The District shall effectively notify parents of students who have a primary or home language other than English. *20 U.S.C. 1232g(e); 34 CFR 99.7*

DIRECTORY  
INFORMATION

"Directory information" means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Directory information includes the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, dates of attendance, grade level, enrollment status, participation in officially recognized activities and sports, weight and height of members of athletic teams, honors and awards received, and the most recent educational agency or institution attended.

The District may release directory information if it has given public notice of:

1. The types of personally identifiable information that it has designated as directory information.
2. The right of the parent to refuse to permit the District to designate any or all of that information about the student as directory information.

3. The period of time within which the parent must notify the District in writing that he or she does not want any or all of those types of information about the student designated as directory information.

An educational agency or institution may disclose directory information about former students without satisfying the public notice conditions above.

*34 CFR 99.3, 99.37*

DESIGNATION OF  
DIRECTORY  
INFORMATION

The District may designate as directory information any or all information defined as directory information by FERPA. Directory information under that Act that is not designated by the District as directory information for that District is excepted from disclosure by the District under Government Code Chapter 552. [See GBA]

Directory information consented to by a parent for use only for a limited school-sponsored purpose, such as for a student directory, student yearbook, or District publication, if any such purpose has been designated by the District, remains otherwise confidential and may not be released under Government Code Chapter 552.

ANNUAL NOTICE

The District shall provide the following to the parent of each District student, at the beginning of each school year or on enrollment of the student after the beginning of the school year:

1. A written explanation of the provisions of FERPA regarding the release of directory information about the student; and
2. Written notice of the right of the parent to object to the release of directory information about the student under FERPA.

CONTENTS OF  
NOTICE

The notice must contain:

1. The following statement in boldface type that is 14-point or larger:

“Certain information about District students is considered directory information and will be released to anyone who follows the procedures for requesting the information unless the parent or guardian objects to the release of the directory information about this student. If you do not want [insert name of District] to disclose directory information from your child’s education records without your prior written consent, you must notify the District in writing by [insert date]. [Insert name of District] has designated the following information as directory information: [Here the District must include any directory information it chooses to designate as directory information for the District, such as a student’s name, address, telephone

listing, electronic mail address, photograph, degrees, honors, and awards received, date and place of birth, major field of study, dates of attendance, grade level, most recent education institution attended, participation in officially recognized activities and sports, and the weight and height of members of athletic teams.]”;

2. A form, such as a check-off list or similar mechanism, that:
  - a. Immediately follows, on the same page or the next page, the required statement; and
  - b. Allows a parent to record:
    - (1) The parent’s objection to the release of all directory information or one or more specific categories of directory information if District policy permits the parent to object to one or more specific categories of directory information;
    - (2) The parent’s objection to the release of a secondary student’s name, address, and telephone number to a military recruiter or institution of higher education; and
    - (3) The parent’s consent to the release of one or more specific categories of directory information for a limited school-sponsored purpose if such purpose has been designated by the District and is specifically identified, such as for a student directory, student yearbook, or District publication; and
3. A statement that federal law requires districts receiving assistance under the Elementary and Secondary Education Act of 1965 [see EHBD] to provide a military recruiter or an institution of higher education, on request, with the name, address, or telephone number of a secondary student unless the parent has advised the District that the parent does not want the student’s information disclosed without the parent’s prior written consent.

*Education Code 26.013*

STUDENT  
RECRUITING  
INFORMATION

Notwithstanding the DIRECTORY INFORMATION provisions above, each district receiving assistance under the Elementary and Secondary Education Act of 1965 (ESEA) shall provide, on a request made by military recruiters or an institution of higher education, access to secondary school students’ names, addresses, and telephone listings.

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CONSENT TO  
RELEASE

A secondary school student or the parent of the student may request that the student's name, address, and telephone listing described above not be released without prior written parental consent, and the District shall notify parents of the option to make a request and shall comply with any request.

*20 U.S.C. 7908*

VIDEOTAPES AND  
RECORDINGS

A District employee must obtain the written consent of a child's parent before the employee may make or authorize the making of a videotape of a child or record or authorize the recording of a child's voice.

EXCEPTIONS

A District employee is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

1. The purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
2. A purpose related to a cocurricular or extracurricular activity;
3. A purpose related to regular classroom instruction; or
4. Media coverage of the school.

*Education Code 26.009* [See EHA, FM, and FO]

INFORMATION FROM  
LAW ENFORCEMENT

Upon receipt of confidential notice from a law enforcement agency that it has arrested a student or referred a student to the juvenile board for any felony offense or other specified offense [see GRA], the Superintendent shall promptly notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

The Superintendent or a person designated by the Superintendent may send the information in the notice to a District employee having direct supervisory responsibility over the student if the Superintendent or designee determines that the District employee needs the information for educational purposes or for the protection of the person informed or others.

When the Superintendent or designee receives information from a prosecuting attorney of a student's conviction or adjudication of delinquent conduct for a felony offense or other specified offense, the Superintendent or designee shall promptly notify all instructional and support personnel who have regular contact with the student.

A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure article 15.27.

*Code of Criminal Procedure 15.27(a)–(d), (f), (h)*

Information received by the District under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. The District shall destroy the information at the end of the academic year in which the report was filed. *Education Code 37.017*

DUTY TO FLAG  
RECORDS

Upon receipt of notification from a law enforcement agency or the missing children and missing persons information clearinghouse that a child under 11 years of age who attended or who is enrolled in the school is missing, the school shall flag the child's records and maintain the records in its possession so that on receipt of a request regarding the child, the school will be able to notify law enforcement or the missing children and missing persons information clearinghouse that a request for a flagged record has been made.

REQUEST IN  
PERSON

When a request for a flagged record is made in person, the school may not advise the requesting party that the request concerns a missing child and shall:

1. Require the person requesting the flagged record to complete a form stating the person's name, address, telephone number, and relationship to the child for whom a request is made, and the name, address, and birth date of the child;
2. Obtain a copy of the requesting party's driver's license or other photographic identification, if possible;
3. If the request is for a birth certificate, inform the requesting party that a copy of a certificate will be sent by mail; and
4. Immediately notify the appropriate law enforcement agency that a request has been made concerning a flagged record and include a physical description of the requesting party, the identity and address of the requesting party, and a copy of the requesting party's driver's license or other photographic identification.

After providing the information listed above, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REQUEST IN  
WRITING

When a request for a flagged record is made in writing, the school may not advise the requesting party that the request concerns a missing child and shall immediately notify the appropriate law en-

forcement agency that a request has been made concerning a flagged record and provide to the law enforcement agency a copy of the written request. After providing the notification, the school shall mail a copy of the requested record to the requesting party on or after the 21st day after the date of the request.

REMOVAL OF FLAG

On the return of a missing child under 11 years of age, the law enforcement agency shall notify each school that has maintained flagged records for the child that the child is no longer missing. On receipt of this notification, the school shall remove the flag from the records.

A school that has reason to believe that a missing child has been recovered may request confirmation that the missing child has been recovered from the appropriate law enforcement agency or the missing children and missing persons information clearing-house. If a response is not received after the 45th day after the date of the request for confirmation, the school may remove the flag from the record and shall inform the law enforcement agency or the missing children and missing persons information clearing-house that the flag has been removed.

*Code of Criminal Procedure 63.020 - 63.022*

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(LOCAL)

COMPREHENSIVE  
SYSTEM

The Superintendent or designee shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school personnel.

CUMULATIVE RECORD

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See GBA]

CUSTODIAN OF  
RECORDS

The principal is custodian of all records for currently enrolled students at the assigned school. The guidance coordinator is the custodian of records for students who have withdrawn or graduated. The student handbook distributed annually to all students and parents shall contain a listing of the addresses of District schools, as well as the business address of the guidance coordinator.

TYPES AND  
LOCATIONS OF  
EDUCATION  
RECORDS

Each record custodian, at the location listed in the student handbook, shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by a grade placement committee convened for the student.
5. Health services record, including:
  - a. The results of any tuberculin tests required by the District.
  - b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]
  - c. Immunization records. [See FFAB]



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6. Attendance records.
7. Student questionnaires.
8. Records of teacher, counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Other records that may contribute to an understanding of the student.

REQUEST  
PROCEDURES

The cumulative record shall be made available to the parent. Records may be reviewed during regular school hours upon written request to the record custodian. The record custodian or designee shall be present to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and the records shall be restricted to use only in the Superintendent's, principal's, or counselor's office, or other restricted area designated by the record custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

STUDENT RIGHTS

Whenever a student has attained 18 years of age or is attending an institution of postsecondary education, the rights accorded to, and consent required of, parents transfer from the parents to the student.

ACCESS BY SCHOOL  
OFFICIALS

For the purposes of this policy, "school officials" shall mean any employees, trustees, or agents of the District, of cooperatives of which the District is a member, or of facilities with which the District contracts for placement of students with disabilities. The term also includes attorneys, consultants, and independent contractors who are retained by the District, by cooperatives of which the District is a member, or by facilities with which the District contracts for placement of students with disabilities.

School officials have a "legitimate educational interest" in a student's records when they are working with the student; considering

STUDENT RECORDS

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(LOCAL)

disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities; compiling statistical data; or investigating or evaluating programs.

**ACCESS BY PARENTS** Parents may be denied copies of records after the student reaches age 18 and is no longer a dependent for tax purposes, when the student is attending an institution of postsecondary education, or if they fail to follow proper procedures and pay the copying charge. If the student qualifies for free or reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of the parent, one copy of the record shall be provided at no charge.

**FEES FOR COPIES** Copies of records are available at a per copy cost, payable in advance, as specified in the annual notice to parents of their privacy rights.

**TRANSCRIPTS AND TRANSFERS OF RECORDS** The District may request transcripts from previously attended schools for students transferring into District schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

The District shall promptly forward education records upon request to officials of other schools or school systems in which the student intends to enroll.

**RECORDS RESPONSIBILITY FOR STUDENTS IN SPECIAL EDUCATION** The official responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education shall be the executive director of special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at the campus special education office or a designated secure location.

**PROCEDURE TO AMEND RECORDS** Within 15 school days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within ten school days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence, and at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within ten school days of the hearing. The decision shall be based solely on

the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 school days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

DIRECTORY  
INFORMATION

The District has designated the following categories of information as directory information: student name, address, telephone listing, electronic mail address, photograph, and date and place of birth, as well as major field of study; degrees, honors, and awards received; dates of attendance; grade level; most recent educational institution attended; participation in officially recognized activities and sports; and weight and height of members of athletic teams.

A parent shall be permitted to object to the release of one or more categories of directory information regarding his or her child.

STUDENT ACTIVITIES

FM  
(LEGAL)

APPLICABILITY OF UIL RULES AND DISTRICT POLICIES	A student enrolled in the District or who participates in an extracurricular activity or a University Interscholastic League (UIL) competition is subject to District policy and UIL rules regarding participation only when the student is under the direct supervision of an employee of the school or district in which the student is enrolled or at any other time specified by resolution of the Board. <i>Education Code 33.081(b)</i> [See FO regarding additional standards of conduct for extracurricular activities]
SUSPENSION FROM EXTRACURRICULAR ACTIVITIES	A student shall be suspended from participation in any extracurricular activity sponsored or sanctioned by the District or the UIL after a grade evaluation period in which the student received a grade lower than the equivalent of 70 on a scale of 100 in any academic class other than an identified honors or advanced class.
LENGTH OF SUSPENSION	A suspension continues for at least three school weeks and is not removed during the school year until the conditions of REINSTATEMENT, described below, are met. A suspension shall not last beyond the end of a school year.
GRADE EVALUATION PERIOD	“Grade evaluation period” means: <ol style="list-style-type: none"><li>1. The six-week grade reporting period; or</li><li>2. The first six weeks of a semester and each grade reporting period thereafter, in the case of a district with a grade reporting period longer than six weeks.</li></ol> <p><i>Education Code 33.081(c)</i></p>
SCHOOL WEEK	The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays. <i>19 TAC 76.1001(b)</i>
ADVANCED COURSES	The following are considered “advanced courses” for the purposes of this policy: <ol style="list-style-type: none"><li>1. English Language Arts: All College Board advanced placement courses and International Baccalaureate courses in the discipline and high school/college concurrent enrollment classes that are included in the <i>Community College General Academic Course Guide Manual (Part One)</i>;</li><li>2. Fine Arts: All College Board advanced placement courses and International Baccalaureate courses in the discipline, high school/college concurrent enrollment classes that are included in the <i>Community College General Academic Course Guide Manual (Part One)</i>, Dance IV (not to include drill team activities), Art IV, Music IV, and Theatre IV;</li></ol>

3. Languages other than English: All College Board advanced placement courses and International Baccalaureate courses in the discipline and high school/college concurrent enrollment classes that are included in the *Community College General Academic Course Guide Manual (Part One)*, and languages other than English courses Levels IV–VII;
4. Mathematics: All College Board advanced placement courses and International Baccalaureate courses in the discipline, high school/college concurrent enrollment classes that are included in the *Community College General Academic Course Guide Manual (Part One)*, and Precalculus;
5. Science: All College Board advanced placement courses and International Baccalaureate courses in the discipline, and high school/college concurrent enrollment classes that are included in the *Community College General Academic Course Guide Manual (Part One)*; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, all College Board advanced placement courses and International Baccalaureate courses in the discipline and high school/college concurrent enrollment classes that are included in the *Community College General Academic Course Guide Manual (Part One)*.

The District may identify additional advanced courses, but must do so before the semester in which any exemptions related to extracurricular activities occur.

*19 TAC 74.30*

STUDENTS WITH  
DISABILITIES

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

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

*Education Code 33.081(e)*

PRACTICE OR  
REHEARSAL

A student suspended under Education Code 33.081 may practice or rehearse with other students for an extracurricular activity but

STUDENT ACTIVITIES

FM  
(LEGAL)

may not participate in a competition or other public performance.  
*Education Code 33.081(f)*

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

ATTENDANCE AND PARTICIPATION      The State Board of Education by rule shall limit participation in and practice for extracurricular activities during the school day and the school week.

The Board may adopt a policy establishing the number of times a student who is otherwise eligible to participate in an extracurricular activity may be absent from class to participate in an extracurricular activity sponsored or sanctioned by the District, UIL, or an organization sanctioned by Board resolution. The policy must permit a student to be absent from class at least ten times during the school year, and the policy prevails over any conflicting policy adopted by the State Board of Education.

*Education Code 33.081(a), 33.0811*

STATE BOARD OF EDUCATION RULES      The following provisions apply to any UIL activity.

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

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

Extracurricular activities include public performances (except as described below), contests, demonstrations, displays, and club activities. In addition, an activity is subject to this policy if any one of the following criteria applies:

STUDENT ACTIVITIES

FM  
(LEGAL)

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

EXCEPTION —  
PUBLIC  
PERFORMANCES

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

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

*19 TAC 76.1001(a)*

LIMITS ON  
PARTICIPATION  
AND PRACTICE

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

DURING THE  
SCHOOL WEEK

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

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

DURING THE  
SCHOOL DAY

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

STUDENT ACTIVITIES

FM  
(LEGAL)

1. The District must limit a student to one period of practice during the regularly scheduled school day for practice of extracurricular activities, such as athletics, drill team, or cheerleading.
2. The limit in item 1 does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity for no more than one period during the school day.
3. A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
4. The District must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
5. Regardless of the schedule type in place (traditional or non-traditional), a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.

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

RECORD OF  
ABSENCES

The District shall maintain an accurate record of extracurricular absences for each student in the District each school year. *19 TAC 76.1001(c)*

PARENTAL NOTICE  
AND CONSENT

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

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

A District employee is not required to obtain the consent of a child's parent before the employee may videotape the child or record the child's voice if the videotape or recording is to be used only for a



STUDENT ACTIVITIES

FM  
(LEGAL)

purpose related to a cocurricular or extracurricular activity. *Education Code 26.009(b)(2)*

DISCRIMINATORY  
CLUB

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

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

*Education Code 33.082*

STUDENT ACTIVITIES

FM  
(LOCAL)

EXTRACURRICULAR  
ACTIVITY ABSENCES

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

SCHOOL INSIGNIA

School mascots, colors, emblems, logos, and other insignia adopted by a school when it is opened shall not be changed without the approval of the Superintendent. Schools shall adhere to these adopted items when ordering uniforms, materials, or publications for the school.

The District's educators shall exercise editorial control over style and content of student speech in school-sponsored expressive activities so long as their actions are reasonably related to legitimate pedagogical concerns.

The District may refuse to disseminate or sponsor student speech that:

1. Would substantially interfere with the work of the school.
2. Impinges on the rights of other students.
3. Is vulgar or profane.
4. Might reasonably be perceived to advocate drug or alcohol use, irresponsible sex, or conduct otherwise inconsistent with the shared values of a civilized social order.
5. Is inappropriate for the level of maturity of the readers.
6. Does not meet the standards of the educators who supervise the production of the publication.
7. Associates the school with any position other than neutrality on matters of political controversy.

*Hazelwood Sch. Dist. v. Kuhlmeier, 484 U.S. 260, 108 S. Ct. 562 (1988)*

STUDENT ACTIVITIES  
SCHOOL-SPONSORED PUBLICATIONS

FMA  
(LOCAL)

All publications edited, printed, or distributed in the name of or within the District schools shall be under the control of the school administration and the Board. All publications approved and issued by individual schools shall be part of the instructional program, under the supervision of a faculty sponsor, and shall be carefully edited to reflect the ideals and expectations of the citizens of the District for their schools. The principal shall be responsible for all matters pertaining to the organization, issuance, and sale of such publications and any other publication procedure, subject to the Superintendent's approval.

ADVERTISING

Advertising in individual school publications may be accepted from bona fide business firms, subject to the approval of professional employees exercising editorial supervision over the publications. Advertising deemed inappropriate for student readers or that advertises products presenting a health hazard, such as alcohol or tobacco products, shall not be accepted.

COMPLAINTS

Students who have a complaint regarding the procedures or a professional decision affecting the content or style of a school-sponsored publication shall present that complaint in accordance with FNG.

STUDENT ACTIVITIES  
CONTESTS AND COMPETITION

FMF  
(LOCAL)

UIL ACTIVITIES

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

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

ATHLETIC  
PROGRAM

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

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

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

NON-UIL ACTIVITIES

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

OVERNIGHT TRIPS

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

North East ISD  
015910

STUDENT ACTIVITIES  
TRAVEL

FMG  
(LOCAL)

SCHOOL-SPONSORED  
TRIPS IN GENERAL

Students who participate in school-sponsored trips shall be required to ride in transportation provided by the school to and from the event. Exception may be made if the student's parent or guardian personally requests that the student be allowed to ride with the parent or presents a written request to the principal the day before the scheduled trip that the student be allowed to ride with an adult designated by the parent. The District shall not be liable for any injuries that occur to students riding in vehicles that are not provided by the school.

STUDENT ACTIVITIES  
COMMENCEMENT

FMH  
(LEGAL)

INVOCATIONS /  
BENEDICTIONS

School officials shall not direct the performance of a formal religious exercise at promotional and graduation ceremonies. Lee, et al. v. Weisman, 505 U.S. 577, 112 S. Ct. 2649 (1992) (addressing prayer by clergy at graduation)

The Board may permit the graduating senior class(es), with the advice and counsel of the senior class sponsor, to select student volunteers to deliver nonsectarian, nonproselytizing invocations and benedictions for the purpose of solemnizing their graduation ceremonies. Jones v. Clear Creek Indep. Sch. Dist., 977 F.2d 963 (5th Cir. 1992), cert. denied, 508 U.S. 967, 113 S. Ct. 2950 (1993)

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**Note:** Although not expressly overruled, the precedential value of *Jones v. Clear Creek ISD* has been called into question by the United States Supreme Court's decision in *Santa Fe ISD v. Doe*, 530 U.S. 290, 120 S. Ct. 2266 (2000). [See FNA(LEGAL) at PRAYER AT SCHOOL ACTIVITIES]

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EARLY GRADUATES

A parent is entitled to have a child who graduates earlier than the child would normally graduate participate in graduation ceremonies at the time the child graduates, if the child completes each course required for graduation. *Education Code 26.003(a)(3)(C), (4)* [See EIF]

STUDENT ACTIVITIES  
COMMENCEMENT

FMH  
(LOCAL)

COMMENCEMENT  
EXERCISES

Students shall meet all state and local graduation requirements, including all applicable exit-level testing, to be eligible to participate in commencement activities and ceremonies. [See EI, EIF]

The Superintendent shall ensure that each high school's commencement ceremony is a dignified tribute to individual and class accomplishments and a source of pride for students and their families. Commencement exercises shall be under the supervision and control of the school principal, who shall delegate specific duties to his or her staff as needed. Ceremonies shall be orderly, appropriately serious, and thoughtfully planned, rehearsed, and executed.

Ceremonies shall affirm the worth of every individual graduating senior and respect the diversity of the class. To demonstrate that all students are valued, no matter what their level of achievement:

1. All of a school's ceremonial robes and headgear shall be of the same color. Individual honors or recognitions shall be indicated by colored ropes, stoles, or other accessories.
2. During the presentation of diplomas, each student's name shall be pronounced correctly, the result of prior consultation with the student, and enunciated clearly with the same inflection given to each name being read. Each student's formal name shall be listed in the commencement program and also read on stage. A suitable pause shall elapse between names being read, to give each student appropriate recognition.

The school shall be responsible for the safety of all graduating seniors until the conclusion of the ceremony and their exit from the building. All students shall be supervised by school personnel at all times. If a student must be excluded at any time during the ceremony, he or she must remain within the building under the supervision of a staff member until the conclusion of the ceremony.

If discipline of a student is deemed necessary by the principal or designee, it shall be handled calmly according to a prearranged plan understood and followed by all school personnel and understood by the graduating class.



STUDENT RIGHTS AND RESPONSIBILITIES

FN  
(LOCAL)

Each student is expected to respect the rights and privileges of other students, teachers, and District staff. All teachers, administrators, and other District personnel are expected to respect the rights and privileges of students. [See DH series]

STUDENT HANDBOOK The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. Student handbooks shall be distributed at the beginning of the school year to students and parents, teachers, and administrators and shall be provided also to newly hired professional employees, newly enrolled students, and to any other person on request. Amendments to the handbook shall be communicated promptly to students and parents.

NO BOARD ACTION Student handbooks are subject to Board review but shall not be adopted by the Board.

REVISIONS The Superintendent or designee shall ensure that no student handbook information is in conflict with policy or the Student Code of Conduct. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, policy and/or the Student Code of Conduct shall prevail.

[For provisions on the Student Code of Conduct, see FO(LEGAL) and (LOCAL)]

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

FIRST AMENDMENT

The District shall take no action respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Board for a redress of grievances. *U.S. Const. Amend. 1*

FREEDOM OF  
SPEECH

Students do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate. At school and school events, students have First Amendment rights, applied in light of the special characteristics of the school environment.

Student expression that is protected by the First Amendment may not be prohibited absent a showing that the expression will materially and substantially interfere with the operation of the school or the rights of others.

*Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503 (1969)  
[See also FNCI]

The inculcation of fundamental values necessary to the maintenance of a democratic society is part of the work of the school. The First Amendment does not prevent school officials from determining that particular student expression is vulgar and lewd, and therefore contrary to the school's basic educational mission. *Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675 (1986)

PRAYER AT  
SCHOOL  
ACTIVITIES

A public school student has an absolute right to individually, voluntarily, and silently pray or meditate in school in a manner that does not disrupt the instructional or other activities of the school. A student shall not be required, encouraged, or coerced to engage in or refrain from such prayer or meditation during any school activity. *Education Code 25.901*

Nothing in the Constitution as interpreted by the U.S. Supreme Court prohibits any public school student from voluntarily praying at any time before, during, or after the schoolday. But the religious liberty protected by the Constitution is abridged when the District affirmatively sponsors the particular religious practice of prayer.

The District shall not adopt a policy that establishes an improper majoritarian election on religion and has the purpose and creates the perception of encouraging the delivery of prayer at a series of important school events.

*Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290 (2000) (addressing school-sponsored, student-led prayer delivered over the public address system at high school football games) [See also FMH]

FEDERAL FUNDS

As a condition of receiving certain federal funds, the District shall certify in writing to TEA that no policy of the District prevents, or

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT EXPRESSION

FNA  
(LEGAL)

otherwise denies participation in, constitutionally protected prayer in public schools, as detailed in the guidance from the United States secretary of education regarding constitutionally protected prayer. The certification shall be provided by October 1 of each year.

By November 1 of each year, TEA shall report to the secretary a list of districts that have not filed the certification or against which complaints have been made to TEA that the District is not in compliance with the paragraph above. The secretary may issue and secure compliance with rules or orders with respect to a district that fails to certify, or is found to have certified in bad faith, that no policy of the district prevents, or otherwise denies participation in, constitutionally protected prayer in public schools.

*No Child Left Behind Act of 2001, 20 U.S.C. 7904*

PATRIOTIC  
OBSERVANCES

The District may officially encourage students to express love for the United States by reciting historical documents or singing official anthems that contain religious references; such patriotic or ceremonial occasions do not constitute a school-sponsored religious exercise. Engel v. Vitale, 370 U.S. 421 (1962)

The District shall not, however, compel students to participate in patriotic observances. West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624 (1943) (holding unconstitutional a requirement that students salute the United States flag and recite the Pledge of Allegiance)

STUDENT EXPRESSION  
DISTRIBUTION OF NONSCHOOL LITERATURE

FNA  
(LEGAL)

PROTECTED SPEECH	Activities such as distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern are protected by the First Amendment. <u>Schenck v. Pro-Choice Network</u> , 519 U.S. 357 (1997) (recognizing leafletting and commenting on matters of public concern as protected speech); <u>Boos v. Barry</u> , 485 U.S. 312 (1988) (recognizing public issue signs as protected speech); <u>Meyer v. Grant</u> , 486 U.S. 414 (1988) (recognizing the solicitation of signatures for a petition drive as protected speech)
LIMITATIONS ON EXPRESSION	<p>The District may prohibit expression by students if:</p> <ol style="list-style-type: none"><li>1. It materially and substantially interferes with school activities;</li><li>2. It materially and substantially interferes with the rights of other students or teachers; or</li><li>3. The District can demonstrate reasonable cause to believe that the expression would engender material and substantial interference.</li></ol> <p>The District shall not prohibit student expression solely because other students, teachers, administrators, or parents may disagree with its content.</p>
PRIOR REVIEW	The District may subject student expression to prior screening under clear and reasonable regulations.
TIME, PLACE, AND MANNER LIMITATIONS	<p>The District may limit student expression in manner, place, or time by means of reasonable and equally-applied regulations.</p> <p><u>Shanley v. Northeast Indep. Sch. Dist.</u>, 462 F.2d 960 (5th Cir. 1972) [See also CPAB for use of the District's mail system]</p>

STUDENT EXPRESSION  
DISTRIBUTION OF NONSCHOOL LITERATURE

FNAA  
(LOCAL)

DISTRIBUTION OF  
NONSCHOOL  
LITERATURE  
PERMITTED

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the District or by a District-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any District premises by any District student, except in accordance with this policy.

The District shall not be responsible for, nor shall the District endorse, the contents of any nonschool literature distributed by students.

For purposes of this policy, "distribution" means the circulation of one or more copies of material from a source other than the District.

Materials distributed under the supervision of instructional personnel as a part of instruction or other authorized classroom activities shall not be considered nonschool literature and shall not be governed by this policy.

[For distribution of nonschool literature by nonstudents, see GKDA]

LIMITATIONS ON  
CONTENT

Nonschool literature shall not be distributed by students on District property if:

1. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
2. The materials endorse actions endangering the health or safety of students.
3. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
4. The materials contain defamatory statements about public figures or others.
5. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
6. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence; and the materials would materially and substantially interfere with school activities or the rights of others.
7. There is reasonable cause to believe that distribution of the nonschool literature would result in material and substantial interference with school activities or the rights of others.

PRIOR REVIEW

All nonschool literature intended for distribution by students on school campuses or other District premises under this policy shall

STUDENT EXPRESSION  
DISTRIBUTION OF NONSCHOOL LITERATURE

FNA  
(LOCAL)

be submitted to the building principal or designee for prior review in accordance with the following:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards found in this policy at LIMITATIONS ON CONTENT, the building principal or designee shall approve or reject submitted materials within two school days of the time the materials were received.

EXCEPTIONS TO  
PRIOR REVIEW

Prior review shall not be required for distribution of nonschool literature by District students only in the following circumstances:

1. Distribution of materials by a student to other attendees during a meeting of a noncurriculum-related student group authorized to meet at school during noninstructional time in accordance with FNAB(LOCAL); or
2. Distribution of nonschool materials in circumstances for which exceptions to prior review are authorized at GKDA(LOCAL).

Even when prior review is not required, all other provisions of this policy shall apply.

TIME, PLACE, AND  
MANNER  
RESTRICTIONS

Each campus principal shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed by students to students or others at the principal's campus.

The Superintendent or designee shall designate times, locations, and means for distribution of nonschool literature by students at District facilities other than school campuses, in accordance with this policy.

VIOLATIONS OF  
POLICY

Failure to comply with this policy regarding distribution of non-school literature shall result in appropriate administrative action, including but not limited to confiscation of nonconforming materials, suspension of a noncurriculum-related student group's use of District facilities, and/or other disciplinary action in accordance with the Student Code of Conduct.

APPEALS

Decisions made by the administration in accordance with this policy may be appealed in accordance with FNG(LOCAL).

STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LEGAL)

EQUAL ACCESS ACT

If a District secondary school receives federal financial assistance and has a limited open forum, as defined below, it shall not deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings. *20 U.S.C. 4071(a)*

LIMITED OPEN  
FORUM IN  
SECONDARY  
SCHOOLS

A District secondary school has a limited open forum for purposes of the Equal Access Act whenever the school grants an offering to or an opportunity for one or more noncurriculum-related student groups to meet on school premises during noninstructional time. *20 U.S.C. 4071(b)*

“Secondary school” means a public school that provides secondary education as determined by state law.

“Meeting” includes those activities of student groups that are permitted under a school’s limited open forum and that are not directly related to the school curriculum.

“Noninstructional time” means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

*20 U.S.C. 4072*

“Noncurriculum-related student group” means any student group that does not directly relate to the body of courses offered by the school. A student group directly relates to the school’s curriculum if it meets any of the following criteria:

1. The subject matter of the group is actually taught or will soon be taught in a regularly offered course.
2. The subject matter of the group concerns the body of courses as a whole.
3. Participation in the group is required for a particular course.
4. Participation in the group results in academic credit.

*Westside Cmty. Sch. v. Mergens, 496 U.S. 226 (1990)*

If a school has a limited open forum, it shall be deemed to offer a fair opportunity for students to conduct meetings within its forum if it uniformly provides that:

1. The meeting is voluntary and student-initiated.
2. There is no sponsorship of the meeting by the school or any government or its agents or employees.

STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LEGAL)

“Sponsorship” includes the act of promoting, leading, and participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

3. School employees are present at religious meetings only in a nonparticipatory capacity.
4. The meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school.
5. Nonschool persons shall not direct, conduct, control, or regularly attend activities of student groups.

*20 U.S.C. 4071(c)*

The establishment of a limited open forum shall not authorize a school or the District to:

1. Influence the form or content of any prayer or other religious activity.
2. Require any person to participate in prayer or other religious activity.
3. Expend public funds beyond the incidental cost of providing the space for student-initiated meetings.
4. Compel any school agent or employee to attend a meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee.
5. Sanction meetings that are otherwise unlawful.
6. Limit the rights of groups of students that are not of a specified numerical size.
7. Abridge the constitutional rights of any person.

*20 U.S.C. 4071(d)*

MAINTAIN ORDER

The establishment of a limited open forum shall not limit the authority of a school, the District, its agents, or its employees to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary. *20 U.S.C. 4071(f)*



STUDENT EXPRESSION  
USE OF SCHOOL FACILITIES FOR NONSCHOOL PURPOSES

FNAB  
(LOCAL)

ESTABLISHMENT OF  
LIMITED OPEN FORUM

For purposes of the Equal Access Act, the Board has created a limited open forum for students attending the District's secondary schools. District secondary schools shall offer an opportunity for noncurriculum-related student groups to meet on school premises during noninstructional time.

Each principal shall set aside noninstructional time before or after actual classroom instruction for meetings of noncurriculum-related student groups.

Students wishing to meet on school premises shall file a written request with the campus principal. The request shall contain a brief statement of the group's purposes and goals, a list of the group's members, and a schedule of its proposed meeting times. Requests shall be approved by the principal and Superintendent subject to availability of suitable meeting space and without regard to the religious, political, philosophical, or other content of the speech likely to be associated with the group's meetings. Notices of meetings may be posted in a manner determined by the principal.

STAFF  
PARTICIPATION  
PROHIBITED

School personnel shall not promote, lead, or participate in the meetings of noncurriculum-related student groups. The principal may assign staff to monitor student meetings, as needed, and may establish reasonable written guidelines for the conduct of meetings to maintain order and discipline, protect the well-being of students and faculty, and ensure that student attendance is voluntary.

VIOLATIONS

Failure of a noncurriculum-related student group to comply with applicable rules may result in loss of the right to meet on school premises. The principal shall report rule violations to the Superintendent.

SUSPENSIONS

Depending upon the seriousness of any rule violations, the Superintendent may suspend a noncurriculum-related student group's right to meet on school premises for the balance of the school year or some lesser time period.

If a determination to suspend a group occurs during the last reporting period of the school year, the suspension may extend through the end of the first semester of the next school year. Suspensions or warnings imposed by the Superintendent may be appealed to the Board in accordance with FNG.

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT CONDUCT

FNC  
(LEGAL)

DISCIPLINE  
MANAGEMENT  
PROGRAM

Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. [See BQ] The plan must provide for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in school, on school grounds, and in school vehicles. *Education Code 37.083(a)*

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]

PROHIBITED  
HARASSMENT

Students shall not engage in prohibited harassment, including sexual harassment, of:

1. Other students, as defined at FFH.
2. District employees, as defined at DIA.

While subject to the disciplinary control of the District, students shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

Students who violate this prohibition are subject to appropriate discipline in accordance with the Student Code of Conduct.

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

North East ISD  
015910

STUDENT CONDUCT  
TOBACCO USE AND POSSESSION

FNCD  
(LEGAL)

USE OR POSSESSION  
BY STUDENTS

The Board shall prohibit students from smoking, using, or possessing tobacco products at a school-related or school-sanctioned activity on or off school property.

ENFORCEMENT

The Board shall ensure that District personnel enforce the policies on school property.

*Education Code 38.006* [See DH (LEGAL) and GKA (LEGAL)]

STUDENT CONDUCT  
TELECOMMUNICATIONS DEVICES

FNCE  
(LEGAL)

A "paging device" is a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor.

PAGING DEVICES  
POLICY

The Board may adopt a policy prohibiting students from possessing paging devices while on school property or while attending school-sponsored or school-related activities on or off school property.

PENALTIES

The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

DISPOSAL

The District policy may provide for:

1. Disposal of a confiscated paging device in any reasonable manner, provided the student's parent and the paging company whose name and address appear on the device are given 30 days' notice of the intent to dispose of the device. Such notice may be made by telephone, telegraph, or in writing, and must include the serial number of the device.
2. Charging the owner of the device or the student's parent an administrative fee of not more than \$15 before it releases the device.

*Education Code 37.082*

STUDENT CONDUCT  
ALCOHOL AND DRUG USE

FNCF  
(LEGAL)

ALCOHOL	The Board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. <i>Education Code 38.007(a)</i>
ALCOHOL-FREE ZONES	The Board shall attempt to provide a safe alcohol-free environment to students coming to or going from school.
COOPERATIVE EFFORTS	The Board may cooperate with local law enforcement officials and the Texas Alcoholic Beverage Commission in attempting to provide this environment and in enforcing the alcohol-free zone provisions in the Alcoholic Beverage Code.  <i>Education Code 38.007(b)</i>
DISTRICTS IN LARGE MUNICIPALITIES	If the majority of the area of the District is located in a municipality with a population of 900,000 or more, the Board may petition the commissioners court of the county in which the District is located or the governing board of an incorporated city or town in which the District is located to adopt a 1,000-foot alcohol-free zone. <i>Education Code 38.007(b); Alcoholic Beverage Code 101.75, 109.33, 109.59</i>
CRIMINAL OFFENSE	A person commits an offense (a Class C misdemeanor) if the person possesses an intoxicating beverage for consumption, sale, or distribution while:  <ol style="list-style-type: none"><li>1. On the grounds or in a building of a public school; or</li><li>2. Entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school is being held.</li></ol> <i>Education Code 37.122</i>
DRUG-FREE ZONES	A person commits a criminal offense (enhanced) if the person knowingly or intentionally possesses a controlled substance listed in the Health and Safety Code, chapter 481:  <ol style="list-style-type: none"><li>1. In, on, or within 1,000 feet of any real property that is owned, rented, or leased to a school district; or</li><li>2. On a school bus.</li></ol> <i>Health and Safety Code 481.134</i>
ABUSABLE GLUES, PAINTS, OR VOLATILE CHEMICALS	In addition to the above prohibitions, no student shall inhale, ingest, apply, use, or possess an abusable glue, aerosol paint, or substance containing a volatile chemical with intent to inhale, ingest, apply, or use any of these in a manner:

STUDENT CONDUCT  
ALCOHOL AND DRUG USE

FNCF  
(LEGAL)

1. Contrary to directions for use, cautions, or warnings appearing on a label of a container of the glue, paint, or substance; and
2. Designed to affect the central nervous system, create or induce a condition of intoxication, hallucination, or elation, or change, distort, or disturb the person's eyesight, thinking process, balance, or coordination.

*Health and Safety Code 485.031*

MANUFACTURE OR DELIVERY	No student shall intentionally manufacture, deliver, or possess with intent to manufacture or deliver abusable glue, or aerosol paint that does not contain additive material in accordance with rules adopted by the commissioner of health. <i>Education Code 37.006; Health and Safety Code 485.032</i>
DELIVERY TO A MINOR	No student who is 18 or older shall intentionally, knowingly, or recklessly deliver abusable glue or aerosol paint to a person who is younger than 18 years old. No student who is 18 or older shall sell or deliver a substance containing a volatile chemical to a person younger than 18. <i>Education Code 37.006; Health and Safety Code 485.033</i>
PARAPHERNALIA	No person shall intentionally or knowingly use or possess with intent to use inhalant paraphernalia to inhale, ingest, or otherwise introduce into the body an abusable glue, aerosol paint, or other substance that contains a volatile chemical. <i>Education Code 37.006; Health and Safety Code 485.034</i>
PARENT OBJECTION TO DRUG EDUCATION PROGRAM	Upon receipt of written notification from the parents or legal guardians of a student, the District shall withdraw the student from any program or activity funded under the federal Safe and Drug-Free Schools and Communities Act. The District shall make reasonable efforts to inform parents or legal guardians of the content of such programs or activities funded under the Act, other than classroom instruction.  <i>No Child Left Behind Act of 2001, 20 U.S.C. 7163</i>

NOTICE REGARDING STEROIDS  
Education Code 38.008

Anabolic steroids are for medical use only. State law prohibits the possession, dispensing, delivery, or administering of an anabolic steroid in any manner not allowed by state law. State law provides that body building, muscle enhancement, or the increase of muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose. Only a medical doctor may prescribe an anabolic steroid or human growth hormone for a person. A violation of state law concerning anabolic steroids or human growth hormones is a criminal offense punishable by confinement in jail or imprisonment in the institutional division of the Texas Department of Criminal Justice.

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**Note:** To be in compliance with Education Code 38.008, the notice regarding legal restrictions on steroids must be posted in a conspicuous location in the gymnasium of each District school in which there is a grade level of seven or higher and in each other place in a building where physical education classes are conducted.

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STUDENT CONDUCT  
WEAPONS

FNCG  
(LEGAL)

POSSESSION OF  
WEAPONS

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)*

EXPULSION  
OFFENSE

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 CONDUCT  
ASSAULTS

FNCH  
(LEGAL)

ASSAULT PROHIBITED Students are prohibited from assaulting anyone on school property or at any school-related event. *Education Code 37.006; Penal Code 22.01*

DEFINITIONS Simple assault is defined as:

- SIMPLE ASSAULT
1. Intentionally, knowingly, or recklessly causing bodily injury to another. *Education Code 37.006(a)(1); Penal Code 22.01(a)(1)*
  2. Intentionally or knowingly threatening another with imminent bodily injury. *Penal Code 22.01(a)(2)*
  3. Intentionally or knowingly causing physical contact with another when the person knows or should reasonably believe that the other will regard the contact as offensive or provocative. *Penal Code 22.01(a)(3)*

AGGRAVATED ASSAULT Aggravated assault is defined as causing serious bodily injury to another or using or exhibiting a deadly weapon during commission of the assault. *Education Code 37.007(a)(2)(A); Penal Code 22.02(a)*

SEXUAL ASSAULT Sexual assault is defined as intentionally or knowingly causing physical sexual contact or sexual penetration of another person without that person's consent. Sexual assault is without consent of the other person if the actor compels the other person to submit or participate by use of physical force or violence, or threat of force or violence, and the other person believes the actor has the present ability to execute the threat; or the other person cannot consent. *Education Code 37.007(a)(2)(A); Penal Code 22.011*

AGGRAVATED SEXUAL ASSAULT Aggravated sexual assault is defined as sexual assault in which the actor:

1. Causes serious bodily injury or attempts to cause the death of the victim or another person in the course of the same criminal episode; or
2. By acts or words, places the victim in fear that death, serious bodily injury, or kidnapping will be imminently inflicted on any person; or
3. By acts or words occurring in the presence of the victim, threatens to cause death, serious bodily injury, or kidnapping; or
4. Uses or exhibits a deadly weapon in the course of the same criminal episode; or

5. Acts in concert with another, who commits a sexual assault directed toward the same victim and occurs during the same criminal episode; or
6. Assaults a victim who is younger than 14 years of age or is an elderly or a disabled individual.

*Education Code 37.007(a)(2)(A); Penal Code 22.021*

STUDENT CONDUCT  
DISRUPTIONS

FNCI  
(LEGAL)

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.

STUDENT CONDUCT  
DISRUPTIONS

FNCI  
(LEGAL)

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*

STUDENT RIGHTS AND RESPONSIBILITIES  
MARRIED STUDENTS

FND  
(LEGAL)

Married students shall have the same rights and responsibilities as unmarried students. This includes the right to participate in any extracurricular activities on the same basis, and subject to the same requirements, as unmarried students. *Carrollton-Farmers Branch ISD v. Knight*, 418 S.W.2d 535 (1967); *Bell v. Lone Oak ISD*, 507 S.W.2d 636 (1974)

A district that receives federal funds shall not apply any rule concerning a student's actual or potential marital status that treats students differently on the basis of sex. 20 U.S.C. 1681; 34 CFR 106.40 [See FBA]

Except as expressly provided by law, a student who has been married in accordance with Texas law has the capacity and power of an adult, regardless of age. *Family Code 1.104*

STUDENT RIGHTS AND RESPONSIBILITIES  
PREGNANT STUDENTS

FNE  
(LEGAL)

TITLE IX

The District shall not discriminate against any student or exclude any student from its education program or activity, including any class or extracurricular activity, on the basis of the student's pregnancy, childbirth, false pregnancy, termination of pregnancy, or recovery therefrom, unless the student requests voluntarily to participate in a separate portion of the District's program or activity. [See FB]

MEDICAL  
CERTIFICATION

The District may require such a student to obtain the certification of a physician that the student is physically and emotionally able to continue participation in the normal education program or activity so long as such certification is required of all students for other physical or emotional conditions requiring the attention of a physician.

SEPARATE  
PROGRAM

A district that operates a separate, voluntary program or activity for pregnant students shall ensure that the separate portion is comparable to that offered to nonpregnant students.

LEAVE OF ABSENCE

If the District does not maintain a leave policy for its students, or if a student does not otherwise qualify for leave under such a policy, the District shall treat pregnancy, childbirth, false pregnancy, termination of pregnancy, and recovery therefrom as a justification for a leave of absence for as long as the student's physician deems medically necessary.

At the end of the leave, the District shall reinstate the student to the status she held when the leave began.

*20 U.S.C. 1681; 34 CFR 106.40(b)*



STUDENT RIGHTS AND RESPONSIBILITIES  
PREGNANT STUDENTS

FNE  
(LOCAL)

Pregnant students have the right to continue their education during pregnancy [see FB] and may choose to exercise that right by:

1. Remaining in the regular school program.
2. Participating in any other special program the District may provide for pregnant students. [See EHBC and EHBD]

The student may also choose to request a leave of absence. Such request shall be accompanied by a licensed physician's certification that the leave is a medical necessity. Students who avail themselves of this option are exempt from compulsory attendance during the period certified by the physician as necessary for the leave of absence.

STUDENT RIGHTS AND RESPONSIBILITIES  
INTERROGATIONS AND SEARCHES

FNF  
(LEGAL)

SEARCHES OF  
STUDENTS

Students shall be free from unreasonable searches and seizures by school officials. School officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent. Coercion, either expressed or implied, such as threatening to contact parents or police, invalidates apparent consent. *U.S. Const., Amend. 4.; New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985); Jones v. Latexo ISD, 499 F.Supp. 223 (1980)*

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place; i.e., the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

*New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985)*

RANDOM DRUG  
TESTING

Whether a particular search is reasonable is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests. Thus, the reasonableness of a random student drug-testing policy is determined by balancing the following factors:

1. The nature of the privacy interest compromised by the drug-testing policy.
2. The character of the intrusion imposed by the drug-testing policy.
3. The nature and immediacy of the governmental interests involved and the efficacy of the drug-testing policy for meeting them.

*Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 115 S.Ct. 2386 (1995) (upholding a policy requiring urinalysis drug testing as a condition of participating in athletics); Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls, 122 S.Ct. 2559 (2002) (upholding a policy requiring urinalysis drug testing as a condition of participating in competitive extracurricular activities)*

USE OF TRAINED  
DOGS

Trained dogs' sniffing of cars and lockers does not constitute a search under the Fourth Amendment. The alert of a trained dog to a locker or car provides reasonable cause for a search of the

locker or car only if the dog is reasonably reliable in indicating that contraband is currently present.

Trained dogs' sniffing of students does constitute a search and requires individualized reasonable suspicion.

*Horton v. Goose Creek ISD, 690 F.2d 470 (5th Cir. 1982)*

STUDENT RIGHTS AND RESPONSIBILITIES  
INTERROGATIONS AND SEARCHES

FNF  
(LOCAL)

SCHOOL  
QUESTIONING

Administrators, teachers, and other professional personnel may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students have no claim to the right not to incriminate themselves.

POLICE OR OTHER  
AUTHORITIES  
QUESTIONING

For provisions pertaining to student questioning by law enforcement officials or other lawful authorities, see GRA(LOCAL).

LOCKERS AND  
VEHICLES

Students have full responsibility for the security of their lockers and vehicles parked on school property and shall make certain they are locked and that the keys and combinations are not given to others. Students shall not place, keep, or maintain any article or material in lockers or vehicles parked on school property that is forbidden by District policy.

School lockers are the property of the District. At no time does the District relinquish its exclusive control of lockers provided for the convenience of students. Inspections of lockers may be conducted by school authorities for any reason at any time, without notice, without student consent, and without a search warrant. Students shall be responsible for any prohibited items found in their lockers.

Vehicles parked on District property may be searched if reasonable suspicion exists to believe that the search will result in evidence that school rules or other laws have been violated. If a vehicle subject to search is locked, the student shall be asked to unlock the vehicle. If the student refuses to permit the vehicle to be searched, the District may contact local law enforcement officials and turn the matter over to them. Students shall be responsible for any prohibited items found in their vehicle(s) while parked on school property.

USE OF TRAINED  
DOGS

The District shall use specially trained nonaggressive dogs to sniff out and alert officials to the current presence of concealed prohibited items, illicit substances defined in FNCF(LEGAL), and alcohol. This program is implemented in response to drug- and alcohol-related problems in District schools, with the objective of maintaining a safe school environment conducive to education.

Such visits to schools shall be unannounced. The dogs shall be used to sniff vacant classrooms, vacant common areas, the areas around student lockers, and the areas around vehicles parked on school property. The dogs shall not be used with students. If a dog alerts to a locker, a vehicle, or an item in a classroom, it may be searched by school officials. Searches of vehicles shall be conducted as described above.

STUDENT RIGHTS AND RESPONSIBILITIES  
INTERROGATIONS AND SEARCHES

FNF  
(LOCAL)

NOTICE

At the beginning of the school year, the District shall inform students of the District's policy on searches, as outlined above, and shall specifically notify students that:

1. Lockers may be sniffed by trained dogs at any time.
2. Vehicles parked on school property may be sniffed by trained dogs at any time.
3. Classrooms and other common areas may be sniffed by trained dogs at any time when students are not present.
4. If contraband of any kind is found, the possessing student shall be subject to appropriate disciplinary action in accordance with the Student Code of Conduct.

PARENT  
NOTIFICATION

The student's parent or guardian shall be notified if any prohibited articles or materials are found in a student's locker or vehicle parked on school property, or on the student's person, as a result of a search conducted in accordance with this policy.

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 ac-

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

tively 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]

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

8. Requests for public information. *Education Code 26.0085* [See GBA]
9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

OBJECTION TO  
SCHOOL ASSIGNMENT

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, the Board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), 25.034* [See FDB]

CHALLENGE TO  
EDUCATION  
RECORDS

The District shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 CFR 99.21* [See FL]

DENIAL OF CLASS  
CREDIT

If a student is denied credit for a class by an attendance committee, the student may appeal the decision to the Board. *Education Code 25.092(d)* [See FEC]

COMPLAINTS  
AGAINST  
PROFESSIONAL  
EMPLOYEES

A person may not file suit against a professional employee of the District unless the person has exhausted the District's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of the District" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, counselor, nurse, and teacher's aide employed by the District;
2. A teacher employed by a company that contracts with the District to provide the teacher's services to the District;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the Board of Trustees of the District; and
6. Any other person whose employment by the District requires certification and the exercise of discretion.

*Education Code 22.051(a)*



STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

FINALITY OF GRADES	<p>An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board of the District in which the teacher is employed.</p> <p>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]</p> <p><i>Education Code 28.0214</i></p>
REQUESTS FOR PUBLIC INFORMATION	<p>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. <i>Gov't Code Ch. 552; Education Code 26.0085</i></p>
CLOSED MEETING	<p>The Board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. [See BEC]</p>
RECORD OF PROCEEDINGS	<p>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. <i>Education Code 7.057(c), (f)</i></p> <p>It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:</p> <ol style="list-style-type: none"><li>1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:<ol style="list-style-type: none"><li>a. The tape recording must be complete, audible, and clear; and</li><li>b. Each speaker must be clearly identified.</li></ol></li><li>2. All evidence admitted;</li><li>3. All offers of proof;</li><li>4. All written pleadings, motions, and intermediate rulings;</li><li>5. A description of matters officially noticed;</li><li>6. If applicable, the decision of the hearing examiner;</li></ol>

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

*19 TAC 157.1073(d)*

DISRUPTION

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

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**Note:** See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline.

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STUDENT DISCIPLINE

FO  
(LEGAL)

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:

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, as a factor in suspension, removal to a DAEP, or expulsion, to:
  - a. Self-defense;
  - b. Intent or lack of intent at the time the student engaged in the conduct;
  - c. A student's disciplinary history; or
  - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), the District is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that District employees enforce those prohibitions.

"Bullying" means engaging in written or verbal expression or physical conduct that the Board or its designee determines:

  - a. Will have the effect of physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property; or

- b. Is sufficiently severe, persistent, or pervasive that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.

“Harassment” means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student’s physical or emotional health or safety.

“Hit list” means a list of people targeted to be harmed using:

- c. A firearm, as defined by Penal Code 46.01(3) [see FNCG];
  - d. A knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or
  - e. Any other object to be used with intent to cause bodily harm.
8. Provide, as appropriate for students at each grade level, methods, including options, for:
- a. Managing students in the classroom and on school grounds;
  - b. Disciplining students; and
  - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making of hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

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*

STUDENT DISCIPLINE

FO  
(LEGAL)

NOTICE TO PARENTS	Each school year, the District shall provide parents with notice of and information regarding the Student Code of Conduct. <i>Education Code 37.001(d)</i>
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. <i>Education Code 37.0091(a)</i>
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 DAEP. <i>Education Code 37.008(h)</i>
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.  <i>Education Code 37.021</i>
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. <i>Education Code 37.021</i>
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. <i>Education Code 26.009(b)(1)</i> [See FNG]
REPORTS	The District shall annually report to the Commissioner:

STUDENT DISCIPLINE

FO  
(LEGAL)

DISCIPLINARY  
ALTERNATIVE  
EDUCATION  
PROGRAMS

1. For each placement in a 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;
    - (2) Conduct for which expulsion is permitted;
  - c. The number of full or partial days the student was expelled; and
  - d. Information indicating whether:

STUDENT DISCIPLINE

FO  
(LEGAL)

- (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*

STUDENT DISCIPLINE

FO  
(LOCAL)

GENERAL GUIDELINES	<p>When imposing discipline, District personnel shall adhere to the following general guidelines:</p> <ol style="list-style-type: none"><li>1. Discipline shall be administered when necessary to protect students, school employees, or property and maintain essential order and discipline.</li><li>2. Students shall be treated fairly and equitably. Discipline shall be based on a careful assessment of the circumstances of each case. Factors to consider shall include:<ol style="list-style-type: none"><li>a. The seriousness of the offense;</li><li>b. The student's age;</li><li>c. The frequency of misconduct;</li><li>d. The student's attitude;</li><li>e. The potential effect of the misconduct on the school environment;</li><li>f. Requirements of Chapter 37 of the Education Code; and</li><li>g. The Student Code of Conduct adopted by the Board.</li></ol></li></ol>
STUDENT CODE OF CONDUCT	<p>The Student Code of Conduct containing information regarding student discipline shall be distributed at the beginning of the school year to students and parents, teachers, and administrators who do not already have a current Student Code of Conduct. The Student Code of Conduct shall be provided also to newly hired professional employees, newly enrolled students, and any other person on request.</p>
REVISIONS	<p>Revisions to the Student Code of Conduct during the year shall be communicated promptly to students and parents, teachers, and administrators and shall also be posted on campus.</p>
'PARENTS' DEFINED	<p>Throughout the Student Code of Conduct and discipline policies, the term "parents" includes the single parent, legal guardian, or person having lawful control of the child.</p>
DETENTION	<p>For minor infractions of the Student Code of Conduct or campus or classroom rules, teachers or administrators may detain students after school hours on one or more days, as provided by the discipline management program and/or Student Code of Conduct. Before being assigned to detention, a student shall be informed of the behavior that allegedly constitutes the violation, and shall be given an opportunity to explain his or her version of the incident. The period of time for which a student is assigned to detention shall be used for educational purposes.</p>



STUDENT DISCIPLINE

FO  
(LOCAL)

NOTICE TO PARENTS	When detention is used, notice shall first be given to the student's parent to inform him or her of the reason for the detention and permit arrangements for the necessary transportation of the student. Except in the case of a student who is 18 years of age or older, the detention shall not begin until the parents have been notified. The student's parents, if the student is a minor, may be required to provide transportation when the student has been assigned to detention.
CORPORAL PUNISHMENT	The Board prohibits the use of corporal punishment in the District. Students shall not be spanked, paddled, or otherwise physically disciplined for violations of the Student Code of Conduct.
PHYSICAL RESTRAINT	Any District employee may, within the scope of the employee's duties, use and apply physical restraint to a student if the employee reasonably believes restraint is necessary in order to: <ol style="list-style-type: none"><li data-bbox="435 886 1226 947">1. Protect a person, including the person using physical restraint, from physical injury.</li><li data-bbox="435 978 1254 1004">2. Obtain possession of a weapon or other dangerous object.</li><li data-bbox="435 1035 995 1061">3. Protect property from serious damage.</li><li data-bbox="435 1092 1265 1225">4. Remove a student refusing a lawful command of a school employee from a specific location, including a classroom or other school property, in order to restore order or to impose disciplinary measures.</li><li data-bbox="435 1255 879 1282">5. Restrain an irrational student.</li></ol>
EXTRACURRICULAR STANDARDS OF BEHAVIOR	With the approval of the principal and Superintendent, sponsors and coaches of extracurricular activities, including interscholastic athletics, marching band, and any other extracurricular activity, 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. Extracurricular standards of behavior may take into consideration conduct that occurs at any time, on or off school property. No provision of an extracurricular behavioral standard shall have the effect of discriminating on the basis of sex, race, disability, religion, or ethnicity.  Students shall be informed of any extracurricular behavior standards at the beginning of each school year or when the students report for workouts or practices but no later than the actual beginning of classes. Students and their parents shall sign and return to the sponsor or coach a statement that they have read the extracurricular behavior standards and consent to them as a condition of participation in the activity.

STUDENT DISCIPLINE

FO  
(LOCAL)

Organizational standards of behavior of an extracurricular activity are independent of the Student Code of Conduct. Violations of these standards of behavior that are also violations of the Student Code of Conduct may result in independent disciplinary actions.

A student may be removed from participation in extracurricular activities or may be excluded from school honors for violation of organizational standards of behavior of an extracurricular activity or for violation of the Student Code of Conduct.

ELECTRONIC /  
DIGITAL MONITORING

Electronic or digital equipment shall be used for safety purposes to monitor student behavior on buses and in common areas on District campuses.

NOTICE

Students and parents shall be notified regarding the use of video cameras on school buses and on campuses. Signs stating that students may be electronically or digitally monitored shall be posted in District buildings and on buses. Students shall not be notified when the equipment is turned on.

USE OF RECORDS

Electronic/digital records shall be reviewed as needed by the appropriate District administrator, and evidence of student misconduct shall be documented. A student found to be in violation of the District's Student Code of Conduct shall be subject to appropriate discipline.

ACCESS TO  
RECORDS

Electronic/digital records shall remain in the custody of the campus principal, transportation department, or District police department and shall be maintained as required by law. A parent or student who wishes to view an electronic or digital record in response to disciplinary action taken against the student may request such access under the procedures set out by law. [See FL(LEGAL)]

STUDENT DISCIPLINE  
REMOVAL BY TEACHER

FOA  
(LEGAL)

INFORMAL REMOVAL      A teacher may send a student to the principal's office to maintain effective discipline in the classroom. The principal shall respond by employing appropriate discipline management techniques, consistent with the Student Code of Conduct. *Education Code 37.002(a)* [See FO]

DISCRETIONARY  
REMOVAL      A teacher may remove from class a student:

1. Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or
2. Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

*Education Code 37.002(b)*

PLACEMENT OF  
STUDENT      If a teacher removes a student from class under the provisions above, the principal may place the student in another appropriate classroom, in-school suspension, or a disciplinary alternative education program (DAEP).

PROHIBITIONS  
ON ACTIVITIES      The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activities.

*Education Code 37.002(c)*

MANDATORY  
REMOVAL BY A  
TEACHER      A teacher shall remove from class and send to the principal for placement in a DAEP or expulsion, as appropriate, a student who engages in conduct described in Education Code 37.006 (removal) or 37.007 (expulsion). [See FOC and FOD] *Education Code 37.002(d)*

The student may not be returned to the regular class pending the required conference [See FOC]. *Education Code 37.009(a)*

RETURN TO CLASS      The principal may not return the student to the class of the teacher who removed the student without the teacher's consent, unless the placement review committee determines that such placement is the best or only alternative available.

If the teacher removed the student from class because the student engaged in the elements of an offense listed in Education Code 37.006(a)(2)(B) or 37.007(a)(2)(A) or (b)(2)(C) (assault, sexual assault, attempted murder) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.002(c), (d)*

STUDENT DISCIPLINE  
REMOVAL BY TEACHER

FOA  
(LEGAL)

PLACEMENT REVIEW  
COMMITTEE

Each school shall establish a three-member committee to determine the placement of a student when a teacher refuses the return of a student to the teacher's class. The committee shall make recommendations to the District regarding readmission of expelled students.

COMPOSITION

Committee members shall be appointed as follows:

1. Campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and
2. The principal shall choose one member from the professional staff of a campus.

The teacher refusing to readmit the student may not serve on the committee.

*Education Code 37.003*

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**Note:** See FOF for provisions concerning students with disabilities.

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North East ISD  
015910

STUDENT DISCIPLINE  
OUT-OF-SCHOOL SUSPENSION

FOB  
(LEGAL)

The principal or other appropriate administrator may suspend a student who engages in conduct identified in the Student Code of Conduct as conduct for which a student may be suspended.

MAXIMUM LENGTH

A suspension may not exceed three school days.

*Education Code 37.005*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

REMOVAL UNDER  
STUDENT CODE OF  
CONDUCT

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

MANDATORY  
PLACEMENT IN DAEP

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

SCHOOL-RELATED  
MISCONDUCT

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony;
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
  - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
  - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

*Education Code 37.006(a)*

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PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

EXCEPTION	Removal to a DAEP for school-related misconduct is not required if the student is expelled for the same conduct. <i>Education Code 37.006(m)</i>
RETRALIATION	Except where a student engages in retaliatory acts against a District employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation, as defined in Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
CONDUCT UNRELATED TO SCHOOL	In addition to the circumstances listed above, a student shall be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if: <ol style="list-style-type: none"><li data-bbox="431 853 1303 956">1. The student receives deferred prosecution under Family Code 53.03, for conduct defined as a felony offense in Title 5, Penal Code;</li><li data-bbox="431 978 1279 1081">2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Title 5, Penal Code; or</li><li data-bbox="431 1102 1289 1205">3. The Superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Title 5, Penal Code.</li></ol> <p data-bbox="498 1227 1086 1260">[See FOC(EXHIBIT) for list of Title 5 felonies]</p> <p data-bbox="431 1282 775 1316"><i>Education Code 37.006(c)</i></p>
REASONABLE BELIEF	In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, the Superintendent or the Superintendent's designee may consider all available information, including the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e)</i> [See GRA]
SEXUAL ASSAULT OF ANOTHER STUDENT	A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if: <ol style="list-style-type: none"><li data-bbox="431 1662 1299 1836">1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, regardless of whether the assault occurred on or off school property;</li><li data-bbox="431 1858 1289 1954">2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and</li></ol>

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3. There is only one campus in the District serving the grade level in which the student is enrolled.

*Education Code 25.0341, 37.0051(a)* [See FDD]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

PERMISSIVE  
REMOVAL  
NON-TITLE 5  
FELONY

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The Superintendent or designee has a reasonable belief (as determined above) that the student has engaged in conduct defined as a felony offense other than those listed in Title 5, Penal Code [see FOC(EXHIBIT)]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

*Education Code 37.006(d), (e)*

TITLE 5 FELONY

Notwithstanding any other provision of Education Code Chapter 37, Subchapter A, the Board, or its designee, after an opportunity for hearing, may elect to place a student in a DAEP if:

1. The student has received deferred prosecution (under Family Code 53.03) for conduct defined as a felony offense under Title 5, Penal Code; or the student has been found by a court or jury to have engaged in delinquent conduct (under Family Code 54.03) for conduct defined as a felony offense under Title 5, Penal Code; and
2. The Board or its designee determines that the student's presence in the regular classroom threatens the safety of other students or teachers, will be detrimental to the educational process, or is not in the best interests of the District's students.

The Board or its designee may order placement regardless of:

1. The date or location of the conduct;
2. Whether the conduct occurred while the student was enrolled in the District; or
3. Whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

LENGTH OF  
PLACEMENT

Notwithstanding Education Code 37.009(c) (placements beyond one year) or any other provision of Education Code Chapter 37,



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	<p>Subchapter A, the Board or designee may order placement for any period considered necessary in connection with the above determinations. The student is entitled to the periodic review prescribed by Education Code 37.009(e).</p>
FINAL DECISION	<p>The decision of the Board or designee is final and may not be appealed.</p> <p><i>Education Code 37.0081</i></p>
ONE YEAR AFTER CONDUCT	<p>A principal or other appropriate administrator may, but is not required to, remove a student to a DAEP for off-campus conduct, for which removal would otherwise be required, if the principal or other appropriate administrator did not have knowledge of the conduct before the first anniversary of the date the conduct occurred. <i>Education Code 37.006(n)</i></p>
PLACEMENT OF YOUNGER STUDENTS	<p>A student who is younger than ten shall be removed from class and placed in a DAEP if the student engages in conduct for which expulsion would be required by Section 37.007. <i>Education Code 37.006(f); 37.007(e)</i> [See FOD]</p>
ELEMENTARY SCHOOL STUDENTS	<p>An elementary school student may not be placed in a DAEP with any other student who is not an elementary school student. <i>Education Code 37.006(f)</i></p>
STUDENTS YOUNGER THAN SIX	<p>Notwithstanding any other provision of the Education Code, a student who is younger than six years of age may not be removed from class and placed in a DAEP, except that a student younger than six years of age who has been expelled pursuant to the Gun Free Schools Act [see FOD] may be provided educational services in a DAEP. <i>Education Code 37.006(l)</i></p>
CONFERENCE	<p>Not later than the third class day after a student is removed by a teacher or by the school principal or other appropriate administrator, the principal or other appropriate administrator shall schedule a conference among the principal or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.</p> <p>Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the principal shall order the placement of the student for a period consistent with the Student Code of Conduct.</p> <p><i>Education Code 37.009(a)</i></p>

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TERM OF REMOVAL	<p>The Board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the District determines that the student is a threat to the safety of other students or to District employees; or extended placement is in the best interest of the student. <i>Education Code 37.009(d)</i></p>
BEYOND GRADING PERIOD OR 60 DAYS	<p>If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the Board or designee.</p>
NO APPEAL	<p>Any decision of the Board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.</p> <p><i>Education Code 37.009(b)</i></p>
BEYOND END OF SCHOOL YEAR	<p>Before a student may be placed in a DAEP for a period that extends beyond the end of the school year, the Board or designee must determine that:</p> <ol style="list-style-type: none"><li>1. The student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or another individual; or</li><li>2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.</li></ol> <p><i>Education Code 37.009(c)</i></p>
ORDER OF REMOVAL	<p>The Board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. <i>Education Code 37.009(g)</i></p> <p>Not later than the second business day after the date of the removal conference, the Board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. <i>Education Code 37.010(a)</i></p>
ACTIVITIES	<p>The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. <i>Education Code 37.006(g)</i></p> <p>In addition to any notice required under Code of Criminal Procedure 15.27 [see GRA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and</p>

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(LEGAL)

supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.006(o)*

COMPLETION OF  
PROCEEDINGS UPON  
WITHDRAWAL

If a student withdraws from the District before an order for placement in a DAEP is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the District the same or subsequent school year, the District may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or Board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

*Education Code 37.009(i)*

ENROLLMENT IN  
ANOTHER DISTRICT

If a student placed in a DAEP enrolls in another district before the expiration of the placement, the Board shall provide to the district in which the student enrolls a copy of the placement order at the same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the District a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
  - a. The out-of-state district provides a copy of the placement order; and

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

- b. The grounds for placement are the same as grounds for placement in the enrolling district.

*Education Code 37.008(j)*

OUT-OF-STATE  
PLACEMENT

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to District employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.008(j-1)*

COURT-ORDERED  
PLACEMENT

Unless the Board and the juvenile board for the county in which the District's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

EXPELLED  
STUDENT

1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;

MULTIPLE  
REFERRALS

2. A court may not order a student to attend a DAEP without the District's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

*Education Code 37.010(c), (d)*

SCHOOL  
ACTIVITIES

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(d)*

PLACEMENT AFTER  
COURT  
DISPOSITION

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, the District may not refuse to admit the student if the student meets the requirements for admission into the public schools. The District may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose

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(LEGAL)

supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*

NOT GUILTY /  
INSUFFICIENT  
EVIDENCE / CHARGES  
DROPPED

If a student was removed to DAEP for a reason other than false alarm or report, terroristic threat, or conduct on or within 300 feet of school property, the Superintendent or designee shall review the student's placement in the DAEP upon receipt of notice under Article 15.27(g), Code of Criminal Procedure, stating that:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

A student may not be returned to the regular classroom pending the review. The Superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the Superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the Superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

*Education Code 37.006(h)*

APPEAL AFTER  
PLACEMENT  
UPHELD

The student or the student's parent or guardian may appeal the Superintendent's decision to the Board. The student may not be returned to the regular classroom pending the appeal. The Board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the Superintendent or designee and confirm or reverse the Superintendent's decision. The Board shall make a record of the proceedings.

If the Board confirms the decision, the Board shall inform the student and the student's parent or guardian of the right to appeal to the Commissioner. The student may not be returned to the regular classroom pending the appeal to the Commissioner.

*Education Code 37.006(i), (j)*

STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

FOC  
(LEGAL)

120-DAY REVIEW OF  
STATUS

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by the Board's designee at intervals not to exceed 120 days. In the case of a high school student, the Board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. This requirement does not, however, obligate the District to provide in the DAEP a course, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher that removed the student without that teacher's consent. The teacher cannot be coerced to consent. *Education Code 37.009(e)*

ADDITIONAL  
PROCEEDINGS

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or Board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

REPORTING

The District shall include the number of students removed to a DAEP in its annual performance report. *Education Code 37.053(e)(5)* [See BR]

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**Note:** See FOF for provisions concerning students with disabilities.

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STUDENT DISCIPLINE  
PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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

STUDENT DISCIPLINE  
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FOC  
(EXHIBIT)

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 or of Public Servant (with intent to assault, harass, or alarm, causing another person to contact the blood, seminal fluid, vaginal fluid, saliva, urine, or feces of the actor, any other person, or an animal: [1] while the actor is confined in a correctional facility (including a secure correctional or detention facility 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); or [2] if the actor knows the other person is a public servant, while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of the public servant's official power or performance of an official duty.)



PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING  
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA  
(LEGAL)

DISCIPLINARY  
ALTERNATIVE  
EDUCATION  
PROGRAM (DAEP)

The District shall provide a disciplinary alternative education program (DAEP) that meets the following criteria:

1. Is provided in a setting other than the student's regular classroom.
2. Is located on or off a regular school campus.
3. Provides for the students who are assigned to the DAEP to be separated from students who are not assigned to the program.
4. Focuses on English language arts, mathematics, science, history, and self-discipline.
5. Provides for students' educational and behavioral needs.
6. Provides supervision and counseling.
7. Requires that to teach in an off-campus DAEP, each teacher must meet all certification requirements under Education Code Chapter 21, Subchapter B, except that teachers in a DAEP of any kind who were employed by the District during the 2003–04 school year or an earlier school year must meet the certification requirements by the beginning of the 2005–06 school year.

The DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school.

*Education Code 37.008(a), (b)*

ELEMENTARY  
SCHOOL STUDENTS

An elementary school student may not be placed in a DAEP with any other student who is not an elementary school student. *Education Code 37.006(f)*

ACADEMIC MISSION

The academic mission of DAEPs shall be to enable students to perform at grade level. *Education Code 37.008(m)*

OPPORTUNITY TO  
COMPLETE  
COURSEWORK

A District shall offer a student removed to a DAEP an opportunity to complete coursework, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. The District may not charge the student for a course provided under this subsection. Except for this requirement, the District is not required to provide in the DAEP a course necessary to fulfill a student's high school graduation requirements. *Education Code 37.008(l)*

DRUG AND ALCOHOL  
TREATMENT

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Education Code 37.006 and

PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING  
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA  
(LEGAL)

	<p>37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. <i>Education Code 37.008(k)</i></p>
OFF-CAMPUS PROGRAM	<p>An off-campus DAEP is not subject to a requirement imposed by the Education Code, other than a limitation on liability, a reporting requirement, or a requirement imposed by Education Code Chapter 37 or Chapter 39. <i>Education Code 37.008(c)</i></p>
FUNDING	<p>A student removed to a DAEP is counted in calculating the District's average daily attendance for the student's time in actual attendance in the program. <i>Education Code 37.008(f)</i></p>
ALLOCATIONS TO DAEPS	<p>The District shall allocate to a DAEP the same expenditure per student attending the DAEP as would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. <i>Education Code 37.008(g)</i> [See also EHBC]</p>
JOINTLY CREATED PROGRAMS	<p>The District may provide a DAEP jointly with one or more other districts. <i>Education Code 37.008(d)</i></p>
COOPERATION AND ASSISTANCE	<p>The District shall cooperate with government agencies and community organizations that provide services in the District to students placed in a DAEP. <i>Education Code 37.008(e)</i></p>
SERVICE CENTERS	<p>If the District requests, a regional education service center may provide the District with information on developing a DAEP that takes into consideration the District's wealth, size, and existing facilities in determining the program best suited to the District. <i>Education Code 37.008(i)</i></p>
ANNUAL EVALUATION	<p>TEA shall provide an annual evaluation for each district to be considered in complying with Education Code 11.252 [see BQ and BQA]. Performance data shall be disaggregated with respect to race, ethnicity, and socioeconomic status. Information reported shall conform to limitations consistent with requirements under the Federal Educational Rights and Privacy Act of 1974 [see FL]. The Commissioner may consider the results of this evaluation as a component of monitoring and/or a special accreditation investigation.</p> <p>The performance of the District's DAEP shall be evaluated on the basis of specific indicators in relation to appropriate performance benchmarks. This evaluation shall be based on the following indicators, with consideration given to the length of student assignment:</p> <ol style="list-style-type: none"><li>1. Student performance on state assessment instruments, including appropriate Texas Learning Index measures;</li></ol>

PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING  
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA  
(LEGAL)

2. Other indicators of student performance in the annual evaluation, which may include course completion rates, dropout rates, completion rates, and attendance rates; and
3. Repeated disciplinary actions resulting in placement in a DAEP.

In addition, the District's DAEP and overall discipline management in preventing referrals shall be evaluated annually on the basis of identification and placement practices. Placement indicators are evaluated against appropriate standards and include the following:

1. Percentage of the District's students placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007;
2. Percentage of the District's minority and economically disadvantaged students placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007; and
3. Percentage of the District's students with disabilities placed in a DAEP, considering all discretionary placements under Education Code 37.001, 37.002, 37.006, and 37.007, and, separately, those mandatory placements under Education Code 37.006 and 37.007.

*19 TAC 97.1021*

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

STUDENTS YOUNGER  
THAN TEN

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

MANDATORY  
EXPULSION  
SCHOOL RELATED

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Uses, possesses, or exhibits a firearm, an illegal knife, a club, or a prohibited weapon, as those terms are defined in the Penal Code, or any knife prohibited by local policy [see FNCG];
2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, or criminally negligent homicide, as those offenses are defined in the Penal Code;
3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

*Education Code 37.007(a)*

RETALIATION

The District shall expel a student who engages in conduct that contains the elements of any offense listed above against any District employee or volunteer in retaliation for or as a result of the person's employment or association with the District, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

FIREARM

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. The Superintendent may modify the term of expulsion for a student or assess another comparable penalty that results in the student's exclusion from the regular school program, on a case-by-case basis. The District or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age. The District or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP. *20 U.S.C. 7151; Education Code 37.007(e)* [See also GRA]

For the purposes of this provision, "firearm" means:

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer;
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

*18 U.S.C. 921*

DISCRETIONARY  
EXPULSION

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

THREATS

SCHOOL- RELATED  
CONDUCT

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

ALCOHOL OR  
DRUGS

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
  - a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
  - b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
  - c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

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VOLATILE  
CHEMICALS

2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.

ASSAULT ON AN  
EMPLOYEE OR  
VOLUNTEER

3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a District employee, or a volunteer as defined by Education Code 22.053. [See FOC(EXHIBIT)]

DEADLY  
CONDUCT

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

*Education Code 37.007(b)*

CONDUCT WITHIN  
300 FEET OF  
SCHOOL

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see MANDATORY EXPULSION — SCHOOL RELATED, above]; or
2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see FIREARM, above].

*Education Code 37.007(b)*

RETALIATION  
AGAINST SCHOOL  
EMPLOYEE OR  
VOLUNTEER

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with the District, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

CONDUCT AGAINST  
ANOTHER STUDENT

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)*

CRIMINAL MISCHIEF

The District may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, the District

STUDENT DISCIPLINE  
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FOD  
(LEGAL)

shall refer the student to the authorized officer of the juvenile court.  
*Education Code 37.007(f)*

PERSISTENT  
MISBEHAVIOR IN  
DAEP

A student who continues to engage in serious or persistent misbehavior that violates the District's Student Code of Conduct while placed in a DAEP may be removed from class and expelled.

If the student is expelled, the Board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).

*Education Code 37.007(c), 37.010(b)*

PROPERTY OR  
ACTIVITIES OF  
ANOTHER DISTRICT

The District may expel a student who attends school in the District if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on District property or while attending a District-sponsored or District-related activity; and
2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

*Education Code 37.007(i)*

EXPULSION  
PROCEEDINGS  
DUE PROCESS

Before a student may be expelled, the Board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

NOTICE

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

HEARING

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also Brewer v. Austin Indep. Sch. Dist., 779 F.2d 260 (5th Cir. 1985); Keough v. Tate County Bd. of Educ., 748 F.2d 1077 (5th Cir. 1984); McClain v. Lafayette County School Boards Ass'n, 673 F.2d 106 (5th Cir. 1982); Tasby v. Estes, 643 F.2d 1103 (1981); Boykins

STUDENT DISCIPLINE  
EXPULSION

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(LEGAL)

v. Fairfield Bd. of Educ., 492 F.2d 697 (5th Cir. 1974), cert. den. 420 US 962 (1975); Dixon v. Alabama State Board of Education, 294 F.3d 150 (5th Cir. 1961)]

REPRESENTATIVE	At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the District. If the District makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the District may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.
TERM OF EXPULSION	If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.
EXPULSION BEYOND ONE YEAR	The period of expulsion may not exceed one year unless the District determines that: <ol style="list-style-type: none"><li>1. The student is a threat to the safety of other students or to District employees; or</li><li>2. Extended placement is in the best interest of the student.</li></ol> <i>Education Code 37.009(h)</i>
NOTICE OF EXPULSION ORDER TO PARENT OR GUARDIAN	The Board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. <i>Education Code 37.009(g), (h)</i>
TO COURT	Not later than the second business day after the date an expulsion hearing is held, the Board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.  Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody: <ol style="list-style-type: none"><li>1. All information in the District's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and</li><li>2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.</li></ol> <i>Education Code 37.010(a); Family Code 52.04(a), 52.041(a), (b)</i>



STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

TO JUVENILE BOARD	In a county that operates a juvenile justice alternative education program (JJAEP) [see FODA], no student shall be expelled without written notification by the Board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following the Board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending the District's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. <i>Family Code 52.041</i>
TO STAFF	In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], the District shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.  Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator's certificate may be suspended or revoked for intentional failure to keep such information confidential.  <i>Education Code 37.007(g)</i>
COMPLETION OF PROCEEDING UPON WITHDRAWAL	If a student withdraws from the District before an order for expulsion is entered, the principal or Board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the District during the same or subsequent school year, the District may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or Board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. <i>Education Code 37.009(i)</i>
ADDITIONAL PROCEEDINGS	If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or Board, as appropriate, may enter an additional order. <i>Education Code 37.009(j)</i>
APPEALS	A decision by the Board's designee to expel a student may be appealed to the Board. If the hearing is not before the Board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. <i>Education Code 37.009(f); Dixon v. Alabama State Board of Education, 294 F.3d 150 (5th Cir. 1961)</i>

STUDENT DISCIPLINE  
EXPULSION

FOD  
(LEGAL)

RESTRICTIONS ON  
COURT ORDERS

A court may not order an expelled student to attend a regular classroom, a regular campus, or the District DAEP as a condition of probation.

EXCEPTION

A court may order a student to attend a regular classroom, a regular campus, or the District DAEP if the District has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the District's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

*Education Code 37.010(c)*

DISTRICT  
RESPONSIBILITY FOR  
EXPULSION

The District is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

CONTRACTING FOR  
SERVICES

The District may provide the program or the District may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

*Education Code 37.011(l)*

RETURN TO CLASS

EARLY /  
PERMISSIVE

On the recommendation of the placement review committee, or on its own initiative, the District may readmit an expelled student while the student is completing any court disposition requirements.

REQUIRED

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, the District may not refuse to admit the student if the student meets the requirements for admission. [See FD] The District may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*

EXPULSION FROM  
ANOTHER DISTRICT

If a student has been expelled from another school district, the expelling district shall provide to the district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expul-

sion order, or may allow the student to attend regular classes without completing the period of expulsion.

OUT-OF-STATE  
EXPULSION

The District may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

*Education Code 37.010(g)*

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.010(g-1)*

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**Note:** See FOF for provisions concerning expulsion of students with disabilities.

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EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

MEETINGS WITH  
JUVENILE BOARD

The Board or designee shall regularly meet with either:

1. The juvenile board for the county in which the District's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the President of the Board and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

*Education Code 37.013*

JUVENILE  
RESIDENTIAL  
FACILITIES

If the District provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board, the District is entitled to count those students in the District's average daily attendance.

If a district has a wealth per student greater than the guaranteed wealth level but less than the equalized wealth level, the district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between:

1. The average Foundation School Program costs per student of the district providing education services; and
2. The sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

*Education Code 37.0061*

JUVENILE JUSTICE  
ALTERNATIVE  
EDUCATION  
PROGRAM

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

MANDATORY JJAEP	The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Probation Commission.
VOLUNTARY JJAEP	The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the Texas Juvenile Probation Commission. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).  <i>Education Code 37.011(a), (k), (m)</i>
<hr/> <b>Note:</b> The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory. <hr/>	
PLACEMENT OF STUDENTS IN JJAEP— EXPELLED STUDENTS	An expelled student shall, to the extent provided by law or by the memorandum of understanding (MOU), immediately attend the educational program from the date of expulsion. <i>Education Code 37.010(a)</i>
COURT-ORDERED PLACEMENT	If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007, the juvenile court, juvenile board, or juvenile board’s designee, as appropriate, shall: <ol style="list-style-type: none"><li>1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;</li><li>2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;</li><li>3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of the District’s expulsion order for the student; and</li><li>4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student’s age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).</li></ol> <i>Education Code 37.011(b), (b-1)</i>

A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless the District agrees to accept the student before the date ordered by the juvenile court. *Education Code 37.011(i)*

STUDENTS WHO  
MOVE

If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the District and the juvenile board in the receiving county. *Education Code 37.011(n)*

FUNDING FOR JJAEPS  
MANDATORY  
EXPULSIONS

Except as determined by the Commissioner, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the Texas Juvenile Probation Commission. *Education Code 37.011(h)*

COURT-ASSIGNED  
STUDENTS

The District is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. *Education Code 37.012*

FUNDING FOR  
DISCRETIONARY  
EXPULSIONS

Subject to Education Code 37.011(n) [see STUDENTS WHO MOVE, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to the District.

*Education Code 37.012(a)*

ARBITRATION OF  
DISPUTES

If the District elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the District are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the District shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

EXPULSION  
JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM

FODA  
(LEGAL)

DECISION OF  
ARBITRATOR

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by the District for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the District's DAEP;
2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and
3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

*Education Code 37.011(p)*

LOCATION AND  
STAFFING

A JJAEP may be provided in a facility owned by the District. The District may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

ACADEMIC MISSION  
OF JJAEP

Academically, the mission of the JJAEP shall be to enable students to perform at grade level. *Education Code 37.011(h)*

ACCOUNTABILITY

For purposes of accountability under Education Code Chapter 39, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. *Education Code 37.011(h)*

FEES

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program. *Education Code 37.012(e)*

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**Note:** The following provisions apply only to districts located in counties with a population greater than 125,000.

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MEMORANDUM OF  
UNDERSTANDING

The District and the county juvenile board shall, no later than September 1 of each school year, enter into a joint memorandum of understanding (MOU) that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the District to the juvenile board for students who are served in the

JJAEP whose placement was not made on the basis of expulsion required under Section 37.007(a), (d), or (e);

3. Identifies those categories of conduct that the District has defined in its Student Code of Conduct as constituting serious or persistent misbehavior for which a student may be placed in the JJAEP;
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the District has received a notice under Family Code 52.041(d);
5. Establishes services for the transitioning of expelled students to the District before the completion of the student's placement in the JJAEP;
6. Establishes a plan that provides transportation services for students placed in the JJAEP;
7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and
8. Establishes a plan to address special education services required by law.

*Education Code 37.011(k), (l), (m)*

PLACEMENT IN JJAEP	Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. <i>Education Code 37.010(a)</i>
OPERATING REQUIREMENTS	The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Probation Commission for review and comment. The JJAEP is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37 and 39. <i>Education Code 37.011(g)</i>
STUDENT CODE OF CONDUCT	The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. <i>Education Code 37.011(c)</i>
EDUCATIONAL PROGRAM	The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.
ASSESSMENT	The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.
EQUIVALENCY	The JJAEP shall offer a high school equivalency program.
REVIEW OF PROGRESS	The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's aca-



demic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified above.

*Education Code 37.001(d)*

DAYS AND HOURS

The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the Juvenile Probation Commission for a waiver of the 180-day requirement. The commission may not grant a waiver to a JJAEP for a number of days that exceeds the highest number of instructional days waived by the Commissioner during the same school year for a district served by the program. *Education Code 37.011(f)*

STUDENT DISCIPLINE  
EMERGENCY PLACEMENT

FOE  
(LEGAL)

IMMEDIATE  
PLACEMENT

The principal or the principal's designee is not prohibited from ordering the immediate placement of a student in a disciplinary alternative education program (DAEP) if the principal or designee reasonably believes that the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with students in class, with the ability of students to learn, or with the operation of school or a school-sponsored activity.

IMMEDIATE  
EXPULSION

A principal or designee may order the immediate expulsion of a student if the principal or designee reasonably believes that such action is necessary to protect persons or property from imminent harm.

PROCEDURE

At the time of an emergency placement or an emergency expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a DAEP or expulsion may be made on a nonemergency basis. Within a reasonable time, but not later than the tenth day after the placement or expulsion, the student shall be accorded the appropriate due process required for a removal or an expulsion. [See FOA, FOC, and FOD]

STUDENTS WITH  
DISABILITIES

If the student is a student with disabilities who receives special education services, the emergency placement is subject to federal law and regulations and must be consistent with the consequences that would apply under Education Code Chapter 37, Subchapter A, to a student without a disability. [See FOF]

IMMUNITY

A principal or designee is not liable in civil damages for an emergency placement.

*Education Code 37.019*

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

STUDENTS WITH  
DISABILITIES UNDER  
SECTION 504

A student with a disability under Section 504 shall not be removed from school for more than ten consecutive school days unless the District first determines that the misbehavior is not a manifestation of the student's disability. That determination may be made by the same group of people who make placement decisions. [See FB] At a minimum, the group shall include persons knowledgeable about the student and the meaning of the evaluation data. The group must have available to it evaluation data that is recent enough to afford an understanding of the student's current behavior.

If it is determined that the misconduct is not caused by the student's disability, the student may be excluded from school in the same manner as similarly situated nondisabled students. [See FO] If it is determined that the misconduct is caused by the student's disability, the District must determine whether the student's current educational placement is appropriate.

*34 CFR 104.35; 17 IDELR 609; 16 IDELR 491*

The District may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the District would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*

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**Note:** The provisions below apply only to students eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

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SPECIAL EDUCATION  
STUDENTS

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (ARD) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations. *Education Code 37.004*

The methods adopted in the Student Code of Conduct [see FO] for preventing and intervening in student discipline problems must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. *Education Code 37.001(b-1)*

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

DAEP PLACEMENT NOT SOLELY FOR EDUCATIONAL PURPOSES	A student with a disability who receives special education services may not be placed in a disciplinary alternative education program (DAEP) solely for educational purposes. A teacher in a DAEP who has a special education assignment must hold an appropriate certificate or permit for that assignment. <i>Education Code 37.004</i>
CONTINUATION OF SERVICES	The District is not required to provide services to a student during periods of removal if the student has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. <i>34 CFR 300.121(d)(1)</i>
SUBSEQUENT REMOVALS	<p>After a student has been removed from his or her current placement for more than ten school days in the same school year, during any subsequent days of removal, the District shall provide the services necessary to enable the student to appropriately progress in the general curriculum and appropriately advance toward achieving the goals in the student's IEP. This requirement applies if the subsequent removal is not a change in placement (defined below) or the behavior is determined not to be a manifestation of the student's disability.</p> <p>If the removal is not a change in placement, school personnel, in consultation with the student's special education teacher, determine the extent to which these services are necessary.</p> <p>If the student is removed because of behavior that is determined not to be a manifestation of the student's disability, the student's IEP team determines the extent to which these services are necessary.</p> <p><i>20 U.S.C. 1412(a)(1), 1413(a)(1); 34 CFR 300.121(d)</i></p>
NOTICE OF PROCEDURAL SAFEGUARDS	<p>Not later than the date on which the decision to take the disciplinary action is made, the District shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE].</p> <p><i>20 U.S.C. 1415(k)(1)(H)</i></p>
REMOVALS OF TEN DAYS OR LESS	<p>To the extent removal would apply to students without disabilities, school personnel may remove a student with a disability who violates a code of student conduct from the current placement to an appropriate interim alternative educational setting, another setting, or suspension for not more than ten school days.</p> <p>School personnel may order additional removals of not more than ten consecutive school days in the same school year for separate incidents of misconduct, so long as those removals do not constitute a change in placement (defined below).</p> <p><i>20 U.S.C. 1415(k)(1)(B); 34 CFR 300.520(a)</i></p>

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

REMOVALS OF MORE  
THAN TEN DAYS —  
CHANGE IN  
PLACEMENT

Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review (see MANIFESTATION DETERMINATION, below) *Education Code 37.004*

'CHANGE IN  
PLACEMENT'

A change in placement occurs if a student is:

1. Removed from the student's current educational placement for more than ten consecutive school days; or
2. Subjected to a series of removals that constitute a pattern because they cumulate to more than ten school days in a school year, and because of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

*34 CFR 300.519*

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct. *20 U.S.C. 1415(k)(1)(A)*

MANIFESTATION  
DETERMINATION

Except as set forth below at WEAPONS/DRUG OFFENSES, within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, the District, parents, and relevant members of the ARD committee shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

1. Caused by, or had a direct and substantial relationship to, the student's disability; or
2. The direct result of the District's failure to implement the IEP.

If the District, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

*20 U.S.C. 1415(k)(1)(E); 34 CFR 300.523(a)-(c)*

NOT A  
MANIFESTATION

If the determination is that the student's behavior was not a manifestation of the student's disability, the disciplinary procedures applicable to students without disabilities may be applied to the student in the same manner and for the same duration in which they would be applied to students without disabilities, except that the District shall still provide services, although they may be provided in an interim alternative educational setting. *20 U.S.C. 1412(a)(1), 1415(k)(1)(C); 34 CFR 300.121(d), 300.524*

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

BEHAVIORAL INTERVENTION PLAN	If the District, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:
IF NOT DONE ALREADY, DEVELOP FBA AND BIP	1. Conduct a functional behavioral assessment (FBA) and implement a behavioral intervention plan (BIP) if the District had not conducted an FBA before the manifestation determination and before the behavior that resulted in the change in placement.
IF BIP ALREADY IN PLACE, REVIEW IT	2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior. 3. Except as provided at WEAPONS/DRUG OFFENSES, below, return the student to the placement from which the student was removed, unless the parent and the District agree to a change in placement as part of the modification of the BIP.
	<i>20 U.S.C. 1415(k)(1)(F); 34 CFR 300.520(b)(1)</i>
SUBSEQUENT REMOVALS THAT ARE NOT A CHANGE IN PLACEMENT	If a student with a BIP is subsequently removed and that removal is not a change in placement, the ARD committee shall review the BIP and its implementation to determine if modifications are necessary. If one or more members of the ARD committee believe that modifications are needed, the committee shall meet to modify the plan and its implementation, to the extent the committee determines necessary. <i>34 CFR 300.520(c)</i>
INTERIM ALTERNATIVE EDUCATIONAL SETTING	School personnel may remove a student to an interim alternative educational setting, for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:
WEAPONS / DRUG OFFENSES	1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of a state or a school district; or 2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or a school district; 3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state or the District.
	<i>20 U.S.C. 1415(k)(1)(G); 34 CFR 300.520(a)(2), (b)</i>
'WEAPON'	In this policy, "weapon" means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, but does

not include a pocket knife with a blade of less than two and a half inches in length. *20 U.S.C. 1415(k)(7)(C); 18 U.S.C. 930(g)(2); 34 CFR 300.520(d)(3)*

‘CONTROLLED  
SUBSTANCE’

“Controlled substance” means a drug or other substance identified under schedules I, II, III, IV, or V in section 202(c) of the Controlled Substances Act (21 U.S.C. 812[c]). “Illegal drug” means a controlled substance, but does not include a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any authority under the Controlled Substance Act or any other provision of federal law. *20 U.S.C. 1415(k)(7)(A), (B); 34 CFR 300.520(d)(1), (2)*

‘SERIOUS BODILY  
INJURY’

“Serious bodily injury” means bodily injury that involves:

1. A substantial risk of death;
2. Extreme physical pain;
3. Protracted and obvious disfigurement; or
4. Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

*20 U.S.C. 1415(k)(7)(D); 18 U.S.C. 1365(h)(3)*

REMOVAL BY A  
HEARING OFFICER

A hearing officer may order a change in placement of a student to an appropriate interim alternative educational setting for not more than 45 calendar days. *20 U.S.C. 1415(k)(2); 34 CFR 300.521*

CRITERIA FOR  
ALTERNATIVE  
SETTING

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*

The setting shall be selected so as to enable the student to continue to progress in the general curriculum, although in another setting, and to continue to receive those services and modifications, including those described in the student’s current IEP, that will enable the student to meet the goals set out in that IEP. The setting shall also include services and modifications designed to address the behavior that caused the student to be placed in the alternative setting so that the behavior does not recur. *20 U.S.C. 1415(k)(3); 34 CFR 300.522*

PROPOSED  
CHANGE AFTER  
INTERIM  
PLACEMENT

If school personnel propose to change the student’s placement after expiration of the interim alternative placement, during the pendency of any proceeding to challenge the proposed placement, the student shall remain in the current placement (the student’s placement before the interim alternative educational setting), unless the District requests an expedited hearing. *20 U.S.C. 1415(k)(7)(B); 34 CFR 300.526(b)*

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

EXPEDITED HEARING	<p>If school personnel maintain that it is dangerous for a student to be in the current placement (placement before removal to the interim alternative educational setting) during the pendency of the due process proceedings, the District may request an expedited hearing. <i>20 U.S.C. 1415(k)(7)(C); 34 CFR 300.526(c); 19 TAC 89.1191</i></p>
APPEALS	<p>A parent who disagrees with a placement decision or the manifestation determination may request a hearing.</p> <p>A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing.</p> <p><i>20 U.S.C. 1615(k)(3)(A); 34 CFR 300.525; 19 TAC 89.1151</i></p> <p>A hearing officer may hear and decide the appeal. <i>20 U.S.C. 1415(k)(3)(B)</i></p>
PLACEMENT DURING APPEALS	<p>When an appeal has been requested by a parent or the District:</p> <ol style="list-style-type: none"><li>1. The student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and District agree otherwise; and</li><li>2. The state or District shall arrange for an expedited hearing, which shall occur within 20 school days of the date the hearing is requested and shall result in a determination ten school days after the hearing.</li></ol> <p><i>20 U.S.C. 1415(k)(3)(B), 1415(k)(7); 34 CFR 300.526</i></p>
TRANSFER OF RECORDS	<p>If the District initiates disciplinary procedures applicable to all students, the District shall ensure that the student's special education and disciplinary records are transmitted for consideration by the person or persons making the final determination regarding the disciplinary action. <i>20 U.S.C. 1415(k)(5)(B); 34 CFR 300.524(b)</i></p>
REPORTING CRIMES	<p>Federal law does not prohibit the District from reporting a crime committed by a student with a disability to appropriate authorities. If the District reports a crime, the District shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities. The District may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). <i>20 U.S.C. 1415(k)(6); 34 CFR 300.529</i> [See FL]</p>
STUDENTS NOT YET IDENTIFIED	<p>A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the pro-</p>



tections provided for in the IDEA if the District had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A)*

DISTRICT  
KNOWLEDGE

The District shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

1. The parent of the student has expressed concern in writing (or orally if the parent does not know how to write or has a disability that prevents a written statement) to supervisory or administrative personnel of the District or to the teacher of the student that the student is in need of special education and related services;
2. The behavior or performance of the student demonstrates the need for such services;
3. The parent of the student has requested an evaluation of the student for special education and related services; or
4. The student's teacher, or other District personnel, has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the District.

*20 U.S.C. 1415(k)(5)(B)*

EXCEPTION

The District shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

*20 U.S.C. 1415(k)(5)(C)*

If the District does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures as are applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Pending the results of the evaluation, the student shall remain in the educational placement determined by school authorities.

*20 U.S.C. 1415(k)(5)(D); 34 CFR 300.527*

STUDENT DISCIPLINE  
STUDENTS WITH DISABILITIES

FOF  
(LEGAL)

BEHAVIOR  
MANAGEMENT  
TECHNIQUES

Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities.

CONFINEMENT

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

Education Code 37.0021 does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, "weapon" includes any weapon described under Education Code 37.007(a)(1). [See FNCG]

*Education Code 37.0021*

SECLUSION

A District employee or volunteer or an independent contractor of the District may not place a student in seclusion.

"Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021 and any rules or procedures adopted under Education Code 37.0021 do not apply to a peace officer, while performing law enforcement duties; juvenile probation, detention, or corrections personnel; or an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

*Education Code 37.0021*

RESTRAINT

A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.

2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body.

“Restraint” does not include the use of:

1. Physical contact or appropriately prescribed adaptive equipment to promote normative body positioning and/or physical functioning;
2. Limited physical contact with a student to promote safety (e.g., holding a student’s hand), prevent a potentially harmful action (e.g., running into a street), teach a skill, or provide comfort;
3. Limited physical contact or appropriately prescribed adaptive equipment to prevent a student from engaging in ongoing, repetitive self-injurious behaviors; or
4. Seat belts and other safety equipment used to secure students during transportation.

“Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

TRAINING

Training for school employees, volunteers, or independent contractors shall be provided according to the requirements set forth at 19 TAC 89.1053.

DOCUMENTATION

In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the following documentation requirements:

1. On the day restraint is utilized, the campus administrator or designee must be notified verbally or in writing regarding the use of restraint.

2. On the day restraint is utilized, a good faith effort shall be made to verbally notify the parent(s) regarding the use of restraint.
3. Written notification of the use of restraint must be placed in the mail or otherwise provided to the parent within one school day of the use of restraint.
4. Written documentation regarding the use of restraint must be placed in the student's special education eligibility folder in a timely manner so the information is available to the ARD committee when it considers the impact of the student's behavior on the student's learning and/or the creation or revision of the BIP.
5. Written notification to the parent(s) and documentation to the student's special education eligibility folder shall include the following:
  - a. Name of the student;
  - b. Name of the staff member(s) administering the restraint;
  - c. The date of the restraint and the time the restraint began and ended;
  - d. Location of the restraint;
  - e. Nature of the restraint;
  - f. A description of the activity in which the student was engaged immediately preceding the use of restraint;
  - g. The behavior that prompted the restraint;
  - h. The efforts made to de-escalate the situation and alternatives to restraint that were attempted; and
  - i. Information documenting parent contact and notification.

#### TIME-OUT

A school employee, volunteer, or independent contractor may use time-out with the following limitations.

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.

3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

“Time-out” means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

TRAINING Training regarding the use of time-out for school employees, volunteers, or independent contractors shall be provided according to the requirements set forth at 19 TAC 89.1053.

DOCUMENTATION Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

*19 TAC 89.1053*

STUDENT FEES, FINES, AND CHARGES

FP  
(LEGAL)

AUTHORIZED FEES

The Board may require payment of:

1. Fees for materials used in any program in which the resultant product is in excess of minimum requirements and, at the student's option, becomes the personal property of the student. Fees may not exceed the cost of materials.
2. Membership dues in student organizations or clubs, and admission fees or charges for attending extracurricular activities when membership or attendance is voluntary.
3. Security deposits for the return of materials, supplies, or equipment.
4. Fees for personal physical education and athletic equipment and apparel. However, any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the Board.
5. Fees for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements.
6. Fees specifically permitted by any other statute.
7. Fees for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by the District.
9. Fees for personal apparel that become the property of the student and that are used in extracurricular activities.
10. Parking fees [see CLC] and fees for identification cards.
11. Fees for driver training courses, provided that such fees shall not exceed the actual District cost per student in such programs for the current school year.
12. Fees for courses offered for credit that require the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option. Payment may not be required if the course is one requested by parents according to Education Code 28.003 [see EHA].
13. Fees for courses offered during summer school, except that the Board may not charge a fee for a course required for

STUDENT FEES, FINES, AND CHARGES

FP  
(LEGAL)

graduation unless the course is also offered without a fee during the regular school term.

14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the Board may not charge a fee for transportation for which the District receives funds under Education Code 42.155(d).
15. A reasonable fee, not to exceed \$50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092. [See FEC] The District shall provide a written form to be signed by the student's legal guardian stating that this fee would not create a financial hardship or discourage the student from attending the program. The District may assess the fee only if the student returns the signed form.

PROHIBITED FEES

The Board may not charge fees for:

1. Textbooks, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course, except as authorized under this code.
2. Field trips required as part of a basic educational program or course.
3. Any specific form of dress necessary for any required educational program or diplomas.
4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.
5. Library books required to be used for any educational course or program. However, fines may be assessed for lost, damaged, or overdue books.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission or examination in any required educational course or program.
8. Lockers.

PERSONAL SUPPLIES

Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, and notebooks. Students may be required to furnish school uniforms, subject to the provi-

STUDENT FEES, FINES, AND CHARGES

FP  
(LEGAL)

	sions of Education Code 11.162 regarding educationally disadvantaged students. [See FNCA(LEGAL)]
SCHOOL STORE	The District may operate a school store where students may purchase school supplies and materials.
WAIVER OF FEES	The District shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook.
POSTSECONDARY INSTRUCTIONAL PROGRAMS	The Board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs.

*Education Code 11.158*



North East ISD  
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STUDENT FEES, FINES, AND CHARGES

FP  
(LOCAL)

WAIVER OF FEES

Upon receipt by the District of reliable proof that a student and his or her parent or guardian are unable to pay a fee or deposit required by the school, such fee or deposit shall be waived. Such student and his or her parent or guardian must present evidence of their inability to pay to the appropriate principal who shall determine eligibility for a fee waiver.

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GA  
(LEGAL)

NONDISCRIMINATION	No person shall, on the grounds of race, color, or national origin, be excluded from participation, be denied the benefits of, or be subjected to discrimination under any District program or activity. <i>42 U.S.C. 2000d</i>
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: <ol style="list-style-type: none"><li>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;</li><li>2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or</li><li>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.</li></ol>
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.  <i>5 U.S.C. 552(a)</i>
INDIVIDUALS WITH DISABILITIES	No qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of the District, or be subjected to discrimination by the District. Nor shall the District exclude or otherwise deny equal services, programs, or activities to an individual because of the known disability of an individual with whom the individual is known to have a relationship or association. <i>42 U.S.C. 12132; 28 CFR 35.130(g)</i>
DEFINITION	A "qualified individual with a disability" is an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the District. <i>42 U.S.C. 12131(2); 28 CFR 35.104</i>

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GA  
(LEGAL)

REASONABLE  
MODIFICATION

The District shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the District can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 CFR 35.130(b)(7)*

COMMUNICATIONS

The District shall take appropriate steps to ensure that communications with applicants, participants, and members of the public with disabilities are as effective as communications with others. To this end, the District shall furnish appropriate auxiliary aids and services where necessary to afford an individual with a disability an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the District. In determining what type of auxiliary aid or service is necessary, the District shall give primary consideration to the requests of the individual with disabilities. *28 CFR 35.160*

AUXILIARY AIDS  
AND SERVICES

“Auxiliary aids and services” includes (1) qualified interpreters, notetakers, transcription services, written materials, assistive listening systems, and other effective methods for making aurally delivered materials available to individuals with hearing impairments, (2) qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods for making visually delivered materials available to individuals with visual impairments, (3) acquisition or modification of equipment or devices, and (4) other similar services and actions. *28 CFR 35.104*

LIMITS OF REQUIRED  
MODIFICATION

The District is not required to take any action that it can demonstrate would result in a fundamental alteration in the nature of a service, program, or activity or in undue financial and administrative burdens. Any decision that compliance with its responsibility to provide effective communication for individuals with disabilities would fundamentally alter the service, program, or activity or unduly burden the District shall be made by the Board after considering all resources available for use in funding and operating the program, service, or activity. The decision shall be accompanied by a written statement of the reasons for reaching that conclusion. *28 CFR 35.164*

NOTICE

The District shall make available to applicants, participants, beneficiaries, and other interested persons information regarding the provisions of Title II of the Americans with Disabilities Act (ADA) and its applicability to the services, programs, or activities of the District. The information shall be made available in such manner as the Board and Superintendent find necessary to apprise such persons of the protections against discrimination assured them by the ADA. *28 CFR 35.106*

ACCESS TO PROGRAMS, SERVICES, AND ACTIVITIES

GA  
(LEGAL)

COMPLIANCE  
COORDINATOR

The District shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under Title II of the ADA, including any investigation of any complaint communicated to it alleging its noncompliance or alleging any actions that would be prohibited under the ADA. The District shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated and shall adopt and publish procedures for the prompt and equitable resolution of complaints alleging any action that would be prohibited under the ADA. *28 CFR 35.107* [See DAA and GF]

RELIGIOUS FREEDOM

The District may not substantially burden a person's free exercise of religion, unless it is acting in furtherance of a compelling governmental interest and has used the least restrictive means of furthering that interest. *Civil Practice and Remedies Code 110.003* [See also DAA and FB]

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PUBLIC INFORMATION PROGRAM

GB  
(LEGAL)

PEST CONTROL  
INFORMATION

At the time a student is registered, District personnel shall inform parents, guardians, or managing conservators that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455* [See CLB]

- PUBLIC INFORMATION “Public information” means information that is collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by the Board or for the Board and to which the Board has a right of access. *Gov’t Code 552.002(a)*
- AVAILABILITY Public information is available, at a minimum, to the public during the District’s normal business hours. *Gov’t Code 552.021*
- Unless they are expressly confidential under other law, categories of public information that are not excepted from required disclosure under this policy include:
1. A completed report, audit, evaluation, or investigation made of, for, or by the Board, except as provided in Government Code 552.108.
  2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the District.
  3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
  4. The name of each official and the final record of voting on all proceedings of the Board.
  5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by the Board, on completion of the estimate.
  6. A description of the District’s organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
  7. A statement of the general course and method by which the District’s functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
  8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
  9. A substantive rule of general applicability adopted or issued by the Board and a statement of general policy or interpretation of general applicability formulated and adopted by the Board.
  10. Any amendment, revision, or repeal of the information described in items 6–9.

11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by the Board.
13. Administrative manuals and instructions to staff that affect a member of the public.
14. Information regarded as open to the public under the District's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege or confidential under other law.
16. Information that is also contained in a public court record.
17. A settlement agreement to which the Board is a party.

A court in this state may not order the Board or the District's officer for public information to withhold from public inspection any category of public information described above or to not produce the information for inspection or duplication, unless the information is expressly made confidential under other law.

*Gov't Code 552.022*

INVESTMENT  
INFORMATION

Certain District investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

PERSONAL  
INFORMATION

EMPLOYEE / BOARD  
MEMBER

Each District employee, other than peace officers, and Board member and each former employee and Board member shall choose whether to allow public access to District-held information relating to the person's home address, telephone number, or social security number, or any other information that reveals whether the person has family members. Employees and Board members shall state their choice to the District's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the Board occurs, or service with the District ends. If an employee or Board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or Board member may make a written request at any time to the personnel officer to open or close the information relating to the person's home address, telephone number, social security number, or any other information that reveals whether the person has family members. *Gov't Code 552.024*

PEACE OFFICERS /  
SECURITY  
OFFICERS

District-held information relating to the home address, home telephone number, or social security number of peace officers or security officers commissioned by the Board of Private Investigators

and Private Security Agencies, or any information that reveals whether the person has family members, is confidential and may not be disclosed if the person chooses to restrict public access to the information and notifies the District on a form provided by the District, accompanied by evidence of the individual's status. *Gov't Code 551.1175*

EVALUATIONS

An evaluation of the performance of a teacher or administrator is confidential. *Education Code 21.355*

CREDIT CARD, DEBIT  
CARD, CHARGE CARD,  
AND ACCESS DEVICE  
NUMBERS

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for the District is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

*Gov't Code 552.136*

E-MAIL ADDRESSES  
CONFIDENTIAL

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with the District is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

EXCEPTIONS

This confidentiality does not apply to an e-mail address:

1. Provided to the District by a person who has a contractual relationship with the District or by the contractor's agent;
2. Provided to the District by a vendor who seeks to contract with the District or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to the District in the course of negotiating the terms of a contract or potential contract; or
4. Provided to the District on a letterhead, coversheet, printed document, or other document made available to the public.

The District may also disclose an e-mail address for any reason to another governmental body or to a federal agency.

*Gov't Code 552.137*



INFORMATION  
EXCEPTED FROM  
PUBLIC DISCLOSURE

The Board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

Categories of information that are excepted from disclosure to the public include:

1. Information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*
2. Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*
3. Information relating to litigation of a civil or criminal nature to which the District is, or may be, a party or to which an officer or employee of the District, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the District's public information officer receives the request. *Gov't Code 552.103*
4. Information that, if released, would give advantage to competitors or bidders. The requirement of Government Code 552.022 that a category of information listed under 552.022(a) is public information and not excepted from required disclosure unless expressly confidential under law does not apply to information that is excepted from required disclosure under this paragraph. *Gov't Code 552.104*
5. Information pertaining to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. *Gov't Code 552.105*
6. Drafts and working papers involved in the preparation of proposed policies. *Gov't Code 552.106*
7. Information the District's attorney is prohibited from disclosing because of a duty to the District under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. *Gov't Code 552.107*

8. Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor, including:
  - a. Information that deals with detection, investigation, or prosecution of crime; and
  - b. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution.

*Gov't Code 552.108*

9. Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy. *Gov't Code 552.109*
10. A trade secret obtained from a person and privileged or confidential by statute or judicial decision. *Gov't Code 552.110(a)*
11. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained. *Gov't Code 552.110(b)*
12. Interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with the District. *Gov't Code 552.111; City of Garland v. Dallas Morning News, 22 S.W.3d 351 (Tex. 2000)*
13. Student records, except to District personnel, the student, or the student's parents, guardian, or spouse. The District is not required to release student records, except in conformity with FERPA. *Gov't Code 552.114, 552.026 [See FL]*
14. Information that relates to the home address, home telephone number, or social security number of the following persons, or that reveals whether the person has family members:
  - a. A current or former District employee or Board member, except as provided by Section 552.024; or
  - b. A peace officer or a security officer commissioned by the Board of Private Investigators and Private Security Agencies, regardless of whether the officer complies with Section 552.1175.

*Gov't Code 552.117*

15. A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, unless:

- a. The officer is under indictment or charged with an offense by information;
- b. The officer is a party in a fire or police civil service hearing or a case in arbitration; or
- c. The photograph is introduced as evidence in a judicial proceeding.

If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.

*Gov't Code 552.119*

16. Test items developed by a state-funded educational institution. *Gov't Code 552.122*
17. The certified agenda or tape recording of a closed meeting, unless a court order makes it available for public inspection and copying. *Gov't Code 551.104(c)*
18. Records of a school library or library system that identify or serve to identify a person who requested, obtained, or used a library material or service, unless the records are disclosed:
  - a. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
  - b. To a person with a special right of access under Government Code 552.023; or
  - c. To a law enforcement agency or prosecutor under a court order or subpoena.

*Gov't Code 552.124*

19. The name of an applicant for Superintendent, except the Board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126 [See BJB]*
20. Motor vehicle record information that relates to:
  - a. A motor vehicle operator's or driver's license or permit issued by an agency of this state;
  - b. A motor vehicle title or registration issued by an agency of this state; or

- c. A personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

*Gov't Code 552.130*

- 21. An informer's name or information that would substantially reveal the identity of an informer, unless:
  - a. The informer or the informer's spouse consents to disclosure of the informer's name.
  - b. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of the District who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the District or the proper regulatory enforcement authority.

*Gov't Code 552.135*

- 22. Information in a commercial book or publication purchased or acquired by the District for research purposes, if the book or publication is commercially available to the public. The District is not required to make copies of commercially available information, but the District shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the District.

*Gov't Code 552.027*

- 23. Information that relates to economic development negotiations involving the Board and a business prospect that the Board seeks to have locate, stay, or expand in or near the District, if that information relates to:
  - a. A trade secret of the business prospect; or
  - b. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.
- 24. Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by the Board or by another person.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

- a. By the Board; or
- b. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by the District or a reduction in revenue received by the District from any source.

*Gov't Code 552.131*

25. Information that relates to computer network security or to the design, operation, or defense of a computer network. The following information is confidential:
  - a. A computer network vulnerability report; and
  - b. Any other assessment of the extent to which data processing operations, a computer, or a computer program, network, system, or software of the District or of a contractor of the District is vulnerable to unauthorized access or harm, including an assessment of the extent to which the District's or contractor's electronically stored information is vulnerable to alteration, damage, or erasure.

*Gov't Code 552.136*

- MILITARY DISCHARGE RECORDS
26. A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of the District on or after September 1, 2003. The record is confidential for the 75 years following the date it comes into the possession of the District in accordance with Government Code Section 552.140. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140*

- SOCIAL SECURITY NUMBERS
27. The Social Security number of a living person. The District may redact the Social Security number of a living person from any information the District discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

- INVESTMENT INFORMATION
28. Certain District investment information, as specified by Government Code 552.143, is not public information and is exempted from disclosure. *Gov't Code 552.143*

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

OFFICER FOR PUBLIC  
INFORMATION

The Superintendent shall be the District's officer for public information. Each department head shall be an agent of the officer for public information for the purposes of complying with the public information laws and the District's policy on public records. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer for public information is responsible for the release of public information as required by Government Code Chapter 552. The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record.

*Gov't Code 552.201–552.204*

SIGN

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of the Board, and the procedures for inspecting or obtaining a copy of public information under Government Code Chapter 552. The officer shall display the sign at one or more places in the administrative offices of the District where it is plainly visible to:

1. Members of the public who request public information in person; and
2. Employees of the District whose duties include receiving or responding to public information requests.

*Gov't Code 552.205*

ACCESS TO PUBLIC  
INFORMATION

The District may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of Government Code Chapter 552. *Gov't Code 552.230*

The Superintendent or designee shall promptly produce public information for inspection, duplication, or both, in District offices on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

The Superintendent or designee complies with such a request by providing the information for inspection or duplication in the District's offices or by sending copies of the information by first class mail, if the requestor requests that the copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Chapter 552, Subchapter F.

TIME FOR RESPONSE

If the requested information is unavailable because it is in storage or active use, the Superintendent or designee shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication. If the Superintendent or designee cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the Superintendent or designee shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication. An original copy of public information shall not be removed from District offices by a requestor.

*Gov't Code 552.221, 552.226; Tex. Atty. Gen. ORD-664 (2000)*

The officer for public information shall not make an inquiry of any requestor, except to establish proper identification or to ask the requestor to clarify the request. If a large amount of information has been requested, the officer may discuss with the requestor how the scope of the request might be narrowed, but the officer may not inquire into the purpose for which the information will be used. All reasonable comfort and facility shall be extended to the requestor.  
*Gov't Code 552.222, 552.224*

The officer for public information or the officer's agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. *Gov't Code 552.223*

EXAMINATION

A requestor shall complete the examination of the information not later than the tenth business day after the date the officer for public information makes it available. If the requestor does not complete the examination of the information within ten business days after the date the information is made available and does not file a request for additional time, the requestor is considered to have withdrawn the request. The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall permit a second additional ten business day examination period if, within the first additional period, the requestor files with the officer a second written request for time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the Board. The period of interruption is not considered to be a part of the time during which the person may examine the information.  
*Gov't Code 552.225*

PROVIDING SUITABLE  
COPY

The officer for public information shall provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

SPECIFIC MEDIUM

If public information exists in an electronic or magnetic medium, the requestor may request a copy either on paper or in an electronic medium, such as on diskette or on magnetic tape. The officer for public information shall provide a copy in the requested medium if the District has the technological ability to produce the information in the requested medium and is not required to purchase any software or hardware to accommodate the request, and providing the copy will not violate any copyright agreement between the District and a third party.

If the officer is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the District shall provide either a paper copy or a copy in another medium that is acceptable to the requestor. The officer is not required to copy information onto a diskette or other material provided by the requestor but may use District supplies.

*Gov't Code 552.228*

REQUESTS  
REQUIRING  
PROGRAMMING OR  
MANIPULATION

If the officer determines that responding to a request for information will require programming or manipulation of data and that compliance with the request is not feasible or will result in substantial interference with operations or the information could be made available in the requested form only at a cost that covers the programming and manipulation of data, it shall provide to the requestor a written statement that includes all of the following information:

1. A statement that the information is not available in the requested form.
2. A description of the form in which the information is available.
3. A description of any contract or services that would be required to provide the information in the requested form.
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general. [See GBAA (EXHIBIT)]



5. A statement of the anticipated time required to provide the information in the requested form.

RESPONSE TIME  
WHEN  
PROGRAMMING  
OR  
MANIPULATION  
IS REQUIRED

The officer shall provide the written statement to the requestor within 20 days after the date the officer receives the request. The officer has an additional ten days to provide the statement if the officer gives written notice to the requestor within 20 days after receiving the request that additional time is needed.

FURTHER  
ACTION

After providing the written statement described above, the officer has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor writes to the officer stating that the requestor wants the information in the requested form according to the time and cost parameters set out in the officer's statement or that the requestor wants the information in the form in which it is available. If a requestor does not make a timely written response, the requestor is considered to have withdrawn the request for information.

PROCESSING OF  
REQUESTS

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. The Board shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

*Gov't Code 552.231*

REPETITIOUS OR  
REDUNDANT  
REQUESTS

If the officer determines that a requestor has made a request for information for which the District has previously furnished or made copies available to the requestor on payment of applicable charges, the officer shall respond to the request for information for which copies have been already furnished or made available, except that:

1. The District is not prohibited from furnishing the information or making the information available to the requestor again in accordance with the request; and
2. The District is not required to comply with the procedures described below in relation to information that the District simply furnishes or makes available to the requestor again in accordance with the request.

Information for which the District has not previously furnished copies or made copies available to the requestor on payment of applicable charges, information that was redacted from information provided earlier, or that did not exist at the time of an earlier request, shall be treated in the same manner as any other request.

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(LEGAL)

PROCEDURES

The officer shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor on payment of applicable charges. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor.
2. The date that the District received the requestor's original request for that information.
3. The date that the District previously furnished copies of or made available copies of the information to the requestor.
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or the officer's agent making the certification.

*Gov't Code 552.232*

ATTORNEY GENERAL  
DECISIONS

If the District receives a written request, including a request that is sent by electronic mail or facsimile transmission if that request is sent to the Superintendent or designee, for information it wishes to withhold from public disclosure and that it considers to be within one of the exceptions to required disclosure, but for which there has been no previous determination that it falls within one of the exceptions, the District, not later than the tenth business day after receiving the written request, shall ask for a decision from the attorney general about whether the information is within one of the exceptions and state the exception that applies. If a decision from the attorney general is not so requested or the District fails to provide the requestor with the statement and a copy of the District's communications to the attorney general, as described below, the information is presumed to be public information and must be released unless there is a compelling reason to withhold it. *Gov't Code 552.301(a), (b), (c), 552.302; Tex. Atty. Gen. ORD-673 (2000)*

The District may not request an open records decision from the attorney general if the District reasonably believes that the requested information is not excepted from required disclosure. The District must promptly produce the requested information to the requestor. *Tex. Atty. Gen. ORD-665 (2000)*

The District shall release the requested information and may not ask for an attorney general decision if the District has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request

and the attorney general or a court determined that the information is public information that is not within one of the exceptions. *Gov't Code 552.301(f); Tex. Atty. Gen. ORD-673 (2000)*

The District must promptly release public information not excepted from required disclosure. The prompt release of information requires release as soon as possible under the circumstances and within a reasonable time, without delay. The District may not automatically withhold for ten business days public information not excepted from disclosure. *Tex. Atty. Gen. ORD-664 (2000)*

STATEMENT TO  
REQUESTOR

If the District requests an attorney general decision, it must provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the District wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure.
2. A copy of the District's written communication to the attorney general asking for the decision. If the District's written communication to the attorney general discloses the requested information, the District shall provide a redacted copy of that written communication to the requestor.

*Gov't Code 552.301(d)*

SUBMISSION TO  
ATTORNEY  
GENERAL

When the District requests a decision, it shall, within a reasonable time but not later than the 15th business day after the date of receiving the request for information, submit to the attorney general all of the following:

1. Written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld.
2. A copy of the written request for information.
3. A signed statement as to the date on which the written request for information was received by the District or evidence sufficient to establish that date.
4. A copy of the specific information requested, or representative samples of the information, if a voluminous amount of information was requested. These copies must be labeled to indicate which exceptions apply to which parts of the copy.

Unless the information is confidential by law, the officer may disclose the requested information to the public or the requestor be-

fore a final determination that the information is public has been made by the attorney general or a court with jurisdiction.

ADDITIONAL  
INFORMATION

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the District and the requestor written notice of that fact. Upon receipt of such notice, the officer shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the officer does not comply with the attorney general's request for additional information, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information.

*Gov't Code 552.301(d), (e), 552.303*

A district that submits written comments to the attorney general stating the reasons why the stated exceptions apply shall send a copy of those comments to the person who requested the information from the district. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor must be a redacted copy. *Gov't Code 552.301(e-1)*

SPECIAL  
INTERESTS

In a case in which information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101, 552.104, and 552.114 (see pages 2–3 of this policy), the District may decline to release the information for the purpose of requesting a decision from the attorney general. The District may, but is not required to, submit its reasons why the information should be withheld or released.

NOTICE TO  
OWNER OF  
PROPRIETARY  
INFORMATION

If release of a person's proprietary information may be subject to exception under Government Code 552.101, 552.110, 552.113, or 552.131, a district that requests an attorney general decision shall make a good faith attempt to notify that person of its request for the attorney general decision. The notice must include a copy of any written request the District received for the information and a statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

*Gov't Code 552.305*

COSTS AND CHARGES

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and over-

head. If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the public information may not include costs of materials, labor, or overhead, but shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not connected with each other or a remote storage facility. If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or the officer's agent, and the officer or the officer's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor. The District shall also charge for the cost of materials, labor, and overhead when the request is for any number of copies of information that is not readily available. Charges for providing a copy of public information are considered to accrue at the time the governmental body advises the requestor that the copy is available on payment of the applicable charges. *Gov't Code 552.261*

The District shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. The charges for providing copies of public information may not be excessive and may not exceed the actual cost of producing the information or for making public information that exists in a paper record available. The District may determine its own charges for producing public information and its own charge, deposit, or bond for making public information that exists in a paper record available for inspection, but may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless it requests an exemption. *Gov't Code 552.261, 552.262; 1 TAC 70.1(b)* [See also GBAA(EXHIBIT)]

#### EXEMPTIONS

The District may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges for providing copies of public information or the charge, deposit, or bond required for making public information that exists in a paper record available for inspection. The request must be made in writing to the attorney general and must state the reason for the exemption. If the attorney general determines that good cause exists, the attorney general shall grant the exemption by giving written notice of the determination within 90 days of the request. When it receives the notification, the District may amend its

charges for providing copies of public information or its charge, deposit, or bond required for making public information that exists in a paper record available for inspection according to the terms of the attorney general's determination. *Gov't Code 552.262(c)*

COPIES FOR  
PARENTS

The District may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

STATEMENT OF  
ESTIMATED  
CHARGES

If a request for a copy of public information or a request to inspect a paper record will result in the imposition of a charge that exceeds \$40, the District shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the District regarding the alternative method. The District must inform the requestor of the responsibilities imposed on the requestor by this section and the rights granted by this entire section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after the District provides the requestor the itemized statement but before it makes the copy or the paper record available, the District determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the District shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

REQUESTOR'S  
RESPONSE

A request for which the District is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the District within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges.
2. The requestor is modifying the request in response to the itemized statement; or
3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

ACTUAL  
CHARGES

If the actual charges that the District imposes for a copy or inspection of public information exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or

2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

TIMING OF  
DEADLINES

An original or updated itemized statement is considered to have been sent by the District, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing the required statement of estimated charges do not affect the application of a time deadline imposed on the District for requesting a decision by the attorney general under Government Code 552, Subchapter G.

*Gov't Code 552.2615*

DEPOSIT OR BOND

The officer for public information or his or her agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if the officer for public information or the officer's agent has provided the requestor with the required written itemized statement detailing the estimated charge for providing the copy and if the charge for providing the copy of the public information specifically requested by the requestor is estimated by the District to exceed \$100, if the District has more than 15 full-time employees; or \$50, if the District has fewer than 16 full-time employees. The officer for public information or the officer's agent may not require a deposit or bond be paid as a down payment for copies of future information that the requestor may request in the future. *Gov't Code 552.263(a), (b); 1 TAC 70.7(d)*

The officer for public information or the officer's agent may require a deposit or bond for payment of unpaid amounts the requestor owes the District in relation to previous public information requests before preparing a copy of public information in response to a new request if those unpaid amounts exceed \$100. The officer for public information or the officer's agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

The District must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond under this section. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, if the District requires a deposit or bond from the requestor, a request for a copy of public information is considered to have been received by the District on the date it receives the deposit or bond for payment of anticipated costs or unpaid amounts. A requestor who fails to make such a deposit or post such a bond before the tenth day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(e), (f)*

WAIVERS

If the cost to the District of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the Board may waive the charge. If the District determines that waiver or reduction of the charge is in the public interest because providing the copy of the information primarily benefits the general public, the District may waive or reduce the charge for a copy of public information. *Gov't Code 552.267*

GOVERNMENT  
PUBLICATION

The cost provisions described above do not apply to a publication that is compiled and printed by or for the District for public dissemination. If the cost of the publication is not determined by state law, the District may determine the charge for providing the publication, or it may provide the publication free of charge, if state law does not require a certain charge. *Gov't Code 552.270*

INSPECTION OF  
PUBLIC INFORMATION

If the requestor does not request a copy of public information, the District may not impose a charge for making available for inspection any public information that exists in a paper record. If a page contains confidential information that must be edited from the record before the information can be made available for inspection, however, the District may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. *Gov't Code 552.271(a), (b)*

PAYMENT, OR  
DEPOSIT OR BOND

The officer for public information or the officer's agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records only if:

1. The public information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and
2. The officer for public information or the officer's agent estimates that more than five hours will be required to make the public information available for inspection.

*Gov't Code 552.271(c)*



CERTAIN SMALL  
DISTRICTS

If the District has fewer than 16 full-time employees, the payment, or deposit or bond may be required only if:

1. The public information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and
2. The officer for public information or the officer's agent estimates that more than two hours will be required to make the public information available for inspection.

*Gov't Code 552.271(d)*

ELECTRONIC  
RECORDS

If the District receives a request to inspect information that exists in an electronic medium and the information is not available directly on-line to the requestor, a charge may not be imposed for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, the Board shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

If public information exists in an electronic form on a computer owned or leased by the District, and the public has access to that information through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the District's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, the Board may impose charges.

If the District creates or keeps information in an electronic form, it is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

*Gov't Code 552.272*

DESTRUCTION OF  
RECORDS

A District record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with the State Library and Archives Commission and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal standards. [See CPC]

2. The record appears on a list of obsolete records approved by the State Library and Archives Commission.
3. A destruction request is filed with and approved by the State Library and Archives Commission for a record not listed on an approved control schedule.
4. The district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law.
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by the State Library and Archives Commission.

*Local Gov't Code 202.001*

EXCEPTIONS

A District record the subject matter of which is known by the custodian to be the subject of litigation shall not be destroyed until the litigation is settled. A District record that is subject to a request under Chapter 552, Government Code shall not be destroyed until the request is resolved. *Local Gov't Code 202.002*

PRESERVATION OF  
RECORDS

The Board shall determine a time for which information that is not currently in use will be preserved, subject to any applicable rule or law governing the destruction and other disposition of local government records or public information. *Gov't Code 552.004* [See CPC]

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 an action involving the meeting is brought within that period, the certified agenda or tape recording shall be preserved while the action is pending. *Gov't Code 551.104(a)*

FILING SUIT TO  
WITHHOLD  
INFORMATION

The Board or officer for public information may, within the time lines provided for in Government Code 552.324(b) and 552.353(b)(3), file suit seeking to withhold information, but the requestor may not be named as a party to that action. The Board or officer for public information must demonstrate to the court that the Board or officer made a timely good faith effort to inform the requestor, by certified mail or other method of written notice that requires the return of a receipt, of:

1. The existence of the suit, including the subject matter, the cause number, and the court in which the suit is filed.
2. The requestor's right to intervene in the suit or to choose not to participate.
3. The fact that the suit is against the attorney general.

4. The address and phone number of the office of the attorney general.

*Gov't Code 552.324, 552.325*

PARENT'S REQUEST  
FOR INFORMATION

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under Chapter 552, Government Code, and that files suit as described by Government Code 552.324 to challenge a decision by the attorney general must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution of the subject matter of the suit. Notwithstanding any other law, the District may not appeal the decision of a court in such a suit challenging a ruling of the attorney general. This prohibition does not affect the right of a parent to appeal the decision. If the District does not bring suit within the period established, the District shall comply with the decision of the attorney general.

A district that receives a request from a parent for public information relating to the parent's child shall comply with Chapter 552, Government Code. If an earlier deadline for bringing suit is established under Chapter 552, Government Code, this rule does not apply.

*Education Code 26.0085*

FAILURE TO RAISE  
EXCEPTIONS  
BEFORE ATTORNEY  
GENERAL

A district that files suit seeking to withhold information may raise only those exceptions to required disclosure that the district properly raised before the attorney general in connection with a request for a decision by the attorney general, unless the exceptions raised by the district in its suit seeking to withhold information are required by federal law or involve property or privacy interests of another person. *Gov't Code 552.326*

### 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 70.4.

Copy charges are as follows:

1. Standard-paper copy. The charge for standard-paper copies reproduced by means of an office machine copier or a computer printer is \$.10 per page or part of a page. Each side that has recorded information is considered a page.
2. Nonstandard copy. The charges for nonstandard copies are:
  - a. Diskette — \$1.00
  - b. Magnetic tape — actual cost
  - c. Data cartridge — actual cost
  - d. Tape cartridge — actual cost
  - e. Rewritable CD (CD-RW) — \$1.00
  - f. Non-rewritable CD (CD-R) — \$1.00
  - g. Digital video disc (DVD) — \$3.00
  - h. JAZ drive — actual cost
  - i. Other electronic media — actual cost
  - j. VHS video cassette — \$2.50
  - k. Audio cassette — \$1.00
  - l. Oversize paper copy (e.g., 11" x 17", greenbar, bluebar, not including maps and photographs using specialty paper) — \$.50
  - m. Specialty paper (e.g., Mylar, blueprint, blue-line, 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]

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(EXHIBIT)

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 shall not be recovered for any time spent by an attorney, legal assistant, or any other person who reviews the requested information:
  - a. To determine whether the District will raise any exceptions to disclosure of the requested information under Government Code, Subchapter C, Chapter 552; or
  - b. To research or prepare a request for a ruling by the attorney general's office pursuant to section 552.301 of the Government Code. [See CQ]
5. When confidential information pursuant to a mandatory exception of the Act is mixed with public information in the same page, a labor charge may be recovered for time spent to redact, blackout, or otherwise obscure confidential information in order to release the public information. A labor charge shall not be made for redacting confidential information for requests of 50 or fewer pages, unless the request also qualifies as a labor charge pursuant to Government Code 552.261(a)(1) or (2).

Overhead charges are as follows:

1. Whenever any labor charge is applicable to a request, the District may include in the charges direct and indirect costs, in addition to the specific labor charge. This overhead charge would cover such costs as depreciation of capital assets, rent, maintenance and repair, utilities, and administrative overhead. If the District chooses to recover such costs, a charge shall be made in accordance with the methodology described in item 3 below. Although an exact calculation of costs will vary, the use of a standard charge will avoid complication in calculating such costs and will provide uniformity for charges made statewide.
2. An overhead charge shall not be made for requests for copies of 50 or fewer pages of standard paper records unless the request also qualifies for a labor charge pursuant to Government Code 552.261(a)(1) or (2).
3. The overhead charge shall be computed at 20 percent of the charge made to cover any labor costs associated with a particular request. For example, if one hour of labor is used for a particular request, the formula would be as follows: Labor charge for locating, compiling, and reproducing,  $\$15.00 \times .20 = \$3.00$ ; or programming labor charge,  $\$28.50 \times .20 = \$5.70$ . 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:  $\$15.00 + \$28.50 = \$43.50 \times .20 = \$8.70$ .

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 shall not exceed the cost of reproduction. Districts that do not have in-house capability to reproduce microfiche or microfilm are encouraged to contact the Texas State Library before having the reproduction made commercially.
2. If only a master copy of information in microform is maintained, the charge is \$.10 per page for standard-size paper copies plus any applicable labor and overhead charge for more than 50 copies.

Remote document retrieval charges are as follows:

1. Due to limited on-site capacity of storage of documents, it is frequently necessary to store information that is not in current use in remote storage locations. Every effort should be made by the District to store current records on-site. To the extent that the retrieval of documents results in a charge to comply with a request, it is permissible to recover costs of such services for requests that qualify for labor charges under current law.
2. If the District has a contract with a commercial records storage company, whereby the private company charges a fee to locate, retrieve, deliver, and return to storage the needed record(s), no additional labor charge shall be factored in for time spent locating documents at the storage location by the private company's personnel. If after delivery to the District, the boxes must still be searched for records that are responsive to the request, a labor charge is allowed in accordance with item 2 under personnel charges, above.

Computer resource charges are as follows:

1. The computer resource charge is a utilization charge for computers based on the amortized cost of acquisition, lease, operation, and maintenance of computer resources, which might include, but is not limited to, some or all of the following: central processing units (CPUs), servers, disk drives, local area networks (LANs), printers, tape drives, other peripheral devices, communications devices, software, and system utilities.
2. These computer resource charges are not intended to substitute for cost recovery methodologies or charges made for purposes other than responding to public information requests.
3. The charges in this section are averages based on a survey of governmental bodies with a broad range of computer capabilities. Each district using this cost recovery charge shall determine which category(ies) of computer system(s) used to fulfill the public information request most closely fits its existing system(s) and set its charge accordingly:

INFORMATION ACCESS  
REQUESTS FOR INFORMATION

GBAA  
(EXHIBIT)

<u>Type of System</u>	<u>Rate</u>
Mainframe	\$ 10.00 per CPU minute
Midsized	\$ 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 print-out time. For example, if a mainframe computer is used, and the processing time is 20 seconds, the charges would be as follows:  $\$10.00 / 3 = \$3.33$ ; or  $\$10.00 / (60 / 20) = \$3.33$ .

A district that does not have in-house computer capabilities shall comply with requests in accordance with Government Code 552.231. [See CQ]

The actual cost of miscellaneous supplies, such as labels, boxes, and other supplies used to produce the requested information, may be added to the total charge for public information.

Governmental bodies may add any related postal or shipping expenses that are necessary to transmit the reproduced information to the requesting party.

Pursuant to Office of the Comptroller of Public Accounts' rules, sales tax shall not be added on charges for public information. (34 TAC, Part 1, Chapter 3, Subchapter O, Sections 3.341 and 3.342).

*1 TAC 70.3; 70.10*

North East ISD  
015910

RELATIONS WITH PARENT ORGANIZATIONS

GE  
(LEGAL)

PARENT-TEACHER  
ORGANIZATIONS

The Board shall cooperate in the establishment of ongoing operations of at least one parent-teacher organization at each school in the District to promote parental involvement in school activities.  
*Education Code 26.001(e)*



RELATIONS WITH PARENT ORGANIZATIONS

GE  
(LOCAL)

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  
PROCEEDINGS

An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
  - a. The tape recording must be complete, audible, and clear; and
  - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

*19 TAC 157.1073(d)*

DISRUPTION

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

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**Note:** Public complaints regarding instructional and library materials are addressed at EFA and complaints against peace officers are addressed at CKE.

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PUBLIC COMPLAINTS

GF  
(LOCAL)

GUIDING PRINCIPLES	The Board encourages the public to discuss concerns and complaints through informal conferences with the appropriate administrator.
INFORMAL PROCESS	Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.
FORMAL PROCESS	<p>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.</p> <p>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.</p> <p>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.</p>
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	<p>For more information on how to proceed with complaints regarding:</p> <ol style="list-style-type: none"><li>1. Alleged discrimination, see GA.</li><li>2. Instructional materials, see EFA.</li><li>3. On-campus distribution of nonschool materials, see GKDA.</li><li>4. A commissioned peace officer who is an employee of the District, see CKE.</li></ol>
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

PUBLIC COMPLAINTS

GF  
(LOCAL)

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 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 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 refile is within the designated time for filing a complaint.

LEVEL ONE

Complaint forms must be filed:

1. Within ten 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.

COMMUNITY RELATIONS  
CONDUCT ON SCHOOL PREMISES

GKA  
(LEGAL)

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, 37.107*

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:



COMMUNITY RELATIONS  
CONDUCT ON SCHOOL PREMISES

GKA  
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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)*

COMMUNITY RELATIONS  
CONDUCT ON SCHOOL PREMISES

GKA  
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- 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, Gov-

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CONDUCT ON SCHOOL PREMISES

GKA  
(LEGAL)

ernment 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)*

COMMUNITY RELATIONS  
ADVERTISING AND FUND RAISING IN THE SCHOOLS

GKB  
(LEGAL)

OUTDOOR ADVERTISING	A person commits an offense if the person willfully erects or maintains outdoor advertising in violation of Transportation Code Chapter 391. <i>Trans. Code 391.031, 391.061</i>
EXCEPTION	An outdoor advertising sign may include the logo or emblem of an entity if the sign is erected or maintained by a public school in a county with a population of 65,000 or less, the entity sponsors or provides significant funding to the school, and the entity's logo or emblem occupies less than 25 percent of the area of the sign. <i>Trans. Code 391.037</i>
DEFINITION	"Outdoor advertising" means an outdoor sign, display, light, device, figure, painting, drawing, message, plaque, poster, billboard, or other thing designed, intended, or used to advertise or inform if any part of the advertising or information content is visible from the main-traveled way of the interstate or primary system. <i>Trans. Code 391.001(10)</i>
CHARITABLE RAFFLES	<p>A raffle is the awarding of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. <i>Occupations Code 2002.002(6)</i></p> <p>A "qualified nonprofit organization" for purposes of the Charitable Raffle Enabling Act may conduct raffles in accordance with the Act to benefit the District or school. A parent-teacher organization may be qualified to hold such raffles if it meets the requirements of the Act. <i>Occupations Code 2002.003, 2002.051; Atty. Gen. Op. JM-1176 (1990)</i> [See also FJ]</p>

COMMUNITY RELATIONS  
ADVERTISING AND FUND RAISING IN THE SCHOOLS

GKB  
(LOCAL)

PROMOTIONAL  
ACTIVITIES

School facilities shall not be used to advertise, promote, sell tickets, or collect funds for any nonschool-related purpose without prior approval of the Superintendent or designee. Nonschool-related organizations may use school facilities only in accordance with GKD.

ADVERTISING

Advertising shall be accepted to increase revenues for the District and to cover the cost of providing materials and equipment, not for the purpose of establishing a forum for communication. The District retains final editorial authority to accept or reject submitted advertisements in a manner consistent with the First Amendment.  
[See FMA regarding school-sponsored publications]

Advertising that promotes products, brand names, or trademarks may be displayed on school property and at school events under agreements negotiated by the Superintendent or designee.

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COMMUNITY RELATIONS  
VISITORS TO THE SCHOOLS

GKC  
(LEGAL)

MILITARY  
RECRUITERS' ACCESS  
TO STUDENTS

Each district receiving assistance under the ESEA shall provide military recruiters the same access to secondary school students as is provided generally to post-secondary educational institutions or to prospective employers of those students. *20 U.S.C. 7908*

Prominent notices shall be posted at each campus that all staff and visitors must first report to the campus administrative office. This shall apply to parents, Board members, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by the District, salespersons, representatives of the news media, former students, and any other visitors.

Visits to individual classrooms during instructional time shall be permitted only with the principal's and teacher's approval, and such visits shall not be permitted if their duration or frequency interferes with the delivery of instruction or disrupts the normal school environment.

- PROHIBITED ACTS      An officer or employee of the District who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:
1. Refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the District;
  2. Refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the District;
  3. Refuse to grant a benefit to the person; or
  4. Impose an unreasonable burden on the person.

*Civil Practices and Remedies Code 116.001*

- RIGHT TO PRESERVE USE      The District, like a private property owner, may legally preserve the property under its control for the use to which it is dedicated.  
*Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 113 S. Ct. 2141 (1993)

- FORUM FOR COMMUNICATION      The District may create a public forum of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 103 S. Ct. 948 (1983); *Chiu v. Plano Indep. Sch. Dist.*, 260 F.3d 330 (5th Cir. 2001)

The District is not required to allow persons to engage in every type of speech when the District establishes a limited public forum; the District may be justified in reserving its forum for certain groups or for the discussion of certain topics. The District shall not discriminate against speech on the basis of viewpoint, and any restriction must be reasonable in light of the purpose served by the forum. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 121 S. Ct. 2093 (2001); *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 113 S. Ct. 2141 (1993)

- FEES FOR USE      The Board may set and collect rentals, rates, and charges from students and others for the occupancy or use of any of the District's facilities, in the amounts and manner determined by the Board. *Education Code 45.033*

- PATRIOTIC SOCIETIES      If the District has a designated open forum or a limited public forum and receives funds made available through the U.S. Department of Education, the District shall not deny equal access or a fair opportunity to meet, or to discriminate against, any group officially affiliated with the Boy Scouts of America, or any other youth group listed in Title 36 of the United States Code (as a patriotic society),



COMMUNITY RELATIONS  
NONSCHOOL USE OF SCHOOL FACILITIES

GKD  
(LEGAL)

that wishes to conduct a meeting within that designated open forum or limited public forum, including denying such access or opportunity or discriminating for reasons based on the membership or leadership criteria or oath of allegiance to God and country of the Boy Scouts of America or of the youth group listed as a patriotic society.

The United States secretary of education may issue and secure compliance with rules or orders with respect to a district that receives federal funds and that denies equal access, or a fair opportunity to meet, or discriminates, as described above. If a district does not comply with the rules or orders, no funds made available through the Department of Education shall be provided to that district.

YOUTH GROUP	“Youth group” means any group or organization intended to serve young people under the age of 21.
LIMITED PUBLIC FORUM	For purposes of this policy regarding PATRIOTIC SOCIETIES, an elementary school or secondary school has a limited public forum whenever the school grants an offering to, or opportunity for, one or more outside youth or community groups to meet on school premises or in school facilities before or after the hours during which attendance at the school is compulsory.
SPONSORSHIP	Nothing in this policy shall be construed to require the District to sponsor any group officially affiliated with the Boy Scouts of America, or any youth group listed as a patriotic society.  <i>Boy Scouts of America Equal Access Act, 20 U.S.C. 7905</i>
FACILITIES AS POLLING PLACES	<p>The District shall make its buildings available for use as polling places in any election that covers territory in which the buildings are located. If more than one authority requests the use of the buildings for the same day and simultaneous use is impractical, the District shall determine which authority may use the building. <i>Election Code 43.031(c)</i></p> <p>No charge, including a charge for personnel, utilities, or other expenses incurred before or after regular business hours, shall be made for the use of a District building for a polling place if the day of the election is a day on which the building is normally open. If the day of an election is a day on which the building is not normally open, a charge may be made only for the reimbursement of actual expenses resulting from use of the building in the election. <i>Election Code 43.033(a)</i></p>
POLITICAL PARTY CONVENTIONS	The District shall not assess a charge for the use of a school building for a precinct, county, or senatorial district convention, except for reimbursement for the actual charges resulting from use of the

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NONSCHOOL USE OF SCHOOL FACILITIES

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(LEGAL)

building for the convention. The District shall provide an itemized statement of expenses to the reimbursing authority. *Election Code 174.0631*

COMMUNITY RELATIONS  
NONSCHOOL USE OF SCHOOL FACILITIES

GKD  
(LOCAL)

The Board permits and encourages public use of designated school facilities for educational, recreational, civic, or social activities, when these activities do not conflict with school use or with this policy.

APPROVAL OF USE

The Superintendent or designee is authorized to approve use of District facilities and campus facilities. Use of campus facilities requires the additional approval of the principal. Use of District athletic facilities requires the approval of the executive director of athletics. No group or organization shall be permitted to use any school facility for any purpose other than official school business prior to executing a formal written contract.

No approval shall be required for nonschool-related recreational use of the District's unlocked, outdoor recreational facilities, such as the track, playgrounds, tennis courts, and the like, when the facilities are not in use by the District or for a scheduled nonschool purpose.

High school athletic fields such as football, baseball, softball, and soccer, and middle school football fields are for school use only. Any exceptions must be authorized by the Superintendent or designee and the executive director of athletics.

Approval shall not be granted for any purpose that would damage school property or to groups that are known to have damaged District or other rented property.

[See CNB regarding nonschool use of District vehicles and FNAB regarding student group use of school facilities]

FEES FOR USE

The Superintendent or designee shall establish and publish a schedule of fees for the use of the facilities based on the cost of the physical operation of the facilities, as well as any applicable personnel costs for supervision, custodial services, food services, security, and technology services. There are four types of fees: building use, equipment use, utility, and personnel. All fees must be paid prior to any approved, scheduled usage. Any additional fees incurred during the usage shall be invoiced at the conclusion of the event.

FEE WAIVER

Facility fees shall not apply when school buildings are used as polling places for public elections. If the election or meeting is held on a day when the facility is not normally open, reimbursement will be made to the District for the actual expense of using the facility.  
[See GKD(LEGAL)]

Building use, equipment use, and personnel fees may be waived at the discretion of the Superintendent for the following groups; however, personnel fees shall be paid when these costs are incurred

COMMUNITY RELATIONS  
NONSCHOOL USE OF SCHOOL FACILITIES

GKD  
(LOCAL)

due to the group's activities causing personnel to work beyond the normal hours of operation or when additional personnel must be added:

1. Direct school-support organizations.
2. Nonprofit community service-oriented organizations.
3. Youth organizations dedicated to educational and recreational purposes with open programs.
4. Precinct and county conventions or public meetings sponsored by state or local governmental agencies.

EMERGENCIES OR  
DISASTERS

The Superintendent may authorize the use of school facilities by civil defense, health, or emergency service authorities in the case of emergencies or disasters.

REQUIRED CONDUCT

Organizations using school facilities shall:

1. Conduct their business in an orderly manner.
2. Abide by all laws and policies, including but not limited to those prohibiting the use, sale, or possession of alcoholic beverages, illegal drugs, and firearms and the use of tobacco products on school property.
3. Make no alteration, temporary or permanent, to school property without prior written consent from the Superintendent.

RELEASE OF LIABILITY  
/ INSURANCE

Organizations or individuals using school facilities shall release the District from liability for personal injury and/or damages to personal property. All groups using school facilities shall be responsible for the cost of damages incurred during their use. Organizations using school facilities shall provide evidence of liability insurance, with the following exceptions:

1. School-related organizations that perform an educational function that renders them immune from liability under Texas law.
2. Governmental entities that are immune from liability under Texas law.
3. Organizations in which membership and membership fees are voluntary and activities are confined to the membership and are nonprofit in character.

COMMERCIAL USE

District school facilities may be rented, leased, or otherwise used for a limited number of commercial groups as approved by the Superintendent or designee.

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COMMUNITY RELATIONS  
NONSCHOOL USE OF SCHOOL FACILITIES

GKD  
(LOCAL)

SCHEDULING

Requests for nonschool use of District facilities shall be considered on a first-come, first-served basis; however, sport-related requests shall be considered on a percentage of availability schedule. Academic and extracurricular activities shall always have priority when any use is scheduled. [See FM] The Superintendent or designee and the campus principal shall have authority to cancel a scheduled nonschool use if an unexpected conflict arises with a District activity.

NONSCHOOL USE OF SCHOOL FACILITIES  
DISTRIBUTION OF NONSCHOOL LITERATURE

GKDA  
(LEGAL)

FORUM FOR  
COMMUNICATION

The District may create a public forum of a place or channel of communication for use by the public at large for assembly and speech, for use by certain speakers, or for the discussion of certain subjects. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 103 S. Ct. 948 (1983); *Chiu v. Plano Indep. Sch. Dist.*, 260 F.3d 330 (5th Cir. 2001)

The District is not required to allow persons to engage in every type of speech when the District establishes a limited public forum; the District may be justified in reserving its forum for certain groups or for the discussion of certain topics. The District shall not discriminate against speech on the basis of viewpoint, and any restriction must be reasonable in light of the purpose served by the forum. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 121 S. Ct. 2093 (2001); *Lamb's Chapel v. Center Moriches Union Free Sch. Dist.*, 508 U.S. 384, 113 S. Ct. 2141 (1993)

DISTRIBUTION OF  
NONSCHOOL  
PUBLICATIONS

Activities such as distributing literature, displaying signs, petitioning for change, and disseminating information concerning issues of public concern are protected by the First Amendment. *Schenck v. Pro-Choice Network*, 519 U.S. 357, 117 S. Ct. 855 (1997) (recognizing leafletting and commenting on matters of public concern as protected speech); *Boos v. Barry*, 485 U.S. 312, 108 S. Ct. 1157 (1988) (recognizing public issue signs as protected speech); *Meyer v. Grant*, 486 U.S. 414, 108 S. Ct. 1886 (1988) (recognizing the solicitation of signatures for a petition drive as protected speech)

If the District creates a forum for the distribution of nonschool literature, the District may impose time, place, and manner regulations and may reserve its facilities for their intended purposes, communicative or otherwise, as long as the regulation on speech is reasonable and not an effort to suppress expression merely because public officials oppose the speaker's view. *Perry Educ. Ass'n v. Perry Local Educators' Ass'n*, 460 U.S. 37, 103 S. Ct. 948 (1983)

The District may not require prior review before permitting nondisruptive distribution of written materials on matters of public concern at a parents-only school-sponsored meeting after school hours. *Chiu v. Plano Indep. Sch. Dist.*, 339 F.3d 273 (5th Cir. 2003)

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 CPAB for use of the District's internal mail system]

NONSCHOOL USE OF SCHOOL FACILITIES  
DISTRIBUTION OF NONSCHOOL LITERATURE

GKDA  
(LOCAL)

DISTRIBUTION OF  
NONSCHOOL  
LITERATURE  
PERMITTED

Written or printed materials, handbills, photographs, pictures, films, tapes, or other visual or auditory materials not sponsored by the District or by a District-affiliated school-support organization shall not be sold, circulated, distributed, or posted on any District premises by any District employee or by persons or groups not associated with the District, except in accordance with this policy.

The District shall not be responsible for, nor shall the District endorse, the contents of any nonschool literature distributed on any District premises.

LIMITATIONS ON  
CONTENT

Nonschool literature shall not be distributed on District property if:

1. The materials are obscene, vulgar, or otherwise inappropriate for the age and maturity of the audience.
2. The materials endorse actions endangering the health or safety of students.
3. The distribution of such materials would violate the intellectual property rights, privacy rights, or other rights of another person.
4. The materials contain defamatory statements about public figures or others.
5. The materials advocate imminent lawless or disruptive action and are likely to incite or produce such action.
6. The materials are hate literature or similar publications that scurrilously attack ethnic, religious, or racial groups or contain content aimed at creating hostility and violence; and the materials would materially and substantially interfere with school activities or the rights of others.
7. There is reasonable cause to believe that distribution of the nonschool literature would result in material and substantial interference with school activities or the rights of others.

PRIOR REVIEW

All nonschool materials intended for distribution on school campuses or other District premises under this policy shall be submitted to the Superintendent or designee for prior review in accordance with the following:

1. Materials shall include the name of the person or organization sponsoring the distribution.
2. Using the standards found in this policy at LIMITATIONS ON CONTENT, the Superintendent or designee shall approve or reject submitted materials within two school days of the time the materials were received.

NONSCHOOL USE OF SCHOOL FACILITIES  
DISTRIBUTION OF NONSCHOOL LITERATURE

GKDA  
(LOCAL)

EXCEPTIONS TO PRIOR REVIEW	<p>Prior review shall not be required for distribution of nonschool literature in the following circumstances:</p> <ol style="list-style-type: none"><li>1. Distribution of materials by an attendee to other attendees at a school-sponsored meeting intended for adults and held after school hours;</li><li>2. Distribution of materials by an attendee to other attendees at a community group meeting held in accordance with GKD(LOCAL) or a noncurriculum-related student group meeting held in accordance with FNAB(LOCAL); or</li><li>3. Distribution for electioneering purposes during the time a school facility is being used as a polling place in accordance with state law [see BBB].</li></ol>
	<p>All nonschool literature distributed under these exceptions shall be removed from District property immediately following the event at which the materials were distributed.</p>
	<p>Even when prior review is not required, all other provisions of this policy shall apply.</p>
TIME, PLACE, AND MANNER RESTRICTIONS	<p>Each campus principal shall designate times, locations, and means by which nonschool literature that is appropriate for distribution, as provided in this policy, may be made available or distributed to students or others at the principal's campus.</p> <p>The Superintendent or designee shall designate times, locations, and means for distribution of nonschool literature at District facilities other than school campuses, in accordance with this policy.</p>
VIOLATIONS OF POLICY	<p>Failure to comply with this policy regarding distribution of nonschool literature shall result in appropriate administrative action, including but not limited to confiscation of nonconforming materials and/or suspension of use of District facilities. Appropriate law enforcement officials may be called if a person refuses to comply with this policy or fails to leave the premises when asked. [See GKA]</p>
APPEALS	<p>Decisions made by the administration in accordance with this policy may be appealed in accordance with the appropriate District complaint policy. [See DGBA, FNG, or GF]</p>



The District shall develop a volunteer program. In developing the program, the District shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, the District shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003* [See DC regarding criminal history record check]

PROGRAM  
REQUIREMENTS AND  
GUIDELINES

A volunteer program shall include:

1. An effective training program for paid staff and prospective volunteers.
2. The use of paid staff to plan and implement the volunteer program.
3. An evaluation mechanism to assess the performance of volunteers, the cooperation of paid staff with the volunteers, and the overall volunteer program.
4. Follow-up studies to ensure the effectiveness of the program.

*Gov't Code 2109.004(a)*

A volunteer program may:

1. Establish a program to reimburse volunteers for actual and necessary expenses incurred in the performance of volunteer services.
2. Establish an insurance program to protect volunteers in the performance of volunteer services.
3. Cooperate with private organizations that provide services similar to those provided by the District.
4. Purchase engraved certificates, plaques, pins, and/or other awards of a similar nature that do not exceed \$75 per person in value to recognize special achievement and outstanding service of volunteers.

*Gov't Code 2109.004(b)*

VOLUNTEER  
IMMUNITY

A volunteer who is serving as a direct service volunteer in the District is immune from civil liability to the same extent as a District employee under Education Code 22.0511. However, this section of law does not limit the liability of a person for intentional misconduct or gross negligence.

A "volunteer" is a person rendering services for or on behalf of the District on District premises or at a school-sponsored or school-related activity on or off school property who does not receive compensation in excess of reimbursement for expenses.

*Education Code 22.053*

COMMUNITY RELATIONS  
SCHOOL VOLUNTEER PROGRAM

GKG  
(LOCAL)

PURPOSE	Recognizing the increasingly important role that volunteers play in education as they help to promote school/community interaction and enrich curriculum, the Board encourages the use of volunteers in the District's schools and central office to complement and supplement educational programs.
AUTHORITY OF SCHOOL PERSONNEL	<p>Volunteers in the schools shall work directly under the supervision of the principal of the building to which the volunteer is assigned or a staff person designated by that principal. Volunteers shall register in each building. [See GKC(LOCAL)]</p> <p>The Superintendent shall develop such administrative procedures as necessary to implement this policy.</p>
SCOPE OF PROGRAM	<p>School volunteers may offer their services individually or as part of an organizational project from groups, such as, but not limited to, the following:</p> <ol style="list-style-type: none"><li>1. PTA</li><li>2. Businesses</li><li>3. Colleges and universities</li><li>4. Community organizations</li><li>5. Senior citizen groups</li></ol>
CRIMINAL HISTORY RECORD CHECK	The District shall obtain the criminal history record of prospective school volunteers. If the criminal history record indicates a conviction for felony assault, an offense involving violence, drugs, or weapons, or other offenses not considered conducive to service in a school setting, the volunteer coordinator may deny a request to serve as a volunteer. The volunteer coordinator shall inform volunteers when their services are to begin.

North East ISD  
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RELATIONS WITH EDUCATIONAL ENTITIES  
OTHER SCHOOLS AND DISTRICTS

GNA  
(LEGAL)

OPERATION OUTSIDE  
DISTRICT

The Board may operate a school or program, including an extra-curricular program, or hold a class outside the boundaries of the District. *Education Code 11.167*

RELATIONS WITH EDUCATIONAL ENTITIES  
REGIONAL EDUCATION SERVICE CENTERS

GNB  
(LEGAL)

Regional education service centers shall be located throughout the state so that each school district has the opportunity to be served by and to participate in an approved center on a voluntary basis. The centers shall, at the direction of the Commissioner of Education, provide services to assist school districts in improving student performance and increasing the efficiency and effectiveness of school operations.

CORE SERVICES

Each regional education service center shall develop and maintain core services for purchase by school districts and campuses. These services are:

1. Training and assistance in teaching reading, writing, mathematics, social studies, and science.
2. Training and assistance in providing special education, compensatory education, bilingual education, and gifted and talented education.
3. Assistance specifically designed for an academically unacceptable campus or a campus whose performance is considered unacceptable based on the academic excellence indicators.
4. Training and assistance to teachers, administrators, Board members, and members of site-based decision making committees.
5. Assistance specifically designed for the District that is considered out of compliance with state or federal special education requirements.
6. Assistance in complying with state laws and rules.
7. Assistance in entering into an agreement for a cooperative shared services arrangement regarding administrative services.

ADDITIONAL  
SERVICES

In addition to the core services, a regional education service center may offer any service requested and purchased by any school district or campus in the state.

*Education Code 8.001(b), 8.002, 8.051, 8.053, 11.003*

DELEGATION OF  
FUNCTIONS

The Board of the District may delegate purchasing or other administrative functions to a service center to the extent necessary to achieve efficiencies in the use of available services. *Education Code 8.122(d)*

RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

GNC  
(LEGAL)

COMMUNITY  
COLLEGES

If the District is located in a county contiguous to, but not part of, a community college district, the Board may enter into a contract with the board of the community college district that provides for the community college to hold college courses in the District's facilities. The contract shall be approved by Board resolution. *Education Code 130.006*

REMEDIAL  
PROGRAMS FOR  
SECONDARY  
STUDENTS

The Board may contract with the board of the junior college district in which the District is located for the junior college to provide remedial programs for students enrolled in the District's secondary schools in preparation for graduation from secondary school and entrance into college. *Education Code 130.090*

OPERATION ON  
COLLEGE CAMPUS

The Board may operate a school or program or hold a class on the campus of an institution of higher education in this state if the Board obtains written consent from the president or other chief executive officer of the institution, regardless of whether the institution is located within the boundaries of the District. *Education Code 11.166*

PLAN TO INCREASE  
HIGHER EDUCATION  
ENROLLMENT

Unless the District is already operating under a plan to increase enrollment, not later than May 1 of each year TEA shall notify affected districts.

AFFECTED  
DISTRICTS

Affected districts are those with one or more high schools that:

1. During the preceding five years, have had an average of at least 26 students in the high school graduating class; and
2. For any two consecutive years during the preceding five years, have been among the lowest ten percent of high schools in this state in the percentage of students graduating and enrolling for the following academic year in an institution of higher education.

REQUIRED  
AGREEMENT

Not later than August 1 of the year in which an affected district receives notice from TEA, the District shall enter into an agreement with the public institution of higher education in this state in closest geographic proximity to the District to develop a plan to increase the percentage of the District's graduating seniors who enroll in an institution of higher education for the academic year following graduation. That public institution of higher education shall enter into an agreement unless that institution or the District recruits another public institution of higher education in this state to enter into the agreement. The District and the public institution of higher education entering into the agreement with the District may also enter into an agreement with one or more other public institutions of higher education in this state to participate in developing the plan.

RELATIONS WITH EDUCATIONAL ENTITIES  
COLLEGES AND UNIVERSITIES

GNC  
(LEGAL)

PLAN  
COMPONENTS

The plan:

1. Must establish clear, achievable goals for increasing the percentage of the District's graduating seniors who enroll in an institution of higher education for the academic year following graduation;
2. Must establish an accurate method of measuring progress toward the goals established under item 1 above that may include the percentage of District high school students who:
  - a. Are enrolled in a course for which a student may earn college credit, such as an advanced placement or international baccalaureate course or a course offered through concurrent enrollment in high school and at an institution of higher education;
  - b. Are enrolled in courses that meet the curriculum requirements for the recommended or advanced high school program;
  - c. Have submitted a free application for federal student aid (FAFSA);
  - d. Are exempt under Education Code 51.306(l) or (m) from administration of a test instrument under 51.306 or have performed successfully on a test instrument;
  - e. Graduate from high school;
  - f. Graduate from an institution of higher education; and
  - g. Have taken college entrance examinations and the average score of those students on the examinations;
3. Must cover a period of at least five years; and
4. May be directed at District students at any level of primary or secondary education.

The District shall file the plan with the Commissioner of Education and the Commissioner of Higher Education. The District must implement the plan at the beginning of the school year following the year during which the District receives notice from TEA. The District may revise the plan as necessary in response to achieving or failing to achieve goals under the plan.

*Education Code 29.904*

RELATIONS WITH EDUCATIONAL ENTITIES  
STATE EDUCATION AGENCY

GND  
(LEGAL)

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 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 grouped by percentage 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).
13. The measure of progress toward preparation for postsecondary success.
14. The measure of progress toward dual language proficiency under Education Code 39.034(b) for students of limited English proficiency.

*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 a campus or the 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 a 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 7 and shall project the standards for each level of performance for succeeding years. For the indicator at item 8 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)*

The indicators, standards, and procedures used to determine ratings under both standard and alternative education accountability procedures 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; and
4. Procedures for submitting a rating appeal.

*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

RELATIONS WITH EDUCATIONAL ENTITIES  
STATE EDUCATION AGENCY

GND  
(LEGAL)

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)*

INTERNET  
DISSEMINATION

A district that maintains an Internet Web site shall, not later than the tenth day of instruction of each school year, make the information contained in the most recent performance rating of the district, as determined under Education Code 39.072, and a definition and explanation of each performance rating described by Education Code 39.072(a) available to the public on the Web site. *Education Code 39.252*

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)*

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 District administration, if it appears that the conflict involves a violation 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)*

PAPERWORK REQUIREMENTS	The Commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to TEA concerning imposition of excessive paperwork requirements on classroom teachers. <i>Education Code 39.075(b-1)</i>
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. <i>Education Code 39.076(a)</i>
REVISION OF RATINGS	Ratings may be revised as a result of investigative activities by the Commissioner. <i>19 TAC 97.100(c)</i>
ACCREDITATION RATINGS	TEA shall evaluate the District's performance and rate it for accreditation purposes as: <ol style="list-style-type: none"><li>1. Exemplary (meets or exceeds state exemplary standards).</li><li>2. Recognized (meets or exceeds the state standards and meets required improvement).</li><li>3. Academically acceptable (exceeds academically unacceptable, but is below exemplary and recognized).</li><li>4. Academically unacceptable (fails to achieve the standard of acceptable performance).</li></ol> <i>Education Code 39.072; 19 TAC 97.1(a), 97.2</i>
GOLD PERFORMANCE RATINGS	<p>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.</p> <p>The performance standards on which a gold performance rating is based should include:</p> <ol style="list-style-type: none"><li>1. Student proficiency on state assessment instruments and other measures of proficiency determined by the Commissioner;</li></ol>

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	<p>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]</p> <p><i>Education Code 39.112</i></p>
TEXAS YOUTH COMMISSION	<p>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.</p> <p><i>Education Code 39.072(d)</i></p>
IMPROVEMENT PLAN EXEMPTION	<p>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. <i>Education Code 7.056(f)</i></p>
CHARACTER PLUS SCHOOL	<p>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. <i>Education Code 29.906(e)(2)</i> [See EHBK]</p>

RELATIONS WITH GOVERNMENTAL ENTITIES

GR  
(LEGAL)

INTERLOCAL  
COOPERATION  
CONTRACTS

In order to increase the efficiency and effectiveness of District operations and government, the District may contract, to the extent it deems feasible, with other school districts, local governments, and agencies of the state to study the feasibility of the performance of a governmental function or service by interlocal contract or to provide a governmental function or service that each party to the contract is authorized to perform individually. *Gov't Code 791.001, 791.011(c)*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed annually.

*Gov't Code 791.011(d)-(f)*

An interlocal contract must be authorized by the Board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party. The payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract, and the contract may be renewed annually. *Gov't Code 791.011(d)-(f)*

COOPERATIVE  
PURCHASING  
PROGRAM

The District may participate in a cooperative purchasing program with another local government or a local cooperative organization. If the District does so, it may sign an agreement with another participating local government or a local cooperative organization as described at CH(LEGAL). *Local Gov't Code 271.102*

NURSING SERVICES

The District may contract with a hospital district in which the District is located to provide nursing services and assistance to employees or students of the District. *Health and Safety Code 281.0465*

RELATIONS WITH GOVERNMENTAL ENTITIES  
LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(LOCAL)

QUESTIONING OF  
STUDENTS

The following guidelines shall apply when law enforcement officers or other lawful authorities desire to question or interview a student at school:

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The principal ordinarily shall make reasonable efforts to notify the student's parents or other person having lawful control of the student. If the interviewer raises what the principal considers to be a valid objection to the notification, parents shall not be notified.
3. The principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the principal considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

CHILD ABUSE  
INVESTIGATION

When the event is part of child abuse investigations conducted by the Department of Protective and Regulatory Services or other lawful authority, the principal shall cooperate fully with the officers' requests regarding the conditions of the interview or questioning.

STUDENTS TAKEN  
INTO CUSTODY

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the principal shall verify the official's identity. To the best of his or her ability, the principal shall verify the official's authority to take custody of the student [see GRA], and then shall deliver over the student.

The principal shall immediately notify the Superintendent and ordinarily shall notify the parents or other person having lawful control of the student. If the officer or other authorized person raises what the principal considers to be a valid objection to notifying the parents at that time, the principal shall not notify the parents.

Education Code 37.015 requires principals to make reports to local law enforcement authorities of certain classes of offenses, four of which are referenced entirely by citation. The offenses referenced only by citation are further defined below.

1. "Conduct that may constitute an offense under Section 508.149, Government Code":
  - a. An offense for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure (use or exhibition of a prohibited weapon during commission of or flight from a felony offense).
  - b. A first degree felony under Penal Code 19.02 (murder).
  - c. A capital felony under Penal Code 19.03 (capital murder).
  - d. A first degree felony or a second degree felony under Penal Code 20.04 (aggravated kidnapping).
  - e. A second degree felony under Penal Code 22.011 (sexual assault).
  - f. A first degree or second degree felony under Penal Code 22.02 (aggravated assault).
  - g. A first degree felony under Penal Code 22.021 (aggravated sexual assault).
  - h. A first degree felony under Penal Code 22.04 (injury to a child, elderly individual, or disabled individual).
  - i. A first degree felony under Penal Code 28.02 (arson).
  - j. A second degree felony under Penal Code 29.02 (robbery).
  - k. A first degree felony under Penal Code 29.03 (aggravated robbery).
  - l. A first degree felony under Penal Code 30.02 (burglary).
  - m. A felony for which punishment is increased under Section 481.134, Health and Safety Code (drug-free zones).
2. "Deadly conduct as described by Penal Code 22.05":
  - a. A person commits an offense if he or she recklessly engages in conduct that places another in imminent danger of serious bodily injury.
  - b. A person commits an offense if he or she knowingly discharges a firearm at or in the direction of one or more individuals or a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied.
  - c. Recklessness and danger are presumed if the actor knowingly pointed a firearm at or in the direction of another whether or not the actor believed the firearm to be loaded.



RELATIONS WITH GOVERNMENTAL ENTITIES  
LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(EXHIBIT)

3. "Terroristic threat, as described by Penal Code 22.07":

A person commits an offense if he or she threatens to commit any offense involving violence to any person or property with intent to:

- a. Cause a reaction of any type to this threat by an official or volunteer agency organized to deal with emergencies;
- b. Place any person in fear of imminent serious bodily injury;
- c. Prevent or interrupt the occupation or use of a building; room; place of assembly; place to which the public has access; place of employment or occupation; aircraft, automobile, or other form of conveyance; or other public place;
- d. Cause impairment or interruption of public communications; public transportation; public water, gas, or power supply; or other public service;
- e. Place the public or a substantial group of the public in fear of serious bodily injury; or
- f. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision of the state.

4. "Conduct that may constitute a criminal offense under Penal Code 71.02 (Engaging in Organized Criminal Activity)":

A person commits an offense if, with the intent to establish, maintain, or participate in a combination or in the profits of a combination or as a member of a criminal street gang, he or she commits or conspires to commit one or more of the following:

- a. Murder, capital murder, arson, aggravated robbery, robbery, burglary, theft, aggravated kidnapping, kidnapping, aggravated assault, aggravated sexual assault, sexual assault, forgery, deadly conduct, assault punishable as a Class A misdemeanor, burglary of a motor vehicle, or unauthorized use of a motor vehicle;
- b. Any gambling offense punishable as a Class A misdemeanor;
- c. Promotion of prostitution, aggravated promotion of prostitution, or compelling prostitution;
- d. Unlawful manufacture, transportation, repair, or sale of firearms or prohibited weapons;
- e. Unlawful manufacture, delivery, dispensation, or distribution of a controlled substance or dangerous drug, or unlawful possession of a controlled substance or dangerous drug through forgery, fraud, misrepresentation, or deception;
- f. Any unlawful wholesale promotion or possession of any obscene material or obscene device with the intent to wholesale promote the same;
- g. Any unlawful employment, authorization, or inducing of a child younger than 17 years of age in an obscene sexual performance;

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RELATIONS WITH GOVERNMENTAL ENTITIES  
LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(EXHIBIT)

- h. Any felony offense under Chapter 32, Penal Code;
- i. Any offense under Chapter 34, Penal Code; or
- j. Any offense under Chapter 36, Penal Code;
- k. Any offense under Section 37.11(a), Penal Code.