

EDUCATIONAL PHILOSOPHY

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**Vision Statement
and Goals**

A board shall adopt a vision statement and comprehensive goals for the district and the superintendent. *Education Code 11.1511(b)(2)*

**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.

Objectives

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. Through that curriculum, students will be prepared to succeed in a variety of postsecondary activities, including employment and enrollment in institutions of higher education.

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.

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Goals

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

Objective 11: The State Board of Education, TEA, and the commissioner shall assist school districts and charter schools in providing career and technology education to students.

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, .002

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Definitions

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

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

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

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

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

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

19 TAC 102.1301

District of Innovation

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

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

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

Education Code 12A.001; 19 TAC 102.1303

Public Hearing

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

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**Local Innovation
Plan**

the district should develop a local innovation plan for the designation of the district as a district of innovation.

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

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

Education Code 12A.002; 19 TAC 102.1305

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

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

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

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

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

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

Exceptions

A local innovation plan may not provide for the exemption of a district from the following:

1. Education Code Chapter 11, Subchapters A (Accreditation), C (Board of Trustees), D (Powers and Duties of Board), and E

(Superintendents and Principals), except that a district may be exempt from Sections 11.1511(b)(5) (district- and campus-level planning), 11.1511(b)(14) (board's role in termination and nonrenewal of educator contracts), and 11.162 (school uniforms);

2. State curriculum and graduation requirements adopted under Education Code Chapter 28; and
3. Academic and financial accountability and sanctions under Education Code Chapter 39 and 39A.

Education Code 12A.004(a)

**Adoption of Local
Innovation Plan**

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

1. The final version of the proposed plan has been available on the district's website for at least 30 days;
2. The board has notified the commissioner of the board's intention to vote on adoption of the proposed plan; and
3. The district-level committee [see BQA] has held a public meeting to consider the final version of the proposed plan and has approved the plan by a majority vote of the committee members. The public meeting may occur at any time, including up to or on the same date at which the board intends to vote on final adoption of the proposed plan.

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

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

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

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

Education Code 12A.005; 19 TAC 102.1307

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Term	<p>The term of a district's designation as a district of innovation may not exceed five years and is effective upon district approval and notification of the plan to the Texas Education Agency (TEA). A district may only have one innovation plan at any given time. <i>Education Code 12A.006; 19 TAC 102.1311</i></p>
Amendment, Rescission, or Renewal of Local Innovation Plan	<p>A local innovation plan may be amended, rescinded, or renewed if the action is approved by a vote of the district-level committee [see BQA] and a two-thirds majority vote of the board of trustees.</p> <p>An amendment to an approved plan does not change the date of the term of designation as an innovation district. Exemptions that were already formally approved are not required to be reviewed.</p> <p>A district must notify TEA within five business days of rescission and provide a date at which time it will be in compliance with all sections of the Education Code, but no later than the start of the following school year.</p> <p>During renewal, all sections of the plan and exemptions shall be reviewed and the district must follow all components outlined in 19 Administrative Code 102.1307 relating to Adoption of Local Innovation Plans.</p> <p>The district shall notify the commissioner of any actions taken along with the associated exemptions and local approval dates.</p> <p><i>Education Code 12A.007; 19 TAC 102.1313</i></p>
Copy to Commissioner	<p>Not later than the 15th day after the date on which the board (1) adopts a proposed local innovation plan; (2) adopts a proposed amendment of a local innovation plan; or (3) renews a local innovation plan, the district shall provide a copy of the current local innovation plan to TEA, which shall promptly post the current local innovation plan on the agency's website. <i>Education Code 12A.0071(b)</i></p>
Website Posting	<p>A district designated as a district of innovation shall ensure that a copy of the district's current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's Internet website. <i>Education Code 12A.0071(a)</i></p> <p>The district's innovation plan must be clearly posted on the district's website for the term of the designation as an innovation district. <i>19 TAC 102.1305(e)</i></p>
Termination by Commissioner	<p>The commissioner may terminate a district's designation as a district of innovation if the district receives for two consecutive school years:</p>
Discretionary Termination	

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

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

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

Mandatory
Termination

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

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

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

No Appeal

The commissioner's decision to terminate a district's designation as a district of innovation is final and may not be appealed. *Education Code 12A.008(d); 19 TAC 102.1315(d)*

Accreditation

Each district must be accredited by TEA. A district that is not accredited may not receive funds from TEA or hold itself out as operating a public school of this state. *Education Code 11.001, 39.052(f)*

District accreditation is determined in accordance with Education Code Chapter 39, Subchapter C and rules adopted by the commissioner of education at 19 Administrative Code, Chapter 97, Subchapter EE (related to Accreditation Status, Standards, and Sanctions). *Education Code 39.051*

Statuses

The commissioner shall determine criteria for the following accreditation statuses:

1. Accredited;
2. Accredited-warned;
3. Accredited-probation; and
4. Not accredited-revoked.

Education Code 39.051; 19 TAC 97.1055(a)(1)

Annual Evaluation

Each year, the commissioner shall determine the accreditation status of each district. In determining the accreditation status of a district, the commissioner:

1. Shall evaluate and consider performance:
 - a. On achievement indicators under Education Code 39.053 [see Performance Indicators, below]; and
 - b. Under the financial accountability rating system developed under Education Code, Chapter 39, Subchapter D [see CFA].
2. May evaluate and consider:
 - a. The district's compliance with statutory requirements and requirements imposed by rule of the commissioner or SBOE that relate to:
 - (1) Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (2) High school graduation requirements; or
 - (3) Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs;

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- b. The effectiveness of the district's programs for special populations; and
- c. The effectiveness of the district's career and technology program.

Based on a district's performance, the commissioner shall assign each district an accreditation status or revoke the accreditation of the district and order closure of the district.

A district's accreditation status may be raised or lowered based on the district's performance or may be lowered based on the performance of one or more campuses in the district that is below a standard required by Education Code Chapter 39, Subchapter C.

Education Code 7.056(e)(3)(C)-(I), 39.052; 19 TAC 97.1055

Notice of Status

The commissioner shall notify a district if the district has received an accreditation status of accredited-warned or accredited-probation, or a campus's performance is below standard. The district must notify the parents of students enrolled in the district and property owners in the district of the accreditation status and its implications. *Education Code 39.052(e)*

*To Parents and
Property Owners*

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 Administrative Code 97.1055. The district's notice must contain information about the accreditation status, the implications of such status, and the steps the district is taking to address the areas of deficiency identified by the commissioner. The district's notice shall use the format and language determined by the commissioner.

The district's notice must:

1. Not later than 30 calendar days after the accreditation status is assigned, appear on the home page of the district's website, with a link to the required notification, and remain until the district is assigned the accredited status; and
2. Appear in a newspaper of general circulation, as defined in 19 Administrative Code 97.1051 (relating to Definitions), in the district for three consecutive days as follows:
 - a. From Sunday through Tuesday of the second week following assignment of the status; or
 - b. If the newspaper is not published from Sunday through Tuesday, then for three consecutive issues of the news-

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paper beginning the second week following assignment of the status; or

3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or
4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

To TEA

A district required to act under this subsection shall send the following to TEA via certified mail, return receipt requested:

1. The universal resource locator (URL) for the link to the notification required above; and
2. Copies of the notice in the newspaper showing dates of publication, or a paid invoice showing the notice content and its dates of publication; or
3. Copies of the notice sent by mail and copies of all mailing lists and postage receipts; or
4. Copies of the notice presented at a public meeting and copies of the board of trustees meeting notice and minutes for the board meeting in which the notice was presented and publicly discussed.

19 TAC 97.1055(f)

**Performance
Indicators**

The commissioner shall adopt a set of indicators of the quality of learning and achievement, including three domains of achievement indicators. [See Achievement Indicators, below] *Education Code 39.053(a)*

The indicators must measure and evaluate districts and campuses with respect to:

1. Improving student preparedness for success in subsequent grade levels and entering the workforce, the military, or post-secondary education;
2. Reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and
3. Informing parents and the community regarding campus and district performance.

<i>Achievement Indicators</i>	<p><i>Education Code 39.053(a-1)</i></p> <p>Districts and campuses must be evaluated based on indicators of achievement grouped in three domains:</p> <ol style="list-style-type: none">1. Student achievement domain;2. School progress domain; and3. Closing the gaps domain.
	<p><i>Education Code 39.053(c)</i></p> <p>Performance on the achievement indicators in the three domains shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status. <i>Education Code 39.053(b)</i></p> <p>Each school district shall submit the data required for the indicators to the commissioner. <i>Education Code 39.053(i)</i></p>
Quality of Learning Indicators	<p>The commissioner shall also adopt indicators of the quality of learning for the purpose of preparing performance reports [see AIB]. Performance on the indicators shall be evaluated in the same manner provided for evaluation of the achievement indicators under Section 39.053(c) [see Achievement Indicators, above].</p> <p>The quality of learning indicators must include:</p> <ol style="list-style-type: none">1. The percentage of graduating students who meet the course requirements for the foundation high school program, the distinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];2. The results of the SAT, ACT, and certified workforce training programs;3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;4. For each campus, the number of students, disaggregated by major student subpopulations, who take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;5. The percentage of students provided accelerated instruction after unsatisfactory performance on a state assessment, the subject of the assessment on which each student failed to

perform satisfactorily, the results of second and third administrations of the assessment, the percentage of such students promoted through the grade placement committee process, and the performance of those students in the following school year on the state assessments;

6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;
10. The percentage of students who are not educationally disadvantaged;
11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and
12. The percentage of students who successfully complete the first year of instruction at an institution of higher education without needing a developmental education course.

Education Code 39.301

**A–F Performance
Ratings**

The commissioner shall adopt rules to evaluate district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F.

In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Education Code 39.053(c) [see Achievement Indicators, above].

An overall or domain performance rating of:

1. A reflects exemplary performance.
2. B reflects recognized performance.
3. C reflects acceptable performance.
4. D reflects performance that needs improvement.
5. F reflects unacceptable performance.

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A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. A reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, C, or D or exemplary, recognized, or acceptable performance, or performance that needs improvement.

For purposes of assigning districts and campuses an overall and a domain performance rating, the commissioner shall ensure that the method used to evaluate performance is implemented in a manner that provides the mathematical possibility that all districts and campuses receive an A rating.

Not later than August 15 of each year, the performance ratings of each district and campus shall be made publicly available as provided by rules adopted by the commissioner.

Education Code 39.054(a), (a-3), (b)

**Local Accountability
System**

The commissioner shall adopt rules regarding the assignment of campus performance ratings by districts. The rules:

1. Must require a district, in assigning an overall performance rating for a campus, to incorporate:
 - a. Domain performance ratings assigned by the commissioner under Education Code 39.054 [see A–F Performance Ratings, above]; and
 - b. Performance ratings based on locally developed domains or sets of accountability measures;
2. May permit a district to assign weights to each domain or set of accountability measures, as determined by the district, provided that the domains under Education Code 39.054 must in the aggregate account for at least 50 percent of the overall performance rating;
3. Must require that each locally developed domain or set of accountability measures:
 - a. Contains levels of performance that allow for differentiation, with assigned standards for achieving the differentiated levels;
 - b. Provides for the assignment of a letter grade of A, B, C, D, or F; and
 - c. Meets standards for reliability and validity;

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4. Must require that calculations for overall performance ratings and each locally developed domain or set of accountability measures be capable of being audited by a third party;
5. Must require that a district produce a campus score card that may be displayed on TEA's website; and
6. Must require that a district or school develop and make available to the public an explanation of the methodology used to assign performance ratings under this section.

Approval by TEA

The commissioner shall develop a process to approve a request by a district to assign campus performance ratings under which a district must obtain approval of a local accountability plan submitted by the district to TEA. A plan may be approved only if:

1. After review, the agency determines the plan meets the minimum requirements under this section and agency rule;
2. At the commissioner's discretion, an audit conducted by the agency verifies the calculations included in the plan; and
3. A review panel approves the plan.

Review Panel

The commissioner shall appoint a review panel that includes a majority of members who are superintendents or members of the board of trustees of school districts with approved local accountability plans.

A review panel must approve a plan only after performance ratings are issued in August 2019 and only if at least 10 school districts have obtained approval of locally developed accountability plans.

Campus
Performance
Ratings

A district authorized to assign campus performance ratings shall evaluate the performance of each campus and assign each campus a performance rating of A, B, C, D, or F for overall performance and for each locally developed domain or set of accountability measures. Not later than a date established by the commissioner, the district or school shall:

1. Report the performance ratings to the agency; and
2. Make the performance ratings available to the public as provided by commissioner rule.

Education Code 39.0544

**Distinction
Designations for
Outstanding
Performance**

The commissioner shall award distinction designations for outstanding performance. A distinction designation awarded to a district or campus shall be referenced directly in connection with the performance rating assigned to the district or campus and made publicly available together with the A–F performance ratings.

A district or campus may not be awarded a distinction designation unless the district or campus has acceptable performance under the A–F performance ratings.

Education Code 39.201

Academic
Distinction

The commissioner shall establish an academic distinction designation for districts and campuses for outstanding performance in attainment of postsecondary readiness based on the commissioner's adopted criteria. *Education Code 39.202*

Campus Distinction

The commissioner may award a campus a distinction designation for outstanding performance in:

1. Improvement in student achievement;
2. Closing student achievement differentials;
3. Academic achievement in English language arts, mathematics, science, or social studies; and
4. Advanced middle or junior high school student achievement.

Education Code 39.203

**Excellence
Exemptions**

Except as listed below, a district or campus that is rated A (exemplary) is exempt from requirements and prohibitions imposed under the Education Code, including regulations adopted under the Education Code.

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;
3. A requirement, restriction, or prohibition relating to:
 - a. Curriculum essential knowledge and skills or high school graduation requirements;
 - b. Public school accountability;
 - c. Extracurricular activities;
 - d. Health and safety;
 - e. Purchasing;
 - f. Elementary class size limits;
 - g. Removal of a disruptive student from the classroom;

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- h. At-risk programs;
- i. Prekindergarten programs;
- j. Rights and benefits of school employees;
- k. Special education programs; or
- l. Bilingual education programs.

The commissioner may exempt an exemplary campus from class size limits if the campus submits a written plan showing steps that will be taken to ensure that the exemption will not be harmful to the academic achievement of the students on the school campus. If granted, the exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

Education Code 39.232

**District Performance
Report — TAPR**

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

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

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

The report must also include the number of school counselors providing counseling services at each campus.

Supplemental information to be included in the reports shall be determined by the board.

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

Public Hearing

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

The board shall give notice of the hearing to property owners in the district and parents of and other persons standing in parental relation to a district student. The notice of hearing must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district.

Education Code 39.306(c); 19 TAC 61.1022(c)

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Publication	The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. The board shall disseminate the report by posting it on the district website and in public places, such as each school office, local businesses, and public libraries. <i>Education Code 39.306(c); 19 TAC 61.1022(d), (f)</i>
Report Uses	The information in the TAPR shall be a primary consideration in district and campus planning. It shall also be a primary consideration of the board in the evaluation of the performance of the superintendent, and of the superintendent in the evaluation of the performance of campus principals. <i>Education Code 39.307</i>
Campus Performance Report — SRC	Each school year, TEA shall distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the “school” report card (SRC). The intent of the SRC is to inform each student’s parents or guardians about the school’s performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.
Distribution	<p>The district must disseminate each SRC within six weeks after the SRC is received from TEA. The school may not alter the report provided by TEA; however, it may concurrently provide additional information to the parents or guardians that supplements or explains information in the SRC.</p> <p>The SRC must be distributed to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, a district shall provide a copy of the SRC to any other party.</p> <p>The campus administration may provide the SRC in the same manner it would normally transmit official communications to parents and guardians, such as including the SRC in a weekly folder sent home with each student, mailing it to the student’s residence, providing it at a teacher-parent conference, enclosing it with the student report card, or sending it via electronic mail.</p> <p><i>Education Code 39.305; 19 TAC 61.1021</i></p>
Website Notices	<p>Not later than the tenth day after the first day of instruction of each school year, a district that maintains an Internet website shall make the following information available:</p> <ol style="list-style-type: none">1. The information in the most recent campus report card for each campus in the district;

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

Education Code 39.362

Student Performance Report

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

Notice to Parents

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

Notice to Teachers and Students

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

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

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

Education Code 39.304

High School Allotment Annual Performance Review

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

1. Percentage of students graduating from high school;

2. Enrollment in advanced courses, including College Board advanced placement courses, International Baccalaureate courses, and dual or college credit courses; and
3. Percentage of "College-Ready Graduates," as defined by 19 Administrative Code 61.1094(2).

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

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

1. State assessment results and other student performance data;
2. Standards for success and cost-effectiveness as established by the commissioner of education under Education Code 39.233(a)(1); and
3. Guidance for improving high school completion and success and college readiness programs as established by the commissioner under Education Code 39.233(a)(2).

19 TAC 61.1099

Federal Report Card

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

Implementation

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

Minimum Requirements

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

1. In the case of the district, information that shows how students served by the district achieved on state academic assessments compared to students in the state as a whole;

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

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

**District Data on
Academic
Achievement**

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

The website must:

1. Include district information, disaggregated by campus, grade, sex, race, academic quarter or semester, as applicable, and school year, regarding the following:
 - a. Student academic achievement and growth;
 - b. Teacher and student attendance; and
 - c. Student discipline records; and
2. Be updated at least once each quarter of the school year.

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

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

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

Education Code 11.1516

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**Interventions and
Sanctions for School
Districts**

Grounds for
Commissioner
Action

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

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

Education Code 39A.001

*Authorized
Commissioner
Actions*

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

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

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6. Appoint a TEA monitor to participate in and report to TEA on the activities of the board or superintendent;
7. Appoint a conservator to oversee the operations of the district;
8. Appoint a management team to direct the operations of the district in areas of insufficient performance or require the district to obtain certain services under a contract with another person;
9. Authorize the district to enter into a memorandum of understanding with an institution of higher education that provides for the assistance of the institution of higher education in improving the district's performance; or
10. Order the use of the board improvement and evaluation tool as provided by Education Code 11.182.

Education Code 39A.002

Conservator or
Management Team

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

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

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

The conservator or management team may:

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

The conservator or management team may not:

1. Take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;
2. Change the number of or method of selecting the board;
3. Set a tax rate for the district; and

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4. Adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board.

Education Code 39A.003

Board of Managers

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

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

Education Code 39A.004

Revocation of
Accreditation

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

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

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

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

Education Code 39A.005

Intervention to
Improve High
School Completion
Rate

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

1. Ordering the development of a dropout prevention plan for approval by the commissioner;

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

Education Code 39A.007

**Campus Intervention
Team and Targeted
Improvement Plan**

Actions Based on
Campus
Performance

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

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

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

1. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; or
2. Establish a school community partnership team composed of members of the campus-level planning and decision-making committee and additional community representatives as determined appropriate by the commissioner.

Education Code 39A.051

Campus
Intervention Team

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

*On-Site Needs
Assessment*

A campus intervention team shall:

1. Conduct, with the involvement and advice of the school community partnership team, if applicable:
 - a. If the commissioner determines necessary, a comprehensive on-site needs assessment; or

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- b. A targeted on-site needs assessment relevant to an area of insufficient performance of the campus; and
2. Recommend appropriate actions as provided by Education Code 39A.054.

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

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

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

Education Code 39A.053

Recommendations

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

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

Education Code 39A.054

*Targeted
Improvement
Plan*

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

1. Assist the campus in developing a targeted improvement plan;

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2. Conduct a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee, parents of students attending the campus, and community members residing in the district to review the campus performance rating and solicit input for the development of the targeted improvement plan [see Notice of Public Meeting, below];
3. Assist the campus in submitting the targeted improvement plan to the board for approval and presenting the plan in a public hearing [see Public Hearing, below]; and
4. Assist the commissioner in monitoring the progress of the campus in executing the targeted improvement plan.

Education Code 39A.055

Notice of Public
Meeting

The campus intervention team must provide written notice of the public meeting to the parents of students attending the campus and post notice of the meeting on the campus's Internet website. The notice must include the date, time, and place of the meeting.

Education Code 39A.056

Public Hearing

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

1. Notify the public of:
 - a. The insufficient performance of the campus;
 - b. The improvements in performance expected by TEA; and
 - c. The intervention measures or sanctions that may be imposed under Education Code, Chapter 39A if the performance does not improve within a designated period; and
2. Solicit public comment on the targeted improvement plan or updated targeted improvement plan.

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

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

Education Code 39A.057

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Submission to Commissioner	The board shall submit the targeted improvement plan or updated targeted improvement plan to the commissioner for approval. The campus intervention team shall assist the campus in submitting the targeted improvement plan to the commissioner. <i>Education Code 39A.058</i>
Executing Plan	<p>In executing the targeted improvement plan, the campus intervention team shall, if appropriate:</p> <ol style="list-style-type: none">1. Assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, and financial management;2. Provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and3. Require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus. <p><i>Education Code 39A.059</i></p>
Continuing Duties	For each year a campus is assigned an unacceptable performance rating, the campus intervention team shall assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and submit each updated targeted improvement plan to the board. <i>Education Code 39A.060</i>
Needs Improvement Rating	<p>If a district or campus is assigned an overall or domain performance rating of D:</p> <ol style="list-style-type: none">1. The commissioner shall order the district or campus to develop and implement a targeted improvement plan approved by the board; and2. The interventions and sanctions provided by Education Code, Chapter 39A based on failure to satisfy performance standards under Education Code 39.054(e) apply to the district or campus only as provided below. <p>The interventions and sanctions based on failure to satisfy performance standards under Section 39.054(e) apply to a district or campus ordered to develop and implement a targeted improvement plan if the district or campus is assigned:</p> <ol style="list-style-type: none">1. An overall or domain performance rating of F; or2. An overall performance rating of D as provided below.

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

Education Code 39.101 (Acts of the 85th Legislative Session, House Bill 22, amended former Education Code, Chapter 39, Subchapter E, by adding Section 39.101)

Campus Planning
and Site-Based
Decision-Making

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

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

Education Code 39A.061

Submission of
Campus
Improvement Plan

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

Compliance
Through Federal
Accountability

Notwithstanding the provisions of Education Code, Chapter 39A, if the commissioner determines that a campus subject to interventions or sanctions has implemented substantially similar intervention measures under federal accountability requirements, the commissioner may accept the substantially similar intervention measures as measures in compliance with Education Code, Chapter 39A. *Education Code 39A.063*

**Campus Turnaround
Plan**

Order for Campus
Turnaround Plan

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

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*Updated
Targeted
Improvement
Plan*

The commissioner shall by rule establish procedures governing the time and manner in which the campus must submit the campus turnaround plan.

A campus intervention team shall assist the campus in:

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

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

Education Code 39A.101

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

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

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

Education Code 39A.102

Public Notice

Before a campus turnaround plan is prepared and submitted for approval to the board, the district, in consultation with the campus intervention team, shall:

1. Provide notice to parents, the community, and stakeholders that the campus has received an unacceptable performance rating for two consecutive years and will be required to submit a campus turnaround plan; and
2. Request assistance from parents, the community, and stakeholders in developing the campus turnaround plan.

Education Code 39A.103

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Preparation of
Campus
Turnaround Plan

The district, in consultation with the campus intervention team, shall prepare the campus turnaround plan and allow parents, the community, and stakeholders an opportunity to review the plan before it is submitted for approval to the board. The campus turnaround plan must assist the campus in implementing procedures to satisfy all performance standards required under Education Code 39.054(e). *Education Code 39A.104*

*Required
Contents*

A campus turnaround plan must include:

1. Details on the method for restructuring, reforming, or reconstituting the campus;
2. A detailed description of the academic programs to be offered at the campus, including:
 - a. Instructional methods;
 - b. Length of school day and school year;
 - c. Academic credit and promotion criteria; and
 - d. Programs to serve special student populations;
3. If a district charter is to be granted for the campus under Education Code 12.0522:
 - a. The term of the charter; and
 - b. Information on the implementation of the charter;
4. Written comments from:
 - a. The campus-level committee established under Education Code 11.251, if applicable;
 - b. Parents; and
 - c. Teachers at the campus;
5. A detailed description of the budget, staffing, and financial resources required to implement the plan, including any supplemental resources to be provided by the district or other identified sources; and
6. A detailed description for developing and supporting the oversight of academic achievement and student performance by the board of trustees under Education Code 11.1515.

Education Code 39A.105 (Acts of the 85th Legislative Session, Senate Bill 1566, added Subsection (6) to former Education Code 39.107(b-1))

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<i>Effective Date</i>	A campus turnaround plan must take effect not later than the school year following the third consecutive school year that the campus has received an unacceptable performance rating. <i>Education Code 39A.106</i>
Commissioner Approval or Rejection	<p>Not later than June 15 of each year, the commissioner shall, in writing, either approve or reject any campus turnaround plan prepared and submitted to the commissioner by a district.</p> <p>The commissioner may approve a campus turnaround plan only if the commissioner determines that the campus will satisfy all student performance standards required under Education Code 39.054(e) not later than the second year the campus receives a performance rating following the implementation of the campus turnaround plan.</p> <p>Education Code 12.0522(b) does not apply to a district charter approved by the commissioner. An approved district charter may be renewed or continue in effect after the campus is no longer subject to the commissioner's order under Education Code 39A.101.</p> <p>If the commissioner does not approve a campus turnaround plan, the commissioner shall order:</p> <ol style="list-style-type: none">1. Appointment of a board of managers to govern the district;2. Alternative management of the campus; or3. Closure of the campus. <p>If the commissioner rejects a campus turnaround plan, the commissioner must also send the district an outline of the specific concerns regarding the turnaround plan that resulted in the rejection.</p> <p>If the commissioner rejects a campus turnaround plan, the district must create a modified plan with assistance from TEA staff and submit the modified plan to the commissioner for approval not later than the 60th day after the date the commissioner rejects the campus turnaround plan. The commissioner shall notify the district in writing of the commissioner's decision regarding the modified plan not later than the 15th day after the date the commissioner receives the modified plan.</p> <p><i>Education Code 39A.107 (Acts of the 85th Legislative Session, House Bill 2263, added Subsections (b-10) and (b-11) to former Education Code 39.107)</i></p>
Implementation	Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the campus intervention team, may take any actions needed to prepare for the implementation of the plan. <i>Education Code 39A.108</i>

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Assistance and
Partnerships

A district may:

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

Education Code 39A.109

Change in Campus
Performance Rating

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

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

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

Education Code 39A.110

Continued
Unacceptable
Performance Rating

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

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

Education Code 39A.111

*Parent Petition
for Action*

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

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

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

Education Code 12.051, 39A.112

Repurposing of
Closed Campus

If the commissioner orders the closure of a campus, that campus may be repurposed to serve students at that campus location only if the commissioner:

1. Finds that the repurposed campus:
 - a. Offers a distinctly different academic program; and
 - b. Serves a majority of grade levels not served at the original campus; and
2. Approves a new campus identification number for the repurposed campus.

The majority of students assigned to a campus that has been closed and repurposed may not have attended that campus in the previous school year.

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

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

Education Code 39A.113

Targeted Technical
Assistance

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

**Alternative
Management**

Solicitation of
Proposals

If the commissioner orders alternative management of a campus, the commissioner shall solicit proposals from qualified nonprofit entities to assume management of the campus or appoint a school district as provided below. The commissioner may solicit proposals

from qualified for-profit entities if a nonprofit entity has not responded to the commissioner's request for proposals.

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

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

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

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

Education Code 39A.151

Qualifications of
Managing Entity

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

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

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

1. Meets any of the commissioner's qualifications; and
2. Has documented success in educating students from similar demographic groups and with similar educational needs as

the students who attend the campus to be operated by the managing entity.

Education Code 39A.152

Contract with
Managing Entity

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

The management contract must include:

1. A provision describing the district's responsibilities in supporting the operation of the campus; and
2. Provisions approved by the commissioner requiring the managing entity to demonstrate improvement in campus performance, including negotiated performance measures.

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

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

Education Code 39A.153

*Extension of
Management
Contract*

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

Education Code 39A.154

*Evaluation of
Managing Entity*

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

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

1. Terminate the contract, with the commissioner's consent, for nonperformance or breach of contract; and
2. Select another provider from an approved list provided by the commissioner.

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

1. Terminate the contract; and
2. Select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner.

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

Education Code 39A.155

*Cancellation of
Management
Contract*

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

Return of
Management to
School District

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

Applicability of
Accountability
Provisions

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

Funding

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

Open Meetings and
Public Information

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

1. A managing entity is considered to be a governmental body for purposes of the Texas Open Meetings Act and Public Information Act; and
2. Any requirement in the Texas Open Meetings Act or Public Information Act that applies to a school district or the board of trustees of a district applies to a managing entity.

Education Code 39A.160

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Board of Managers

General Powers
and Duties

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

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

Education Code 39A.201

Board of Managers
of District

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

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

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

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

Education Code 39A.202

Board of Managers
of Campus

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

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

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

Education Code 39A.203

Composition of
Board of Managers

A board of managers appointed by the commissioner must, if possible, include community leaders, business representatives who have expertise in leadership, and individuals who have knowledge or expertise in the field of education. *Education Code 39A.204*

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Training of Board of Managers	<p>The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies. <i>Education Code 39A.205</i></p>
Compensation	<p>The commissioner may authorize payment of a board of managers from TEA funds.</p> <p>A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.</p> <p><i>Education Code 39A.206</i></p>
Replacement of Member of Board of Managers	<p>The commissioner may at any time replace a member of a board of managers. The commissioner may adopt rules necessary to implement this section. <i>Education Code 39A.207</i></p>
Expiration of Appointment	<p>A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the school district in accordance with the law. The members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires.</p> <p>Not later than the second anniversary of the date the board of managers of a school district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the board of trustees who were elected at an election that constitutes, as closely as possible, one-third of the membership of the board of trustees.</p> <p>If, before the second anniversary of the date the board of managers of a school district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years.</p> <p>On the expiration of the appointment of the board of managers, the board of trustees assumes all of the powers and duties assigned to a board of trustees by law, rule, or regulation.</p> <p>Following the expiration of the period of appointment of a board of managers for a school district, the commissioner shall provide training in effective leadership strategies to the board of trustees.</p> <p><i>Education Code 39A.208</i></p>

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Removal of Board
of Managers

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

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

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

Education Code 39A.209

**Challenge of
Intervention or
Sanction**

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

Review of
Sanctions by SOAH

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

Notwithstanding other law:

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

Education Code 39A.301

**Miscellaneous
Provisions**

Annual Review

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

The commissioner must review at least annually the performance of a district for which the accreditation status or performance rating

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has been lowered due to insufficient student performance and may not raise the accreditation status or performance rating until the district has demonstrated improved student performance.

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

Education Code 39A.901

Acquisition of
Professional
Services

In addition to other authorized interventions and sanctions, the commissioner may order a district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, performance, or governance deficiency. The commissioner's order may require the district or campus to:

1. Select or be assigned an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or
2. Provide for or participate in the appropriate training of district staff or board members in the case of a district, or campus staff, in the case of a campus.

Education Code 39A.902

Costs Paid by
School District

The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity, or service provider shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

1. Pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or
2. Recover the amount of the costs in the manner provided for recovery of an over allocation of state funds under Education Code 42.258.

Education Code 39A.903

Monitoring Reviews
and On-Site
Investigations

The commissioner of education may direct TEA to conduct monitoring reviews and random on-site visits of a district at any time, as authorized by Education Code 7.028, only as necessary to ensure:

1. Compliance with federal law and regulations;
2. Financial accountability, including compliance with grant requirements; and
3. Data integrity for purposes of:

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- a. The Public Education Information Management System (PEIMS); and
- b. Accountability under Education Code Chapter 39.

A monitoring review may include desk reviews and on-site visits, including random on-site visits. In conducting a monitoring review, TEA may obtain information from administrators, other district employees, parents of students enrolled in the district, and other persons as necessary.

The commissioner may at any time convert a monitoring review to a special accreditation investigation under Education Code 39.057, provided the commissioner promptly notifies the district of the conversion. TEA shall give written notice to the superintendent and the board of any impending monitoring review.

TEA shall report in writing to the superintendent and president of the board and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers. A district that takes action with regard to the recommendations provided by TEA shall make a reasonable effort to seek assistance from a third party in developing an action plan to improve district performance using improvement techniques that are goal-oriented and research-based.

Education Code 7.028, 39.056

Special
Accreditation
Investigations

The commissioner may authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to TEA of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;
4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district

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

7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;
11. When resource allocation practices indicate a potential for significant improvement in resource allocation;
12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;
13. When an excessive number of students is graduating with a particular endorsement;
14. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers;
15. In response to a complaint with respect to alleged inaccurate data that is reported through PEIMS or through other reports required by state or federal law or rule or court order and that is used by TEA to make a determination relating to public school accountability, including accreditation, under Education Code Chapter 39; or
16. As the commissioner otherwise determines necessary.

Education Code 39.057(a)–(c)

TEA shall adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a

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district or campus from screening the information. *Education Code 39.058(a)*

Based on the results of a special accreditation investigation, the commissioner may:

1. Take appropriate action under Education Code, Chapter 39A, [see Interventions and Sanctions for School Districts, above];
2. Lower the district's accreditation status or a district's or campus's performance rating; or
3. Take action under both items 1 and 2 above.

Regardless of whether the commissioner lowers the accreditation status or a district's or campus's performance rating, the commissioner may impose one of the district- or campus-level interventions or sanctions under Education Code 39A.002 [see Interventions and Sanctions for School Districts, above].

Education Code 39.057(d), (e)

Immunity from Civil
Liability

An employee, volunteer, or contractor acting on behalf of the commissioner, or a member of a board of managers appointed by the commissioner, is immune from civil liability to the same extent as a professional employee of a district under Education Code 22.051. *Education Code 39A.904*

Campus Name
Change Prohibited

In reconstituting, repurposing, or imposing any other intervention or sanction on a campus, the commissioner may not require that the name of the campus be changed. *Education Code 39A.905*

Transitional
Interventions and
Sanctions

For a campus that received an unacceptable performance rating for the 2013–2014, 2014–2015, and 2015–2016 school years, the commissioner may apply the interventions and sanctions authorized by Chapter 39 as that chapter existed on January 1, 2015, to the campus.

If a campus receives an unacceptable performance rating for the 2016–2017 and 2017–2018 school years, the commissioner shall apply the interventions and sanctions authorized when a campus has an unacceptable performance rating for three consecutive school years under current law.

For a campus that received an acceptable performance rating for the 2013–2014 school year and an unacceptable performance rating for the 2014–2015 and 2015–2016 school years, the commissioner shall apply interventions and sanctions in current law to the campus. If the campus receives an unacceptable performance rating for the 2016–2017, 2017–2018, and 2018–2019 school years, the commissioner shall apply the interventions and sanctions au-

thorized when a campus has an unacceptable performance rating for three consecutive school years under current law.

These transition provisions expire September 1, 2020.

Education Code 39A.906

Note: The following provisions apply to a district with a central administrative office that is located in a county with a population of more than two million and that has a student enrollment that is more than 125,000 and less than 200,000, and that is operating under a turnaround plan.

Student Board
Member

Notwithstanding Education Code 11.051(b) (regarding number of trustees on a school board), the board may adopt a resolution establishing as a nonvoting member a student trustee position. If a board adopts such a resolution, the board shall adopt a policy addressing the topics specified in statute. *Education Code 11.0511*

Note: This policy addresses the powers and duties of the board set forth in Education Code Chapter 11, Subchapter D. For other powers and duties of the board not listed below, see the applicable policy codes.

The trustees, as a body corporate, have the exclusive power and duty to govern and oversee the management of the public schools of a district. The trustees may adopt rules and bylaws necessary to carry out these powers and duties.

All powers and duties not specifically delegated by statute to TEA or the State Board of Education are reserved for the board.

Education Code 11.151(b), (d)

**Mandatory Powers
and Duties**

A board shall:

1. Seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community.
2. Adopt a vision statement and comprehensive goals for the district and the superintendent, and monitor progress toward those goals. [See AE]
3. Establish performance goals for the district concerning the academic and fiscal performance indicators under Education Code Chapter 39, Subchapters C, D, and J, and any performance indicators adopted by the district. [See AI series]
4. Provide oversight regarding student academic achievement and strategic leadership for maximizing student performance. *Education Code 11.1515* [See AIB]
5. Ensure that the superintendent is accountable for achieving performance results, recognizes performance accomplishments, and takes action as necessary to meet performance goals. [See BJA]
6. Collaborate with the superintendent as set forth at Education Code 11.1512(b). [See BJA]
7. Adopt a policy to establish a district- and campus-level planning and decision-making process as required under Education Code 11.251. [See BQ series]
8. Publish an annual educational performance report as required under Education Code 39.306. [See AIB, BQ series]

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9. Adopt an annual budget for the district as required under Education Code 44.004. [See CE]
10. Adopt a tax rate each fiscal year as required by Tax Code 26.05. [See CCG]
11. Monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records. [See CF series]
12. Ensure that district fiscal accounts are audited annually as required by Education Code 44.008. [See CFC]
13. Publish an end-of-year financial report for distribution to the community. [See CFA]
14. Conduct elections as required by law. [See BBB]
15. By rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint. [See DGBA, FNG, and GF]
16. Make decisions relating to terminating the employment of district employees employed under a contract to which Education Code Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies. [See DF series]
17. Select the internal auditor if a district employs an internal auditor. The internal auditor shall report directly to the board. *Education Code 11.170* [See DC]
18. Adopt a policy providing for the employment and duties of district personnel. *Education Code 11.1513* [See BJ series, DC series, and DEA series]
19. Limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. The board shall review paperwork requirements imposed on classroom teachers and transfer to existing non-instructional staff a reporting task that can reasonably be accomplished by that staff. *Education Code 11.164* [See DLB]
20. Carry out other powers and duties as provided by the Education Code or other law.

Education Code 11.1511(b), except as noted

**Discretionary
Powers and Duties**

A board may:

1. Issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Education Code 45.001 and 45.003. *Education Code 11.1511(c)(1)* [See CCA]
2. Levy, assess, and collect an annual ad valorem tax for maintenance and operation of a district as authorized under Education Code 45.002 and 45.003. *Education Code 11.1511(c)(2)* [See CCG]
3. Employ a person to assess or collect the district's taxes as authorized under Education Code 45.231. *Education Code 11.1511(c)(3)* [See BDAF]
4. Require a district's chief business official or curriculum director or a person holding an equivalent position to appear at an executive session of the board or to testify at a public hearing held by the board. *Education Code 11.1511(d)* [See BJA regarding prohibition of superintendent interference]
5. Enter into contracts as authorized under the Education Code or other law and delegate contractual authority to a superintendent as appropriate. *Education Code 11.1511(c)(4)*
6. Sue and be sued in the name of the district. *Education Code 11.151(a)*
7. Receive bequests and donations or other moneys or funds coming legally into its hands in the name of the district. A conveyance, devise, or bequest of property for the benefit of the public schools, if not otherwise directed by the donor, vests the property in the board or their successors in office. *Education Code 11.151(a), .156* [See CDC]
8. Contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157* [See EEL]
9. Charge fees as set forth at Education Code 11.158. *Education Code 11.158* [See FP]
10. Change the name of the district. *Education Code 11.160* [See AB]
11. Adopt rules that require students at a school in the district to wear school uniforms as set forth at Education Code 11.162. *Education Code 11.162* [See FNCA]
12. Adopt rules to keep school campuses, including school libraries, open for recreational activities, latchkey programs, and tutoring after school hours. *Education Code 11.165*

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13. Operate a school or program or hold a class on the campus of an institution of higher education as set forth at Education Code 11.166. *Education Code 11.166* [See GNC]
14. Operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district. *Education Code 11.167* [See GNA]
15. Establish before-school or after-school programs for students enrolled in elementary or middle school grades. *Education Code 33.9031*

District Property

A board may acquire and hold real and personal property in the name of the district. All rights and titles to the school property of a district, whether real or personal, shall be vested in the trustees and their successors in office. *Education Code 11.151(a), (c)* [See CHG]

The board may, by resolution, authorize the sale of any property, other than minerals, held in trust for public school purposes. The trustees may, in any appropriate manner, dispose of property that is no longer necessary for the operation of the district. *Education Code 11.151(c), .154(a)* [See CI]

The board may, by resolution, authorize the donation of real property and improvements formerly used as a school campus to a municipality, county, state agency, or nonprofit organization as provided at Education Code 11.1541. *Education Code 11.1541* [See CDB]

Minerals in land belonging to the district may be sold to any person. The sale must be authorized by a resolution adopted by majority vote of the board. *Education Code 11.153* [See CDB]

**Restrictions on
Board Powers and
Duties**

A board may not:

1. 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, except as provided at Education Code 45.109. *Education Code 11.168* [See CE]
2. Impose taxes; issue bonds; use or authorize the use of district employees; use or authorize the use of district property, money, or other resources; or acquire property for the design, construction, renovation, or operation of a hotel. *Education Code 11.178* [See CE]

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**Open Meetings Act
Training**

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its members under Government Code Chapter 551 (Texas Open Meetings Act).

The attorney general may provide the training and may also approve other acceptable sources of training.

The board shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of the board to complete the training does not affect the validity of an action taken by the board.

Gov't Code 551.005

**Public Information
Act Training**

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its officers and employees under Government Code Chapter 552 (Public Information Act). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or board under the Public Information Act. [See GBAA regarding public information coordinator training] *Gov't Code 552.012*

**SBOE-Required
Training**

A trustee must complete any training required by the State Board of Education (SBOE). The SBOE shall require a trustee to complete at least three hours of training every two years on evaluating student academic performance. The training must be research-based and designed to support the oversight role of the board under Education Code 11.1515. [See BAA] A trustee or candidate may complete the training at a regional education service center or through another authorized provider.

- A candidate may complete the training up to one year before the candidate is elected.
- A new trustee shall complete the training within 120 days after the date of the trustee's election or appointment.
- A returning trustee shall complete the training by the second anniversary of the completion of the trustee's previous training.

Education Code 11.159

The training requirement consists of orientation sessions, an annual team building session with the board and the superintendent,

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and specified hours of continuing education based on identified needs. To the extent possible, an entire board shall participate in training programs together. *19 TAC 61.1(b), (i)*

The SBOE's framework for governance leadership [see BBD(EXHIBIT)] shall be distributed annually by the board president to all current board members and the superintendent. *19 TAC 61.1(a)*

No training shall take place during a board meeting unless that meeting is called for the delivery of board training. Training may take place before or after a legally called board meeting in accordance with the Open Meetings Act. *19 TAC 61.1(c)*

Annually, the SBOE shall commend those teams that receive at least eight hours of training in team building and annual continuing education as an entire board-superintendent team. *19 TAC 61.1(k)*

Reporting

The minutes of the last regular board meeting held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment. If the minutes reflect that a trustee is deficient, the district shall post the minutes on the district's Internet website within ten business days of the meeting and maintain the posting until the trustee meets the requirements. *Education Code 11.159(b)*

Orientation

New Members

Within 60 days before or after a board member's election or appointment, a new board member shall participate in a local orientation session. The purpose of this orientation is to familiarize the new board member with local board policies and procedures and district goals and priorities. The orientation shall be at least three hours in length for each new board member and must address local district practices in curriculum and instruction, business and finance operations, district operations, superintendent evaluation, and board member roles and responsibilities. *19 TAC 61.1(b)(1)(A)*

Within the first 120 days of service, a newly elected board member shall receive an orientation to the Education Code Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction). The orientation shall be delivered by a regional education service center and shall be no less than three hours in length. *19 TAC 61.1(b)(1)(B)*

Current Members

Any current board member may attend or participate in the local district orientation and orientation to the Education Code offered to new board members. *19 TAC 61.1 (b)(1)(A), (B)*

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Legislative Updates	After each session of the Texas Legislature, each board member shall receive an update to the basic orientation to the Education Code from a regional education service center or any registered provider. A board member who has attended a basic orientation session given by a service center that incorporates the most recent legislative changes is not required to attend an additional legislative update. <i>19 TAC 61.1(b)(1)(C)</i>
Team Building	<p>Annually, the entire board, including all board members, shall participate with their superintendent in a team building session facilitated by a regional education service center or any registered provider. The team building session shall be of a length deemed appropriate by the board, but generally at least three hours.</p> <p>The purpose of the team building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team. The session shall include a review of the roles, rights, and responsibilities of the board as outlined in the framework for governance leadership. The assessment of needs shall be based on the framework for governance leadership [see BBD(EXHIBIT)] and shall be used to plan continuing education activities for the governance leadership team for the upcoming year.</p> <p><i>19 TAC 61.1(b)(2)</i></p>
Annual Continuing Education	<p>In addition to the orientation and team building training, a board member shall receive additional continuing education on an annual basis, in fulfillment of assessed needs and based on the framework for governance leadership. [See BBD(EXHIBIT)] The continuing education may be provided by a regional education service center or other registered provider. <i>19 TAC 61.1(b)(3)</i></p> <p>At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with a board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials. <i>19 TAC 61.1(h)</i></p>
<i>First Year</i>	In the first year of service, a board member shall receive at least ten hours of continuing education. Up to five of the required ten hours may be fulfilled through online instruction, provided the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. <i>19 TAC 61.1(b)(3)(A)</i>
<i>Subsequent Years</i>	After the first year of service, a board member shall receive at least five hours of continuing education annually. A board member may

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fulfill the five hours of continuing education through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor. *19 TAC 61.1(b)(3)(B)*

Board President

A board president shall receive continuing education related to leadership duties of the board president as some portion of the annual requirement. *19 TAC 61.1(b)(3)(C)*

Board Authority

The board members as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. *Education Code 11.151(b)*

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. *Education Code 11.051(a-1)*

**Access to District
Facility**

A district shall create a policy on visits to a district campus or facility by a member of the board.

**Access to
Information**

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district.

"Official capacity" means all duties of office and includes administrative decisions or actions.

The district shall provide the information, documents, and records to the board member without requiring the board member to submit a public information request under Texas Government Code Chapter 552 (Public Information Act) and without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting.

The district may withhold or redact information, a document, or a record requested by a board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA].

A district shall provide a board member with information, documents, and records requested not later than the 20th business day after the date the district receives the request. The district may take a reasonable additional period of time, not to exceed the 30th business day after the date the district receives the request, to respond to a request if compliance by the 20th business day would be unduly burdensome given the amount, age, or location of the requested information. The district shall inform the board member of the reason for the delay and the date by which the information will be provided.

If a district does not provide requested information to a board member in the time required, the member may bring suit against the district for appropriate injunctive relief. A member who prevails in a suit is entitled to recover court costs and reasonable attorney's fees. The district shall pay the costs and fees from the budget of the superintendent's office.

A board member shall maintain the confidentiality of information, documents, and records received from the district as required by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) and any other applicable privacy laws. [See FL].

A district shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a board member under Education Code 11.1512(c) if the requests are for 200 or more pages of material in a 90-day period.

A district shall report annually to TEA not later than September 1 of each year:

1. The number of requests submitted by a board member under Education Code 11.1512(c) during the preceding school year; and
2. The total cost to the district for that school year of responding to the requests.

Education Code 11.1512(c)–(f)

Access to Student
Records

Personally identifiable information in education records may be released, without the written consent of the student's parents, only to a school official who has a legitimate educational interest in the education records. *34 C.F.R. 99.31* [See FL]

Responsibility for
Records

A person, including a board member, commits a criminal offense if the person:

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a district record in contravention of Local Government Code Chapter 202. *Local Gov't Code 202.008; Penal Code 37.10*
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552. *Gov't Code 552.351*
3. Distributes information considered confidential under the Public Information Act. *Gov't Code 552.352*

**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 board 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 7946(b), no board member shall be liable for harm caused by an act or omission of the board member on behalf of a district if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. *20 U.S.C. 7943, 7946(a)* [See also DGC]

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)]
Transacting Business	When a proposal is presented to the Board, the Board shall hold a discussion and reach a decision. 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, its property, or its employees. 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 BDAA]
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]
Limitations	<p>If a Board member is not acting in his or her official capacity, the Board member has no greater right to District records than a member of the public.</p> <p>An individual Board member 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 policy FL.</p> <p>A Board member who is denied access to a record under this provision may ask the Board to determine whether the record should be provided or may file a request under the Public Information Act. [See GBAA]</p>
Requests for Records	<p>An individual Board member shall seek access to records or request copies of records from the Superintendent or other designated custodian of records, who shall respond within the time frames required by law. When a custodian of records other than the Superintendent provides access to records or copies of records to an individual Board member, the provider shall inform the Superintendent of the records provided.</p> <p>In accordance with law, the District shall track and report any requests under this provision, including the cost of responding to one</p>

or more requests by any individual Board member for 200 or more pages of material in a 90-day period.

Requests for
Reports

No individual Board member shall 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 other custodian of records regarding the preparation of reports shall be by Board action.

Confidentiality

At the time a Board member is provided access to confidential records or to reports compiled from such records, the Superintendent or other District employee shall advise the Board member of the responsibility to comply with confidentiality requirements.

**Referring
Complaints**

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]

When the concern or complaint directly pertains to the Board's own actions or policy, for which there is no administrative remedy, the Board member may request that the issue be placed on the agenda.

Visits to District
Facilities

A Board member shall adhere to the procedures outlined in the Board handbook for visits to District facilities. ~~-any posted requirements for visitors to first report to the main office of a District facility, including a school campus. Visits during the school or business day shall not be permitted if their duration or frequency interferes with the delivery of instruction or District operations. [See also GKC]~~

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**Substantial Interest
Affidavit**

If a local public official has a substantial interest in a business entity or in real property, the local public official shall, before a vote or decision on any matter involving the business entity or the real property, file an affidavit stating the nature and extent of the interest if:

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

The affidavit shall be filed with the official recordkeeper of the district.

Local Gov't Code 171.004(a)–(b)

Abstention

The local public official shall also abstain from further participation in the matter.

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

Local Gov't Code 171.004(a), (c)

Definitions

*“Substantial
Interest”*

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

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

Local Gov't Code 171.002

“Business Entity”

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

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	trust, or any other entity recognized by law. <i>Local Gov't Code 171.001(2)</i>
"First-Degree Relatives"	The local public official is considered to have a substantial interest if a person related in the first degree by either affinity or consanguinity to the local public official, as determined under Government Code Chapter 573, Subchapter B [see DBE], has a substantial interest as defined above. <i>Local Gov't Code 171.002</i>
"Local Public Official"	"Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. <i>Local Gov't Code 171.001(1)</i>
"Real Property"	A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more. <i>Local Gov't Code 171.002</i>
Contracts Permitted	A board may contract with a business entity in which a trustee has a substantial interest if the trustee follows the disclosure and abstention procedure set out above. <i>Atty. Gen. Op. JM-424 (1986)</i>
Separate Vote on Budget	A board shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a trustee has a substantial interest. The affected trustee shall not participate in that separate vote, but may vote on a final budget if he or she filed the affidavit and the matter in which he or she is concerned has been resolved. <i>Local Gov't Code 171.005</i>
Depository Bank	A school board member with a "substantial interest" in a depository bank must file an affidavit stating his interest and must abstain from participating in decisions on loan contracts with the depository if action on the matter will have a special economic effect on the bank that is distinguishable from the effect on the public. <i>Atty. Gen. Op. JM-1082 (1989) [See BDAE]</i>
Violations	<p>A local public official commits an offense if the official knowingly:</p> <ol style="list-style-type: none">1. Violates Local Government Code 171.004.2. Acts as surety for a business entity that has a contract, work, or business with a district.3. Act as surety on any official bond required of an officer of a district. <p><i>Local Gov't Code 171.003</i></p>
Voidable Actions	The finding by a court of a violation of Local Government Code Chapter 171 does not render an action of the board voidable un-

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less the measure that was the subject of an action involving a conflict of interest would not have passed without the vote of the person who violated the chapter. *Local Gov't Code 171.006*

**Conflicts Disclosure
Statement**

A local government officer shall file a conflicts disclosure statement, as adopted by the Texas Ethics Commission, with respect to a vendor if the vendor enters into a contract with the district or the district is considering entering into a contract with the vendor; and the vendor:

1. Has an employment or other business relationship with the local government officer or a family member of the officer, and the business relationship results in the officer or family member receiving taxable income, other than investment income, that exceeds \$2,500 during the 12-month period preceding the date that the officer becomes aware that:
 - a. A contract between the district and the vendor has been executed; or
 - b. The district is considering entering into a contract with the vendor;
2. Has given to the local government officer or a family member of the officer one or more gifts, and the gift or gifts have an aggregate value of more than \$100 in the 12-month period preceding the date the officer becomes aware that:
 - a. A contract between the district and the vendor has been executed; or
 - b. The district is considering entering into a contract with the vendor; or
3. Has a family relationship with the local government officer.

Gifts—Exception

A local government officer is not required to file a conflicts disclosure statement in relation to a gift, as defined by law, accepted by the officer or a family member of the officer if the gift is:

1. A political contribution as defined by Title 15, Election Code; or
2. Food accepted as a guest.

Local Gov't Code 176.003(a)–(a-1)

Filing Date

A local government officer shall file the conflicts disclosure statement with the records administrator of a district not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement. *Local Gov't Code 176.003(b)*

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Vendor Questionnaire	A person who is both a local government officer and a vendor of a local governmental entity is required to file a vendor questionnaire if the person enters or seeks to enter into a contract with the local governmental entity; or is an agent of a person who enters or seeks to enter into a contract with the local governmental entity. [See CHE] <i>Local Gov't Code 176.006(e)</i>
Definitions <i>"Agent"</i>	"Agent" means a third party who undertakes to transact some business or manage some affair for another person by the authority or on account of the other person. The term includes an employee. <i>Local Gov't Code 176.001(1)</i>
<i>"Business Relationship"</i>	"Business relationship" means a connection between two or more parties based on commercial activity of one of the parties. The term does not include a connection based on: <ol style="list-style-type: none">1. A transaction that is subject to rate or fee regulation by a federal, state, or local governmental entity or an agency of a federal, state, or local governmental entity;2. A transaction conducted at a price and subject to terms available to the public; or3. A purchase or lease of goods or services from a person that is chartered by a state or federal agency and that is subject to regular examination by, and reporting to, that agency. <i>Local Gov't Code 176.001(a-1)</i>
<i>"Family Member"</i>	"Family member" means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B. [See DBE] <i>Local Gov't Code 176.001(2)</i>
<i>"Family Relationship"</i>	"Family relationship" means a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity, as those terms are defined by Government Code Chapter 573, Subchapter B. [See DBE] <i>Local Gov't Code 176.001(2-a)</i>
<i>"Gift"</i>	"Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. <i>Local Gov't Code 176.001(2-b)</i>
<i>"Investment Income"</i>	"Investment income" means dividends, capital gains, or interest income generated from: <ol style="list-style-type: none">1. A personal or business:

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- a. Checking or savings account,
 - b. Share draft or share account, or
 - c. Other similar account;
2. A personal or business investment; or
3. A personal or business loan.

Local Gov't Code 176.001(2-d)

*"Local
Government
Officer"*

"Local government officer" means a member of the board, the superintendent, or an agent (including an employee) of the district who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Local Gov't Code 176.001(4)*

*"Records
Administrator"*

"Records administrator" means the director, superintendent, or other person responsible for maintaining the records of a district or another person designated by the district to maintain statements and questionnaires filed under Local Government Code 176 and perform related functions. *Local Gov't Code 176.001(5)* [See CPC]

"Vendor"

"Vendor" means a person who enters or seeks to enter into a contract with a local governmental entity. The term includes an agent of a vendor. The term includes an officer or employee of a state agency when that individual is acting in a private capacity to enter into a contract. The term does not include a state agency except for Texas Correctional Industries. *Local Gov't Code 176.001(7)*

Duties of Records
Administrator

A records administrator shall:

1. Maintain a list of local government officers of the district and shall make that list available to the public and any vendor who may be required to file a conflict of interest questionnaire under Local Government Code 176.006; and
2. Maintain the statements and questionnaires that are required to be filed under Government Code Chapter 176 in accordance with the district's records retention schedule. [See CPC]

Local Gov't Code 176.0065

Internet Posting

A district that maintains an Internet website shall provide access on the district's Internet website to the conflicts disclosure statements and questionnaires required to be filed with the records administrator. *Local Gov't Code 176.009*

Violations

A local government officer commits an offense if the officer is required to file a conflicts disclosure statement and knowingly fails to file the required conflicts disclosure statement with the appropriate records administrator not later than 5 p.m. on the seventh business

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day after the date on which the officer becomes aware of the facts that require the filing of the statement. It is an exception to the application of the penalty that the local government officer filed the required conflicts disclosure statement not later than the seventh business day after receiving notice from the district of the alleged violation.

A board may reprimand, suspend, or terminate the employment of an employee who knowingly fails to comply with a requirement adopted under Local Government Code 176. [See DF series]

A board may, at its discretion, declare a contract void if the board determines that a vendor failed to file a conflict of interest questionnaire required by Local Government Code 176.006.

Local Gov't Code 176.013

**Affidavit Disclosing
Interest in Property**

If a public servant 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.
 - 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

"Public Servant"—
Government Code

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

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

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2. An officer of government.

Gov't Code 553.001

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*

**Annual Financial
Management Report**

A district's annual financial management report shall include summary reports of reimbursement received by each board member, reports of certain gifts from school vendors, and reports of board member business transactions with the school district. [See CFA] *Education Code 39.083; 19 TAC 109.1001(o)*

**Trustee Financial
Statement**

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

Not later than the 15th day after the date a board adopts this resolution, the board shall deliver a certified copy of the resolution to the Texas Ethics Commission. A resolution applies beginning on January 1 of the second year following the year in which the 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 of education ("commissioner") by order shall require the members of a board to file the financial statement required of state officers under Subchapter B, Chapter 572, Government Code, in the same manner as the members of the board that have adopted a resolution if the commissioner determines that:

1. A board member has failed to comply with filing and recusal requirements applicable to the member under Chapter 171, Local Government Code;
2. District financial accounting practices are not adequate to safeguard state and district funds; or
3. A district has not met a standard set by the commissioner in the financial accountability rating system.

The commissioner may require the filing of financial statements covering not more than three fiscal years and beginning on January 1 of the second year following the date of the commissioner's order. A member of a board subject to an order issued by the commissioner is not required to include, in a financial disclosure statement, financial activity occurring before January 1 of the year

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following the year in which the order is issued. The commissioner may renew the requirement if the commissioner determines that a condition described above continues to exist.

Education Code 11.064

Electronic Filing	A financial statement filed with the Ethics Commission must be filed by computer diskette, modem, or other means of electronic transfer, using computer software provided by the commission or computer software that meets commission specifications for a standard file format. An individual who was appointed to office may file the financial statement by certified mail in compliance with Government Code 572.029. <i>Gov't Code 572.0291</i>
Confidentiality	Electronic report or financial statement data saved in an Ethics Commission temporary storage location for later retrieval and editing before the report or financial statement is filed is confidential and may not be disclosed. After the report or financial statement is filed with the Ethics Commission, the information disclosed in the filed report or financial statement is public information to the extent provided by the law requiring the filing of the report or financial statement. <i>Gov't Code 571.0671(d)</i>
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. <i>Education Code 11.064(c)</i>

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

Private Corporation	It is lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity. <i>Local Gov't Code 171.009</i>
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Note: The Texas Education Agency maintains [information regarding depository contracts for districts](#),¹ including the forms referenced in this policy.

Selection

A school depository must be a bank located in this state and may be selected only as provided by this policy. "Bank" means a bank, a savings and loan association, or a savings bank organized under the laws of this state, another state, or federal law that has its main office or a branch office in this state. The term does not include any bank the deposits of which are not insured by the Federal Deposit Insurance Corporation (FDIC). *Education Code 45.201(2), .202, .203*

Method

Not later than the 60th day before the date a school district's current depository contract expires, the district shall choose whether to select a depository through competitive bidding or through requests for proposals. *Education Code 45.206(a)*

The district must keep the selected bid or proposal form in the district and make it available to TEA upon request. *19 TAC 109.51(b)*

Competitive Bidding
Notice

If a district chooses to use competitive bidding, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank in the district and, if desired, to other banks, a notice stating the time and place in which bid applications will be received for selecting a depository or depositories. The notice must include the uniform bid blank form prescribed by State Board of Education (SBOE) rule. The district may add to the uniform bid blank other terms that do not unfairly restrict competition between banks in or near the territory of the district. *Education Code 45.206(a-1), (b); 19 TAC 109.51(b), (c)*

Requests for
Proposals
Notice

If a district chooses to use requests for proposals, the district shall, not later than the 30th day before the date the current depository contract expires, mail to each bank located in the district and, if desired, to other banks, a notice stating the time and place in which proposals will be received for selecting a depository or depositories. The notice must include the uniform proposal blank form prescribed by SBOE rule. A district shall state the selection criteria, including the factors specified under Education Code 45.207(c) [see Factors to Consider, below], in the request for proposals. The district may add to the uniform proposal blank other terms that do not unfairly restrict competition between banks in or near the territory of the district. *Education Code 45.206(a-2), (b), (d); 19 TAC 109.51(b), (d)*

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Best Value

A district shall select the proposal that offers the best value to the district based on the evaluation and ranking of each submitted proposal in relation to the stated selection criteria. A district may negotiate with the bank that submits the highest-ranked proposal to determine any terms of the proposed depository contract other than the interest rates proposed. *Education Code 45.206(d)*

Award of Contract

A district shall award the depository contract to the bank that submits the highest bid or the highest-ranked proposal, as determined under Factors to Consider, below, except that the district may award the contract as provided at Tie Bids and Proposals, below if:

1. The district:
 - a. Receives tying bids for the contract; or
 - b. After evaluating the proposals for the contract, ranks two or more proposals equally;
2. Each bank submitting a tying bid or proposal has bid or proposed to pay the district the maximum interest rates allowed by law by the Federal Reserve System and the FDIC; and
3. The tying bids or proposals are otherwise equal in the judgment and discretion of the board.

Education Code 45.207(a)

Factors to Consider

The board shall at a regular or special meeting consider each bid or proposal received. In determining the highest and best bid or the highest-ranked proposal, or in case of tying bids or proposals the highest and best tying bids or proposals, a board shall consider:

1. The interest rate bid or proposed on time deposits;
2. The charge for keeping district accounts, records, and reports and furnishing checks;
3. The ability of the bank submitting the bid or proposal to provide the necessary services and perform the duties as school district depository; and
4. Any other matter the board considers to be in the best interest of a district.

Education Code 45.207(c)

**Tie Bids and
Proposals**

In the case of tying bids or proposals, a board may:

1. Determine by lot which of the banks submitting the tying bids or proposals will receive the contract; or

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2. Award a contract to each of the banks submitting the tying bids or proposals.

Education Code 45.207(a-1)

Rejection of Bids or Proposals

A board has the right to reject any and all bids or proposals. *Education Code 45.207(d)*

Conflict of Interest

If a member of the board is a stockholder, officer, director, or employee of a bank, the bank is not disqualified from bidding, submitting a proposal, or becoming the depository of the district if the bank is selected by a majority vote of the board or a majority vote of a quorum when only a quorum is present.

Abstention

If a board member is a stockholder, officer, director, or employee of a bank that has bid or submitted a proposal to become the depository, the member may not vote on awarding a depository contract to the bank, and the contract must be awarded by a majority vote of the trustees as provided above who are not either a stockholder, officer, director, or employee of a bank receiving a depository contract.

Education Code 45.204

Contract

Term

The depository shall serve for a term of two years and until its successor is selected and has qualified. A district and its depository bank may agree to extend the contract for three additional two-year terms. The contract may be modified for each two-year extension if both parties mutually agree to the terms. The contract term and any extension must coincide with the district's fiscal year. An extension is not subject to the requirements of Education Code 45.206 [see Method, above]. *Education Code 45.205*

Form

The depository or depositories and a district shall enter into a depository contract(s), bond(s), or other necessary instruments setting forth the duties and agreements pertaining to the depository in the form and with the content prescribed by the SBOE. The parties shall attach and incorporate by reference the bid or proposal of the depository. A copy of the contract and bond, if applicable, shall be filed with TEA. *Education Code 45.208(a), (e); 19 TAC 109.52*

Authorized
Collateral

Bond

The depository shall attach to the contract and file with the district a bond in an initial amount equal to the estimated highest daily balance, determined by the board, of all deposits the district will have in the depository, less any FDIC insurance. The bond must be payable to the district and signed by the depository and some surety company authorized to do business in this state. The depository shall increase the amount of the bond if the board determines it to be necessary to adequately protect the funds of the district deposited with the depository. *Education Code 45.208(b)*

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The bond and surety must be approved by the board. A premium on the bond may not be paid out of district funds. *Education Code 45.208(d)*

Bond Conditions

The bond shall be conditioned on:

1. Faithful performance of all legal duties and obligations;
2. Payment on presentation of all checks or drafts on order of the board;
3. Payment on demand of any demand deposit;
4. Payment, after the expiration of the required notice period, of any time deposit;
5. Faithful keeping of school funds by the depository and accounting for the funds according to law; and
6. Faithful paying over to the successor depository all balances remaining in the accounts.

Education Code 45.208(c)

*Approved
Securities*

In lieu of a bond, the depository may deposit or pledge, with the district or a designated trustee, approved securities, as defined in Education Code 45.201(4), in an amount sufficient to adequately protect the funds of the district deposited with the depository. A depository may give a bond and deposit or pledge approved securities in an aggregate amount sufficient to adequately protect the funds of the district. The district shall designate from time to time the amount to adequately protect the district. The district may not designate an amount less than the balance of school district funds on deposit with the depository from day to day, less any applicable FDIC insurance. *Education Code 45.208(f)*

In accordance with written board policy, a district shall determine if an investment security, as defined in Government Code 2257.002(5), is eligible to secure deposits of public funds under the Public Funds Collateral Act, Government Code, Chapter 2257. *Gov't Code 2257.023(a)*

"Eligible security" means:

1. A surety bond;
2. An investment security;
3. An ownership or beneficial interest in an investment security, other than an option contract to purchase or sell an investment security;

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4. A fixed-rate collateralized mortgage obligation that has an expected weighted average life of ten years or less and does not constitute a high-risk mortgage security;
5. A floating-rate collateralized mortgage obligation that does not constitute a high-risk mortgage security; or
6. A letter of credit issued by a federal home loan bank.

Gov't Code 2257.002(4)

The policy may include the security of the institution that obtains or holds an investment security, the substitution or release of an investment security, and the method by which an investment security used to secure a deposit of public funds is valued. *Gov't Code 2257.023(b)*

**Texas Bullion
Depository**

The Texas Bullion Depository is established as an agency of this state in the office of the comptroller under Subtitle C, Title 10, Government Code. The depository may receive a deposit of bullion or specie from or on behalf of a district in accordance with rules adopted by the comptroller. *Gov't Code 2116.002(a), .005(a)*

An investment by a school district in a depository account may be made instead of an investment as provided by Education Code 45.102, and the depository may be used by a district instead of a depository bank for purposes of Subchapter G, Chapter 45, Education Code. *Gov't Code 2116.015(b)*

¹ Depository Contracts for School Districts: http://tea.texas.gov/Finance_and_Grants/Financial_Compliance/Depository_Contracts_for_School_Districts/

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. *Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)*

Definitions

“Meeting”

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

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

Gov’t Code 551.001(4)

A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar Internet application in compliance with Government Code 551.006. *Gov’t Code 551.006 [See BBI(LEGAL)]*

“Deliberation”

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

“Recording”

“Recording” means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov’t Code 551.001(7)*

“Videoconference Call”

“Videoconference call” means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex au-

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dio and video signals transmitted over a telephone network, a data network, or the Internet. *Gov't Code 551.001(8)*

**Social Function,
Convention, or
Candidate Event**

The term "meeting" does not include the gathering of a quorum of a board at a social function unrelated to the public business that is conducted by the board, the attendance by a quorum of the board at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a board at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate. *Gov't Code 551.001(4)*

**Legislative
Committee or
Agency Meeting**

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

**Superintendent
Participation**

A board shall provide a superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting. *Education Code 11.051(a-1)*

Open to Public

Every meeting of a board shall be open to the public. A board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.002, .084, Ch. 551, Subch. D* [See BDB and BEC]

Parental Access

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

Recording

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

Minutes

A board shall prepare and keep minutes or make a recording of each open meeting. The minutes shall state the subject matter of

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each deliberation and indicate each vote, order, decision, or other action taken. *Gov't Code 551.021*

Board Member
Attendance

The minutes or recording, as applicable, of a regular or special meeting of a board must reflect each member's attendance at or absence from the meeting. *Education Code 11.0621*

Availability

The minutes and recording are public records and shall be available for public inspection and copying on request to a superintendent or designee. *Gov't Code 551.022; Education Code 11.0621*

Notice Required

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

Continued Meeting

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

**Inquiry During
Meeting**

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

Location

A board must hold each public meeting within the boundaries of the district, except:

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

Education Code 26.007(b)

**Time of Notice and
Accessibility**

Notice of a board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)*

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

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

Gov't Code 551.043(b)

Internet Posting

If a district maintains an Internet website, in addition to the other place at which notice is required to be posted, a board must also concurrently post notice of a meeting on the Internet website.

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

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

Gov't Code 551.056

Specificity of Agenda / Notice

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to a superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what a board proposes to discuss or accomplish. Cox Enterprises, Inc. v. Austin Indep. Sch. Dist., 706 S.W.2d 956 (Tex. 1986); Point Isabel Indep. Sch. Dist. v. Hinojosa, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied); *Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to a board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

**Emergency Meeting
or Emergency
Addition to Agenda**

In an emergency or when there is an urgent public necessity, the notice of a meeting 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. A 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.

The sudden relocation of a large number of residents from the area of a declared disaster to a district's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

Gov't Code 551.045

Catastrophe

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

"Catastrophe" means a condition or occurrence that interferes physically with the ability of a board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or

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4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b), (c)

**Special Notice to
News Media**

A district shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the district for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, a board president shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. *Gov't Code 551.047, .052*

Quorum

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

Disaster

Notwithstanding any other law, a quorum is not required for a board to act if:

1. The district's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and
2. A majority of the members of the board are unable to be present at a board meeting as a result of the disaster.

Gov't Code 418.1102

Secret Ballot

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

**Meeting by
Telephone
Conference Call**

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

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

Notice

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify

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as the location of the meeting, the location where meetings of the governmental body are usually held.

Recording

The conference call meeting shall be recorded and made available to the public.

Gov't Code 551.125

**Meeting by
Videoconference
Call**

A board member or district employee may participate remotely in a board meeting by means of a videoconference call if the video and audio feed of the board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A board member who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The board may continue the meeting only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified at Multiple Counties, below. *Gov't Code 551.001(8), .127(a-1)-(a-3)*

Quorum

A meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting, except as provided at Multiple Counties, below.

Multiple Counties

A meeting of a board of a district that extends into three or more counties may be held by videoconference call only if the board member presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

Notice

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the board will be physically present and specify the intent to have a quorum present at that location; the notice of a meeting held by videoconference call described above at Multiple Counties must specify as a location of the meeting the location where the board member presiding over the meeting will be physically present and specify the intent to have that member present at that location.

Gov't Code 551.127(b)-(e)

Quality of Audio and
Video Signals

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the

public at the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The location specified in the notice, and each remote location from which a member of the board participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The audio and video signals perceptible by members of the public at the location of the meeting described by the notice and at each remote location from which a member participates must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)–(j); 1 TAC 209.10–.11

Recording

A board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

Remote
Participation by the
Public

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

Gov't Code 551.127(g), (k)

**Video and Audio
Recording of
Meeting**

A board for a district that has a student enrollment of 10,000 or more shall make a video and audio recording of reasonable quality of each:

1. Regularly scheduled open meeting that is not a work session or a special called meeting; and
2. Open meeting that is a work session or special called meeting at which the board votes on any matter or allows public comment or testimony.

The board shall make available an archived copy of the video and audio recording of each meeting on the Internet not later than seven days after the date the recording was made. The board shall

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maintain the archived recording on the Internet for not less than two years after the date the recording was first made available. A board is exempt from the requirements in this paragraph if the board's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411 [see Catastrophe, above], or a technical breakdown. Following a catastrophe or breakdown, the board must make all reasonable efforts to make the required recording available in a timely manner.

The board may make the archived recording available on an existing Internet site, including a publicly accessible video-sharing or social networking site. The board is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

A district that maintains an Internet site shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

A board may broadcast a regularly scheduled open meeting on television.

Gov't Code 551.128(b-1)–(b-6)

Internet Broadcast

A board that is not subject to the provisions above at Video and Audio Recording of Meeting may broadcast an open meeting over the Internet. If a board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. A board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the board is required to post under the Open Meetings Act. *Gov't Code 551.128(b), (c)*

**Attorney
Consultation**

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

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

Exception

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

Gov't Code 551.129

**Hearing-Impaired
Persons**

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

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

Gov't Code 558.001, .003

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**Exceptions for
Closed Meetings**

	A board may conduct a closed meeting for the purposes described in the following provisions.
Attorney Consultation	A 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. <i>Gov't Code 551.071</i> [See BE for permissible methods of communication for attorney consultations]
Real Property	A 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. <i>Gov't Code 551.072</i>
Prospective Gift	A board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to a district if deliberation in an open meeting would have a detrimental effect on the board's position in negotiations with a third person. <i>Gov't Code 551.073</i>
Personnel Matters	<p>A 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, a 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. <i>Gov't Code 551.074</i></p> <p>The closed meeting exception for personnel matters does not apply when a board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when a board discusses a class or group of employees, not a particular employee. <i>Atty. Gen. Op. MW-129 (1980)</i>, <i>Atty. Gen. Op. H-496 (1975)</i></p>
Employee- Employee Complaints	A 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, a 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. <i>Gov't Code 551.082</i>
Student Discipline	A board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, a board may not conduct a closed meeting for this purpose if the

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child's parent or guardian makes a written request for an open hearing. *Gov't Code 551.082*

Personally
Identifiable Student
Information

A 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 a 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

A board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

1. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or
2. 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

A board is not required to conduct an open meeting to deliberate:

1. The deployment, or specific occasions for implementation, of security personnel or devices; or
2. A security audit.

Gov't Code 551.076

A board is not required to conduct an open meeting to deliberate:

1. Security assessments or deployments relating to information resources technology;
2. Network security information as described by Government Code 2059.055(b); or
3. The deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

Gov't Code 551.089

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Assessment
Instruments

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

Emergency
Management

A board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175–418.182, relating to Homeland Security. However, a 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

A board is not required to conduct an open meeting:

1. 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 a district and with which the board is conducting economic development negotiations; or
2. 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, a 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
Recording**

A board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation with a 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 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*

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire,

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film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of a board. *Zamora v. Edgewood Indep. Sch. Dist.*, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979, writ ref'd n.r.e.)

Preservation

A board shall preserve the certified agenda or 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 recording while the action is pending. *Gov't Code 551.104(a)*

Public Access

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

Prohibitions

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

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

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

Affirmative Defense

It is an affirmative defense to prosecution under Subsection 551.144(a) that 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. *Gov't Code 551.144(c)*

BOARD SELF-EVALUATION

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The commissioner of education shall develop a board improvement and evaluation tool. The evaluation tool must be research-based and designed to assist a school district in improving board oversight and academic achievement.

A board may determine whether to use the self-evaluation tool, except as ordered by the commissioner.

Education Code 11.182 [See AIC]

SUPERINTENDENT
QUALIFICATIONS AND DUTIES

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Qualifications

A person may not be employed as a superintendent unless the person holds an appropriate certificate or permit.

The commissioner may waive the requirement for certification of a superintendent if requested by a district as provided by Education Code 7.056 [see BF]. The commissioner may limit the waiver of certification in any manner the commissioner determines is appropriate.

A person who is not certified as a superintendent may not be employed by a district as the superintendent before the person has received a waiver of certification from the commissioner. A person may be designated to act as a temporary or interim superintendent for a district, but the district may not employ the person under a contract as superintendent unless the person has been certified or a waiver has been granted.

Education Code 21.003

Duties

A superintendent is the educational leader and chief executive officer of a district. *Education Code 11.201(a)*

The duties of a superintendent include:

1. Assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of a district and for the annual performance appraisal of the district's staff.
2. Except as provided by Education Code 11.202 (duties of principal) [see DK and DP], assuming administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of a district other than the superintendent.
3. Overseeing compliance with the standards for school facilities. [See CS]
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 a district as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations.
6. Preparing and submitting to a board a proposed budget and administering the budget.
7. Preparing recommendations for policies to be adopted by a board and overseeing the implementation of adopted policies.

SUPERINTENDENT
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8. Developing or causing to be developed appropriate administrative regulations to implement policies established by a board.
9. Providing leadership for the attainment and, if necessary, improvement of student performance in a district based on the state's student achievement and quality of learning indicators and other indicators as may be adopted by the commissioner or the board. [See AIA]
10. Organizing a district's central administration.
11. Consulting with the district-level committee. [See BQA]
12. Ensuring:
 - a. Adoption of a Student Code of Conduct [see FO] and enforcement of that Code of Conduct; and
 - b. Adoption and enforcement of other student disciplinary rules and procedures as necessary.
13. Submitting reports as required by state or federal law, rule, or regulation, and ensuring that a copy of any report required by federal law, rule, or regulation is also delivered to TEA.
14. Providing joint leadership with a board to ensure that the responsibilities of the board and superintendent team are carried out; and
15. Performing any other duties assigned by action of a board.

Education Code 11.201(d)

In addition, a superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board. *Education Code 11.1512(a)*

**Collaboration with
the Board**

A board and a superintendent shall work together to:

1. Advocate for the high achievement of all district students;
2. Create and support connections with community organizations to provide community-wide support for the high achievement of all district students;
3. Provide educational leadership for a district, including leadership in developing the district vision statement and long-range educational plan [see AE];
4. Establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;

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5. Support the professional development of principals, teachers, and other staff; and
6. Periodically evaluate board and superintendent leadership, governance, and teamwork.

Education Code 11.1512(b)

**Prohibited
Interference**

A superintendent may not interfere with an appearance or testimony of specified district personnel required by the board. *Education Code 11.1511(d)* [See BAA]

Appraisal Process

A board shall appraise a superintendent annually using either:

1. The commissioner's recommended appraisal process and criteria; or
2. An appraisal process and performance criteria that are:
 - a. Developed by the district in consultation with the district- and campus-level committees; and
 - b. Adopted by the board.

Education Code 21.354(c)

In addition to other procedures and criteria determined by the board, the commissioner's recommended appraisal process and criteria shall include, at a minimum, an annual evaluation of the superintendent and a student performance domain. *19 TAC 150.1031*

Annual
Performance Report

The information in the annual report describing the educational performance of a district [see AIB] shall be a primary consideration of the board in evaluating the superintendent. *Education Code 39.307(3)(C)*

**Penalty for
Noncompliance**

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

Confidentiality

A document evaluating the performance of a superintendent is confidential and is not subject to disclosure under the Public Information Act, Government Code Chapter 552. [See GBA]

A district may give TEA a document evaluating the performance of a superintendent employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedure Act, Government Code Chapter 2001.

Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against a superintendent if the document may be admitted under rules of evidence applicable to a contested case under Government Code 2001.081.

Education Code 21.355

Note: The following is an index of periodic reports that are addressed in the legally referenced material of the policy manual. The list is not exhaustive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or all reports required under administrative procedures of an agency.

**Electronic
Submission of
Reports to TEA**

Notwithstanding any other law, a district shall submit only in electronic format all reports required to be submitted to TEA under the Education Code. *Education Code 7.060(c)*

Reports by District

District publication and distribution requirements follow:

1. A written report to each parent of student performance, under Education Code 39.303. [See AIB]
2. At the beginning of the school year, a report to each teacher of students who took a state assessment, indicating whether each student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
3. At the beginning of the school year, a report to each student who took a state assessment, indicating whether the student performed satisfactorily or, if the student did not perform satisfactorily, whether the student met the standard for annual improvement, under Education Code 39.304. [See AIB]
4. Annually, a report describing the educational performance of the district and of each campus in the district, under Education Code 39.306. [See AIB]
5. Annually, information from a campus report card to the parent of each student at the campus, under Education Code 39.305. [See AIB]
6. An end-of year financial report, for distribution to the community under Education Code 11.1511(b)(11). [See BAA]
7. By September 1 of each year, a report to TEA regarding the number of requests submitted by a member of the board, during the preceding school year, for information, documents, and records and the total cost to the district of responding to such requests, under Education Code 11.1512(c)–(f). [See BBE]

8. The annual financial management report, under Education Code 39.083. [See CFA]
9. Annually, a proposed budget shall be submitted to TEA on or before the date established in the *Financial Accountability System Resource Guide*, under Education Code 44.005. [See CE]
10. On or before the date set by the State Board of Education, a report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA, under Education Code 44.007(c), (d). [See CFA]
11. Not later than the 150th day after the date the fiscal year ends, a board president shall submit the annual financial statement to a daily, weekly, or biweekly newspaper published within the boundaries of the district, under Local Government Code 140.006. [See CFA]
12. Not later than the 150th day after the end of the fiscal year for which an audit was made, a copy of the annual audit report shall be filed with TEA, under Education Code 44.008(d). [See CFC]
13. At least once every three years, a district shall conduct a safety and security audit of the district's facilities and report the results of the safety and security audit to the Texas School Safety Center, under Education Code 37.108. [See CK]
14. Not later than March 1 of each year, each district police department shall submit a report containing information about motor vehicle stops during the previous calendar year to the Texas Commission on Law Enforcement (TCOLE) and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CKE]
15. By September 1, districts involved in a school bus advertising program shall provide to the Texas Department of Public Safety written notification of the number of school buses operated by or for the district that display exterior advertising or another paid announcement, under 37 Administrative Code 14.65(a)(1), (b). [See CNB]
16. Annually, a district shall report to TEA the number of accidents in which its buses were involved in the past year, under Education Code 34.015(b). [See CNC]
17. By March 1 of each even-numbered year, a district that does not participate in the uniform group health insurance program

(TRS ActiveCare) shall report its compliance with the comparability requirements to TRS, under Education Code 22.004(d). [See CRD]

18. At least every two years, before the beginning of the school year and in strict compliance with the time frames established by Railroad Commission rule, a district shall report to its natural gas supplier the results of a pressure test of natural gas piping systems in each district facility, under Utilities Code 121.502–.504. [See CS]
19. Each month, a district that employs any retirees shall file a certified statement with TRS, under Government Code 824.6022. [See DC]
20. Before November 1 of each year, a board shall report to TEA the number of limited English proficient (LEP) students on each campus, under Education Code 29.053(b). [See EHBE]
21. Annually, a district that operates a high school equivalency program shall submit a progress report to TEA, under 19 Administrative Code 89.1417(a). [See EHBL]
22. Annually, a district shall report to TEA the number of students who have participated in a program to earn college credit in high school and the courses in which participating students have earned credit, under Education Code 28.009. [See EHDD]
23. A superintendent shall report the results of reading instruments to the commissioner of education and the board; a student's results, in writing, to the student's parent or guardian; and each student's raw score electronically to TEA, under Education Code 28.006(d). [See EKC]
24. A district shall use the student attendance accounting standards established by the commissioner to make reports on student attendance and student participation in special programs, under 19 Administrative Code 129.1025. [See FEB]
25. A district shall compile the results of the annual physical fitness assessment of students and provide summary results to TEA, under Education Code 38.103. [See FFAA]
26. On or before June 30 of each year, a district shall submit to the Texas Department of State Health Services (TDSHS) a report on the vision and hearing screening status of students who were screened during the reporting year, under Health and Safety Code 36.006 and 25 Administrative Code 37.26(b)(6). [See FFAA]

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27. On or before June 30 of each year, a district shall submit to TDSHS a report of spinal screening performed during the school year, under 25 Administrative Code 37.145(b)(5). [See FFAA]
28. A district located in Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, or 20 shall submit to the University of Texas—Pan American Border Health Office an annual report on its students' risk assessment status for Type 2 diabetes, under Health and Safety Code 95.004(e). [See FFAA]
29. Annually, a district shall submit a report of the immunization status of students to TDSHS, under Education Code 38.002(c) and 25 Administrative Code 97.71. [See FFAB]
30. Annually, a district shall report to the commissioner information regarding each placement in a disciplinary alternative education program (DAEP) and each expulsion, under Education Code 37.020. [See FO]
31. Not later than the 30th day after the contract is executed and again not later than the 30th day after the contract is terminated, a district shall report to the Office of Federal-State Relations any contract between the district and a federal-level government relations consultant, under Government Code 751.016. [See GR]

LOCAL REVENUE SOURCES
LOANS AND NOTES

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**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 provision must mature not more than 20 years from their date.

A 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.

A loan secured by delinquent taxes may bear interest at a rate not to exceed the maximum rate provided by Government Code 1204.006. [See Maximum Interest Rate, below]

Education Code 45.104

**Loans for Current
Maintenance
Expenses**

A district may borrow money for the purpose of paying maintenance expenses and may evidence those loans with negotiable or nonnegotiable 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 a district, including proceeds of a maintenance tax. The term "maintenance expenses" or "maintenance expenditures" as used in this provision means any lawful expenditure of the district other than payment of principal of and interest on bonds. The term includes expenditures relating to notes issued to refund notes previously issued under this provision if the refunding notes are co-terminous with the refunded obligation. The term also includes all costs incurred in connection with environmental cleanup and asbestos cleanup and removal programs implemented by a 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 provision 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 Tax Code 26.012(7).

LOCAL REVENUE SOURCES
LOANS AND NOTES

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Notes may be issued under this provision only after a budget has been adopted for the current school year. Notes must be authorized by resolution adopted by a majority of the board, signed by the president or vice president, and attested to by the secretary. A note may contain a certification that it is issued pursuant to and in compliance with this provision and pursuant to a resolution adopted by the board. The certification is sufficient evidence that the note is a valid obligation of the district.

Education Code 45.108

**Short-Term
Obligations and
Credit Agreements**

A district may issue, sell, and deliver certain obligations under Government Code Chapter 1371 to the extent authorized by Education Code 45.003 if the district:

1. Has an average daily attendance of 50,000 or more; or
2. Has:
 - a. A principal amount of at least \$100 million in outstanding long-term indebtedness, proposed long-term indebtedness, or a combination of outstanding or proposed long-term indebtedness; and
 - b. Some amount of long-term indebtedness, outstanding or proposed, to be issued that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securities, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Gov't Code 1371.001(4)(L), (P), .0521

Subject to the restrictions of Education Code 45.0011(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 bonds as provided by Education Code 45.001 and 45.003(b)(1) [see CCA], exercise the powers granted to the governing body of an issuer with regard to the issuance of obligations and execution of credit agreements under Government Code Chapter 1371. *Education Code 45.0011*

**Maximum Interest
Rate**

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 Ch. 1201*

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

Definitions

Business
Organization

“Business organization” means an investment pool or investment management firm under contract with a district to invest or manage the district’s investment portfolio that has accepted authority granted by the district under the contract to exercise investment discretion in regard to the district’s funds. *Gov’t Code 2256.005(k)*

Investment Pool

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

Pooled Fund Group

“Pooled fund group” means an internally created fund of a district in which one or more institutional accounts of a district are invested.

Separately Invested
Asset

“Separately invested asset” means an account or fund of a district that is not invested in a pooled fund group.

Gov’t Code 2256.002(6), (9), (12)

Repurchase
Agreement

“Repurchase agreement” means a simultaneous agreement to buy, hold for a specified time, and sell back at a future date obligations, described at Obligations of Governmental Entities, below, at a market value at the time the funds are disbursed of not less than the principal amount of the funds disbursed. The term includes a direct security repurchase agreement and a reverse security repurchase agreement. *Gov’t Code 2256.011(b)*

Hedging

“Hedging” means acting to protect against economic loss due to price fluctuation of a commodity or related investment by entering into an offsetting position or using a financial agreement or producer price agreement in a correlated security, index, or other commodity.

Eligible Entity

“Eligible entity” means a political subdivision that has:

1. A principal amount of at least \$250 million in outstanding long-term indebtedness, long-term indebtedness proposed to be issued, or a combination of outstanding long-term indebtedness and long-term indebtedness proposed to be issued; and
2. Outstanding long-term indebtedness that is rated in one of the four highest rating categories for long-term debt instruments by a nationally recognized rating agency for municipal securi-

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ties, without regard to the effect of any credit agreement or other form of credit enhancement entered into in connection with the obligation.

Eligible Project

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

Gov’t Code 2256.0206(a)

Corporate Bond

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

Written Policies

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

1. A list of the types of authorized investments in which the district’s funds may be invested;
2. The maximum allowable stated maturity of any individual investment owned by the district;
3. For pooled fund groups, the maximum dollar-weighted average maturity allowed based on the stated maturity date of the portfolio;
4. Methods to monitor the market price of investments acquired with public funds;
5. A requirement for settlement of all transactions, except investment pool funds and mutual funds, on a delivery versus payment basis; and
6. Procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments consistent with the provisions of Government Code 2256.021 [see Loss of Required Rating, below].

Gov’t Code 2256.005(a), (b)

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Annual Review	The board shall review its investment policy and investment strategies not less than annually. The board shall adopt a written instrument by resolution stating that it has reviewed the investment policy and investment strategies and that the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. <i>Gov't Code 2256.005(e)</i>
Annual Audit	A district shall perform a compliance audit of management controls on investments and adherence to the district's established investment policies. The compliance audit shall be performed in conjunction with the annual financial audit. <i>Gov't Code 2256.005(m)</i>
Investment Strategies	<p>As an integral part of the investment policy, the board shall adopt a separate written investment strategy for each of the funds or group of funds under the board's control. Each investment strategy must describe the investment objectives for the particular fund using the following priorities in order of importance:</p> <ol style="list-style-type: none">1. Understanding of the suitability of the investment to the financial requirements of the district;2. Preservation and safety of principal;3. Liquidity;4. Marketability of the investment if the need arises to liquidate the investment before maturity;5. Diversification of the investment portfolio; and6. Yield. <p><i>Gov't Code 2256.005(d)</i></p>
Investment Officer	A district shall designate by resolution one or more officers or employees as investment officer(s) to be responsible for the investment of its funds consistent with the investment policy adopted by the board. If the board has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the contracting board's district. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the board retains the ultimate responsibility as fiduciaries of the assets of the district. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the district. Authority granted to a person to invest the district's funds is effective until rescinded by the district or until termination of the person's employment by a district, or for

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an investment management firm, until the expiration of the contract with the district. *Gov't Code 2256.005(f)*

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

Investment Training

Initial

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

Ongoing

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

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

Standard of Care

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

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

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

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1. The investment of all funds, or funds under the district's control, over which the office had responsibility rather than the prudence of a single investment; and
2. Whether the investment decision was consistent with the district's written investment policy.

Gov't Code 2256.006

Personal Interest

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

1. The investment officer owns ten percent or more of the voting stock or shares of the business organization or owns \$5,000 or more of the fair market value of the business organization;
2. Funds received by the investment officer from the business organization exceed ten percent of the investment officer's gross income for the previous year; or
3. The investment officer has acquired from the business organization during the previous year investments with a book value of \$2,500 or more for the personal account of the investment officer.

Gov't Code 2256.005(i)

Quarterly Reports

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

1. Describe in detail the investment position of the district on the date of the report;
2. Be prepared jointly and signed by all district investment officers;

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3. Contain a summary statement of each pooled fund group that states the:
 - a. Beginning market value for the reporting period;
 - b. Ending market value for the period; and
 - c. Fully accrued interest for the reporting period;
4. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
5. State the maturity date of each separately invested asset that has a maturity date;
6. State the account or fund or pooled group fund in the district for which each individual investment was acquired; and
7. State the compliance of the investment portfolio of the district as it relates to the investment strategy expressed in the district's investment policy and relevant provisions of the Public Funds Investment Act.

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

Gov't Code 2256.023

Selection of Broker

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

Authorized Investments

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

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

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years. A renewal or extension of the contract must be made by the board by resolution. *Gov't Code 2256.003(b)*

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

The following are authorized investments:

Obligations of
Governmental
Entities

1. Obligations, including letters of credit, of the United States or its agencies and instrumentalities, including the Federal Home Loan Banks;
2. Direct obligations of this state or its agencies and instrumentalities;
3. Collateralized mortgage obligations directly issued by a federal agency or instrumentality of the United States, the underlying security for which is guaranteed by an agency or instrumentality of the United States;
4. Other obligations, the principal and interest of which are unconditionally guaranteed or insured by, or backed by the full faith and credit of, this state, the United States, or their respective agencies and instrumentalities, including obligations that are fully guaranteed or insured by the Federal Deposit Insurance Corporation (FDIC) or by the explicit full faith and credit of the United States;
5. Obligations of states, agencies, counties, cities, and other political subdivisions of any state rated as to investment quality by a nationally recognized investment rating firm not less than A or its equivalent;
6. Bonds issued, assumed, or guaranteed by the state of Israel;
7. Interest-bearing banking deposits that are guaranteed or insured by the FDIC or its successor, or the National Credit Union Share Insurance Fund or its successor; and
8. Interest-bearing banking deposits other than those described at item 7 above if:
 - a. The funds are invested through a broker with a main office or a branch office in this state that the district selects from a list the board or designated investment committee of the district adopts as required at Selection of Broker above or a depository institution with a main office or a branch office in this state and that the district selects;
 - b. The broker or depository institution selected as described above arranges for the deposit of the funds in

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the banking deposits in one or more federally insured depository institutions, regardless of where located, for the district's account;

- c. The full amount of the principal and accrued interest of the banking deposits is insured by the United States or an instrumentality of the United States; and
- d. The district appoints as the district's custodian of the banking deposits issued for the district's account the depository institution selected as described above, an entity described by Government Code 2257.041(d) (regarding a custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating under Rule 15c3-3 (17 C.F.R. Section 240.15c3-3).

Gov't Code 2256.009(a)

*Unauthorized
Obligations*

The following investments are not authorized:

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

Gov't Code 2256.009(b)

Certificates of
Deposit and Share
Certificates

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

- 1. Guaranteed or insured by the FDIC or its successor or the National Credit Union Share Insurance Fund or its successor;
- 2. Secured by obligations described at Obligations of Governmental Entities, above, including mortgage backed securities directly issued by a federal agency or instrumentality that have a market value of not less than the principal amount of the certificates, but excluding those mortgage backed securities described at Unauthorized Obligations, above; or

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

Gov't Code 2256.010(a)

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

1. The funds are invested by the district through a broker that has its main office or a branch office in this state and is selected from a list adopted by the district as required at Selection of Broker, above or a depository institution that has its main office or a branch office in this state and that is selected by the district;
2. The broker or depository institution selected by the district arranges for the deposit of the funds in certificates of deposit in one or more federally insured depository institutions, wherever located, for the account of the district;
3. The full amount of the principal and accrued interest of each of the certificates of deposit is insured by the United States or an instrumentality of the United States; and
4. The district appoints the depository institution selected by the district, an entity described by Government Code 2257.041(d) (regarding a custodian with which to deposit securities), or a clearing broker-dealer registered with the Securities and Exchange Commission and operating pursuant to Securities and Exchange Commission Rule 15c3-3 (17 C.F.R. Section 240.15c3-3) as custodian for the district with respect to the certificates of deposit issued for the account of the district.

Gov't Code 2256.010(b)

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

Repurchase
Agreements

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

1. Has a defined termination date;
2. Is secured by a combination of cash and obligations described at Obligations of Governmental Entities, above;

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3. Requires the securities being purchased by the district or cash held by the district to be pledged to the district, held in the district's name, and deposited at the time the investment is made with the district or a third party selected and approved by the district, and
4. Is placed through a primary government securities dealer, as defined by the Federal Reserve or a financial institution doing business in Texas.

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

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

Gov't Code 2256.011

Securities Lending
Program

A securities lending program is an authorized investment if:

1. The value of securities loaned is not less than 100 percent collateralized, including accrued income;
2. A loan allows for termination at any time;
3. A loan is secured by:
 - a. Pledged securities described at Obligations of Governmental Entities, above;
 - b. Pledged irrevocable letters of credit issued by a bank that is organized and existing under the laws of the United States or any other state, and continuously rated by at least one nationally recognized investment rating firm at not less than A or its equivalent; or
 - c. Cash invested in accordance with Government Code 2256.009 (obligations of governmental entities), 2256.013 (commercial paper), 2256.014 (mutual funds), or 2256.01 (investment pools);
4. The terms of a loan require that the securities being held as collateral be pledged to the district, held in the district's name, and deposited at the time the investment is made with the dis-

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strict or with a third party selected by or approved by the district; and

5. A loan is placed through a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that regulation existed on September 1, 2003, or a financial institution doing business in this state.

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

Gov't Code 2256.0115

Banker's
Acceptances

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

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

Gov't Code 2256.012

Commercial Paper

Commercial paper is an authorized investment if it has a stated maturity of 270 days or fewer from the date of issuance; and is rated not less than A-1 or P-1 or an equivalent rating by at least:

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

Gov't Code 2256.013

Mutual Funds

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

1. Is registered with and regulated by the Securities and Exchange Commission;

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

Gov't Code 2256.014(a)

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

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

Gov't Code 2256.014(b)

Limitations

A district is not authorized to:

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

Gov't Code 2256.014(c)

Guaranteed
Investment
Contracts

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

1. Has a defined termination date;

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

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

To be eligible as an authorized investment:

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

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

Gov't Code 2256.015

Investment Pools

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

To be eligible to receive funds from and invest funds on behalf of a district, an investment pool must furnish to the investment officer or other authorized representative of the district an offering circular or other similar disclosure instrument that contains the information specified in Government Code 2256.016(b). To maintain eligibility, an investment pool must furnish to the investment officer or other

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authorized representative investment transaction confirmations and a monthly report that contains the information specified in Government Code 2256.016(c). A district by contract may delegate to an investment pool the authority to hold legal title as custodian of investments purchased with its local funds. *Gov't Code 2256.016(b)-(d)*

Corporate Bonds for
Larger Districts

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

A district is not authorized to:

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

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

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

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

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

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2. Changes the rating on the corporate bonds to a rating lower than "AA-" or the equivalent.

Corporate bonds are not an eligible investment for a public funds investment pool.

Gov't Code 2256.0204

Hedging
Transactions

The board of an eligible entity (as defined above) shall establish the entity's policy regarding hedging transactions. An eligible entity may enter into hedging transactions, including hedging contracts, and related security, credit, and insurance agreements in connection with commodities used by an eligible entity in the entity's general operations, with the acquisition or construction of a capital project, or with an eligible project. A hedging transaction must comply with the regulations of the federal Commodity Futures Trading Commission and the federal Securities and Exchange Commission.

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

An eligible entity may:

1. Pledge as security for and to the payment of a hedging contract or a security, credit, or insurance agreement any general or special revenues or funds the entity is authorized by law to pledge to the payment of any other obligation.
2. Credit any amount the entity receives under a hedging contract against expenses associated with a commodity purchase.

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

Gov't Code 2256.0206

Prohibited
Investments

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

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

Loss of Required
Rating

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

**Sellers of
Investments**

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

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

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

Gov’t Code 2256.005(k)–(l)

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Nothing in this section relieves the district of the responsibility for monitoring investments made by the district to determine that they are in compliance with the investment policy. *Gov't Code 2256.005(k)*

Donations

A gift, devise, or bequest made to a district to provide college scholarships for district graduates may be invested by the board as provided in Property Code 117.004 (Uniform Prudent Investor Act), unless otherwise specifically provided by the terms of the gift, devise, or bequest. *Education Code 45.107*

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

**Electronic Funds
Transfer**

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

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Investment Authority

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

**Approved
Investment
Instruments**

From those investments authorized by law and described further in CDA(LEGAL) under Authorized Investments, the Board shall permit investment of District funds 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. No-load money market mutual funds and no-load mutual funds as permitted by Government Code 2256.014.
8. A guaranteed investment contract as an investment vehicle for bond proceeds, provided it meets the criteria and eligibility requirements established by Government Code 2256.015.
9. Public funds investment pools as permitted by Government Code 2256.016.

Safety

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

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**Investment
Management**

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

**Liquidity and
Maturity**

Any internally created pool fund group of the District shall have a maximum dollar weighted maturity of 180 days. The maximum allowable stated maturity of any other individual investment owned by the District shall not exceed one year from the time of purchase. The Board may specifically authorize longer maturities, within legal limits, as specified in the section of this policy that addresses funds/strategies.

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

Diversity

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

**Monitoring Market
Prices**

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

**Monitoring Rating
Changes**

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

Funds/Strategies

Investments of the following fund categories shall be consistent with this policy and in accordance with the applicable strategy defined below. All strategies described below for the investment of a particular fund should be based on an understanding of the suitability of an investment to the financial requirements of the District and consider preservation and safety of principal, liquidity, marketability of an investment if the need arises to liquidate before maturity, diversification of the investment portfolio, and yield.

Operating Funds

Investment strategies for operating funds (including any commingled pools containing operating funds) shall have as their primary

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

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financial markets, or imprudent actions by employees and officers of the District. Controls deemed most important shall include:

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

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

Annual Review

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

Annual Audit

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

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**Authorized
Expenditures**

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

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

The state and county available funds may be used only for the payment of teachers' and superintendents' salaries and interest on money borrowed on short time to pay those salaries that become due before school funds for the current year become available. Loans for the purpose of payment of teachers may not be paid out of funds other than those for the current year. *Education Code 45.105(b)*

Local funds from district taxes, tuition fees, other local sources, and state funds not designated for a specific purpose may be used for purposes listed above for state and county available funds and for purchasing appliances and supplies; paying insurance premiums; paying janitors and other employees; buying school sites; buying, building, repairing, and renting school buildings, including acquiring school buildings and sites by leasing through annual payments with an ultimate option to purchase [see CHG]; and for other purposes necessary in the conduct of the public schools determined by a board. *Education Code 45.105(c)*

Public funds of a district may not be spent in any manner other than as provided for in the budget adopted by the board, but the board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses. *Education Code 44.006(a)*

Fiscal Year

The fiscal year of a district begins on July 1 or September 1 of each year, as determined by the board. *Education Code 44.0011*

Budget Preparation

On or before the date set by the State Board of Education (currently August 20 [June 19 for a district with a fiscal year beginning July 1]), a superintendent shall prepare, or cause to be prepared, a proposed budget covering all estimated revenue and proposed expenditures of a district for the following fiscal year. The budget must be prepared according to generally accepted accounting principles, rules adopted by the State Board, and adopted policies

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	of the board of trustees. <i>Education Code 44.002; 19 TAC 109.1(a), .41</i>
Funds for Accelerated Instruction	A district that is required to provide accelerated instruction under Education Code 29.081(b-1) [see EHBC] shall separately budget sufficient funds, including funds under Education Code 42.152, for that purpose. A district may not budget funds received under Education Code 42.152 for any other purpose until the district adopts a budget to support additional accelerated instruction. <i>Education Code 29.081(b-2)</i>
Public Notice Expenditures	The proposed budget of a district must include a line item indicating expenditures for notices required by law to be published in a newspaper by the district or a representative of the district that allows as clear a comparison as practicable between those expenditures in the proposed budget and actual expenditures for the same purpose in the preceding year. <i>Local Gov't Code 140.0045</i>
Public Meeting on Budget and Proposed Tax Rate	<p>When the budget has been prepared, the board president shall call a board meeting for the purpose of adopting a budget for the succeeding fiscal year. Any taxpayer of a district may be present and participate in the meeting. <i>Education Code 44.004(a), (f)</i> [See CCG for provisions governing tax rate adoption.]</p> <p>The meeting must comply with the notice requirements of the Open Meetings Act. <i>Gov't Code 551.041, .043</i> [See BE]</p>
Published Notice	The board president shall provide for publication of notice of the budget and proposed tax rate meeting in a daily, weekly, or biweekly newspaper published in a district. If no daily, weekly, or biweekly newspaper is published in a district, the president shall provide for publication of notice in at least one newspaper of general circulation in the county in which the district's central administrative office is located. The notice shall be published not earlier than the 30th day or later than the tenth day before the date of the hearing. <i>Education Code 44.004(b)</i>
<i>Form of Notice</i>	<p>The notice of the public meeting to discuss and adopt the budget and the proposed tax rate must meet the size, format, and contents required by law. <i>Education Code 44.004(c)-(c-1)</i></p> <p>The notice is not valid if it does not substantially conform to the language and format prescribed by the comptroller. <i>Education Code 44.004(d)</i></p>
<i>Taxpayer Injunction</i>	A person who owns taxable property in a district is entitled to an injunction restraining the collection of taxes by the district if the district has not complied with the notice requirements and the failure to comply was not in good faith. An action to enjoin the collection of

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taxes must be filed before the date the district delivers substantially all of its tax bills. *Education Code 44.004(e)*

Publication of
Proposed Budget
Summary

Concurrently with the publication of notice of the budget under Education Code 44.004, as described above, a district shall post a summary of the proposed budget on the school district's Internet website or, if the district has no Internet website, in the district's central administrative office.

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

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

Education Code 44.0041

Decrease in Debt
Service Rate

If the interest and sinking fund rate calculated under Education Code 44.004(c)(5)(A)(ii)(b) decreases after the publication of the required notice, the board president is not required to publish another notice or call another meeting to discuss and adopt the budget and the proposed lower tax rate. *Education Code 44.004(g-1)*

Budget Adoption

The board, at the meeting called for that purpose, shall adopt a budget to cover all expenditures for the succeeding fiscal year. The budget must be adopted before the adoption of the tax rate for the tax year in which the fiscal year covered by the budget begins. *Education Code 44.004(f)–(g)*

**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(h)–(i)*

Certified Estimate

By April 30, the chief appraiser shall prepare and certify an estimate of the taxable value of school district property. *Tax Code 26.01(e)*

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**Budget Adoption
After Tax Rate
Adoption**

Notwithstanding Education Code 44.004(g), (h), and (i), above, a district may adopt a budget after the district adopts a tax rate for the tax year in which the fiscal year covered by the budget begins if the district elects to adopt a tax rate before receiving the certified appraisal roll for the district as provided by Tax Code 26.05(g). If a district elects to adopt a tax rate before adopting a budget, the district must publish notice and hold a meeting for the purpose of discussing the proposed tax rate. Following adoption of the tax rate [see CCG], the district must publish notice and hold another public meeting before the district may adopt a budget. The comptroller shall prescribe the language and format to be used in the notices. The district may use the certified estimate of taxable value in preparing a notice under this provision. *Education Code 44.004(j)*

**Publication of
Adopted Budget**

On final approval of the budget by the board, the district shall post on the district's Internet website a copy of the budget adopted by the board. The district's website must prominently display the electronic link to the adopted budget. A district shall maintain the adopted budget on the district's website until the third anniversary of the date the budget was adopted. *Education Code 44.0051*

The adopted 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)*

**Amendment of
Approved Budget**

The board may amend a budget or adopt a supplementary emergency budget to cover necessary unforeseen expenses. Any amendment or supplementary budget must be prepared and filed in accordance with 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

A district may donate funds or other property or service to the adjutant general's department, the Texas National Guard, or the Texas State Guard. *Gov't Code 437.111(b), .252, .304(a)*

**Commitment of
Current Revenue**

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

1. Retains to a board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.

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2. Is conditioned on a best-efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

**Prohibited Uses of
Resources**

Improvements to
Real Property

Except as provided below or by Education Code 45.109(a-1), (a-2), or (a-3) [see CX], the board may not enter into an agreement authorizing the use of school district employees, property, or resources for the provision of materials or labor for the design, construction, or renovation of improvements to real property not owned or leased by the district.

This section does not prohibit the board from entering into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district. Benefits to real property owned or leased by the district include the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements that serve or benefit the real property owned or leased by the district.

Education Code 11.168

Hotels

The board may not impose taxes; issue bonds; use or authorize the use of district employees; use or authorize the use of district property, money, or other resources; or acquire property for the design, construction, renovation, or operation of a hotel. The board may not enter into a lease, contract, or other agreement that obligates the board to engage in an activity prohibited by this provision or obligates the use of district employees or resources in a manner prohibited by this provision.

“Hotel” means a building in which members of the public obtain sleeping accommodations for consideration. The term includes a motel.

Education Code 11.178

Electioneering

A board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

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Accounting System	<p>A board must adopt and install a standard school fiscal accounting system that conforms with generally accepted accounting principles. The accounting system must meet the minimum requirements prescribed by the commissioner of education, subject to review and comment of the state auditor. <i>Education Code 44.007(a), (b)</i></p> <p>The rules for financial accounting are described in the official TEA publication, <i>Financial Accountability System Resource Guide. 19 TAC 109.1, .41</i></p>
Report of Revenues and Expenditures	<p>A report of the revenues and expenditures for the preceding fiscal year shall be filed with TEA on or before the date set by the State Board of Education. The report shall include management, cost accounting, and financial information in a format prescribed by the State Board and in a manner sufficient to enable the State Board to monitor the funding process and determine educational system costs by district, campus, and program. <i>Education Code 44.007(c), (d)</i></p>
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">1. The total receipts of the fund, itemized by source of revenue, including taxes, assessments, service charges, grants of state money, gifts, or other general sources from which funds are derived;2. The total disbursements of the fund, itemized by the nature of the expenditure; and3. The balance in the fund at the close of the fiscal year. <p><i>Local Gov't Code 140.005</i></p>
Publication	<p>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 150th day after the date the fiscal year ends. <i>Local Gov't Code 140.006(c), (d)</i></p>
Report of Debt Information	<p>A district shall annually compile and report the following financial information:</p> <ol style="list-style-type: none">1. As of the last day of the preceding fiscal year, debt obligation information for the district that must state:

- a. The amount of all authorized debt obligations;
 - b. The principal of all outstanding debt obligations;
 - c. The principal of each outstanding debt obligation;
 - d. The combined principal and interest required to pay all outstanding debt obligations on time and in full;
 - e. The combined principal and interest required to pay each outstanding debt obligation on time and in full;
 - f. The amounts required by items a–e, limited to authorized and outstanding debt obligations secured by ad valorem taxation, expressed as a total amount and as a per capita amount; and
 - g. For each debt obligation:
 - (1) The issued and unissued amount;
 - (2) The spent and unspent amount;
 - (3) The maturity date; and
 - (4) The stated purpose for which the debt obligation was authorized.
2. The current credit rating given by any nationally recognized credit rating organization to debt obligations of the district;
 3. Any other information that the district considers relevant or necessary to explain the values required by items 1a–f, above, including:
 - a. An explanation of the payment sources for the different types of debt; and
 - b. A projected per capita amount of an amount required by item 1f as of the last day of the maximum term of the most recent debt obligation issued by the district.

Instead of replicating in the annual report information that is posted separately on a district's Internet website, the district may provide in the report a direct link to, or a clear statement describing the location of, the separately posted information.

Alternative to
Report

As an alternative to providing an annual report, a district may provide to the comptroller the information described above and any other related information required by the comptroller in the form and in the manner prescribed by the comptroller. The comptroller shall post the information on the comptroller's Internet website. If the district maintains an Internet website, the district shall provide a

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link from the website to the location on the comptroller's website where the district's financial information may be viewed.

Posting
Requirements

Except as provided at Alternative to Report, above, a district's board of trustees shall take action to ensure that:

1. The district's annual report is made available for inspection by any person and is posted continuously on the district's Internet website until the district posts the next annual report; and
2. The contact information for the main office of the district is continuously posted on the website, including the physical address, the mailing address, the main telephone number, and an e-mail address.

Local Gov't Code 140.008

**Financial
Management Report**

Each district must prepare and distribute an annual financial management report. The district's annual financial management report must include a description of the district's financial management performance based on a comparison, provided by TEA, of the district's performance on the indicators in 19 Administrative Code 109.1001. [See CFC]

Each district must provide the public with an opportunity to comment on the report at a hearing.

Report
Requirements

The report shall contain information that discloses state-established standards and a district's financial management performance under each indicator for the current and previous year's financial accountability ratings, and any descriptive information required by the commissioner, including:

1. A copy of the superintendent's current employment contract or other written documentation of employment if no contract exists. This must disclose all compensation and benefits paid to the superintendent. The district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report;
2. A summary schedule for the fiscal year (12-month period) of expenditures paid on behalf of the superintendent and each board member and total reimbursements received by the superintendent and each board member. This includes transactions on a district's credit card(s), debit card(s), stored-value card(s), and any other similar instrument(s) to cover expenses incurred by the superintendent and each board member. The summary schedule must separately report reimbursements for meals, lodging, transportation, motor fuel, and other items.

The summary schedule of total reimbursements should not include reimbursements for supplies and materials that were purchased for the operation of the district;

3. A summary schedule for the fiscal year of the dollar amount of compensation and fees received by the superintendent from an outside school district or any other outside entity in exchange for professional consulting or other personal services. The schedule must separately report the amount received from each entity;
4. A summary schedule for the fiscal year of the total dollar amount of gifts that had a total economic value of \$250 or more received by the executive officers and board members. This reporting requirement applies only to:
 - a. Gifts received by the district's executive officers and board members (and their immediate family as described by Government Code, Chapter 573, Subchapter B, Relationships by Consanguinity or by Affinity) from an outside entity that received payments from the district in the prior fiscal year, and
 - b. Gifts from competing vendors that were not awarded contracts in the prior fiscal year.

This reporting requirement does not apply to reimbursement by an outside entity for travel-related expenses when the purpose of the travel was to investigate matters directly related to an executive officer's or board member's duties or to investigate matters related to attendance at education-related conferences and seminars with the primary purpose of providing continuing education; however, this exclusion does not apply to trips for entertainment purposes or pleasure trips. This reporting requirement excludes an individual gift or a series of gifts from a single outside entity that had a total economic value of less than \$250 per executive officer or board member;

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

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Public Hearing	<p>The board shall hold a public hearing on the report. The public hearing must be held in the district's facilities within two months after receiving a final financial accountability rating.</p> <p>The board must give notice of the hearing to property owners in the geographic boundaries of the district and to parents of district students.</p> <p>In addition to other notice required by law, the board must provide notice of the hearing to a newspaper of general circulation in the geographic boundaries of the district once a week for two weeks prior to holding the public meeting, providing the time and place of the hearing. The first notice in the newspaper may not be more than 30 days prior to the public meeting or less than 14 days prior to the public meeting. If no newspaper is published in the county in which a district's central administration office is located, then the board must publish the notice in the county nearest to the county seat of the county in which the district's central administration office is located.</p> <p>The board must also provide notice of the hearing through electronic mail to mass communication media serving a district, including, but not limited to, radio and television.</p> <p>At the hearing, the district must provide the annual financial management report to the attending parents and taxpayers. The district must retain the annual financial management report for at least three years after the public hearing and make it available to parents and taxpayers upon request.</p>
Dissemination	<p>After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner.</p>
Corrective Action Plan	<p>Each district that received an F rating must file a corrective action plan with TEA, prepared in accordance with instructions from the commissioner, within one month after a district's public hearing.</p> <p><i>Education Code 39.083; 19 TAC 109.1001(o)</i></p>
Projected Deficit	<p>If the commissioner, based on the indicators adopted under Education Code 39.082 [see CFC], projects a deficit for a district general fund within the following three school years, TEA shall provide the district interim financial reports, including projected revenues and expenditures, to evaluate the district's current budget status.</p> <p>TEA may require a district to submit additional information needed to produce a financial report. If a district fails to provide information requested or if the commissioner determines that the information submitted by a district is unreliable, the commissioner may order</p>

the district to acquire professional services under Education Code
39A.902 [see AIC].

Education Code 39.0823

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Board Authority

A board may adopt rules and procedures for the acquisition of goods and services. *Education Code 44.031(d)*

Delegation of
Authority

A board may delegate its authority regarding an action authorized or required to be taken by a district by Education Code Chapter 44, Subchapter B, to a designated person, representative, or committee.

A board may not delegate the authority to act regarding an action authorized or required to be taken by the board by Education Code Chapter 44, Subchapter B.

*Disaster
Exception*

Notwithstanding any other provision of the Education Code, in the event of a catastrophe, emergency, or natural disaster affecting a district, the board may delegate to the superintendent or designated person the authority to contract for the replacement or repair of school equipment under Education Code Chapter 44, Subchapter B if emergency replacement or repair is necessary for the health and safety of district students and staff.

Education Code 44.0312

**Purchases Valued at
or Above \$50,000**

All district contracts for the purchase of goods and services, except contracts for the purchase of produce or vehicle fuel, valued at \$50,000 or more in the aggregate for each 12-month period, shall be made by the method that provides the best value for a district:

1. Competitive bidding for services other than construction services.
2. Competitive sealed proposals for services other than construction services.
3. A request for proposals for services other than construction services.
4. An interlocal contract.
5. The reverse auction procedure as defined by Government Code 2155.062(d).
6. The formation of a political subdivision corporation under Local Government Code 304.001.

Education Code 44.031(a)

Note: Regarding construction of school facilities, see CV generally; CVA for competitive bidding; CVB for competitive sealed proposals; CVC and CVD for contracts using a construction manager; CVE for design/build contracts; and CVF for job order contracts for minor repairs/alterations.

Factors

In awarding a contract, a district shall consider:

1. Purchase price.
2. The reputation of the vendor and of the vendor's goods or services.
3. The quality of the vendor's goods or services.
4. The extent to which the goods or services meet the district's needs.
5. The vendor's past relationship with the district.
6. The impact on the ability of the district to comply with laws relating to historically underutilized businesses.
7. The total long-term cost to the district to acquire the goods or services.
8. For a contract that is not for goods and services related to telecommunications and information services, building construction and maintenance, or instructional materials, whether the vendor or the vendor's ultimate parent company or majority owner has its principal place of business in this state or employs at least 500 persons in this state.
9. Any other relevant factor specifically listed in the request for bids or proposals.

Education Code 44.031(b)

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

The factors listed above are the only criteria that may be considered by a district in its decision to award a contract. R.G.V. Vend-

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ing v. Weslaco Indep. Sch. Dist., 995 S.W.2d 897 (Tex. App.—
Corpus Christi 1999, no pet.)

Out-of-State Bidders

A board shall not award a contract for services or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located, or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001–.002*

This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003–.004*

Required Contract Provision

A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it does not boycott Israel and will not during the term of the contract. *Gov't Code 2270.002*

“Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. *Gov't Code 808.001(2)*

Disclosure of Interested Parties

A district may not enter into a contract that requires an action or vote of the board before the contract may be signed, or has a value of at least \$1 million, with a business entity unless the business entity submits a disclosure of interested parties to the district at the time the business entity submits the signed contract to the district. *Gov't Code 2252.908*

A contract does not require an action or vote by the board if the board has legal authority to delegate to its staff the authority to execute the contract, the board has delegated this authority, and the board does not participate in the selection of the business entity with which the contract is entered into. *1 TAC 46.1(c)*

Exclusions

The disclosure requirement does not apply to a contract with:

1. A publicly traded business entity, including a wholly owned subsidiary of the entity;
2. An electric utility, as defined by Utilities Code 31.002; or

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3. A gas utility, as defined by Utilities Code 121.001.

Gov't Code 2252.908(c)(4)–(6)

Required Form

The disclosure of interested parties must be submitted on a form prescribed by the Texas Ethics Commission (TEC) that includes a list of each interested party for the contract of which the contracting business entity is aware; and a written, unsworn declaration subscribed by the authorized agent of the contracting business entity as true under penalty of perjury that is in substantially the form set out in Government Code 2252.908(e)(2). *Gov't Code 2252.908(e); 1 TAC 46.5(a)*

The certification of filing and the completed disclosure of interested parties form generated by TEC's electronic filing application must be printed, signed by an authorized agent of the contracting business entity, and submitted to the district that is the party to the contract for which the form is being filed. *1 TAC 46.5(b)*

Deadline

A district that receives a completed disclosure of interested parties form and certification of filing shall notify TEC, in an electronic format prescribed by TEC, of the receipt of those documents not later than the 30th day after the date the board receives the disclosure. *1 TAC 46.5(c); Gov't Code 2252.908(f)*

Contract Changes

The disclosure requirements do not apply to a change made to an existing contract, including an amendment, change order, or extension of a contract except as set out below.

The disclosure requirements apply to a change made to an existing contract, including an amendment, change order, or extension of a contract if:

1. A disclosure of interested parties form was not filed for the existing contract; and either the changed contract requires an action or vote by the board or the value of the changed contract is at least \$1 million; or
2. The business entity submitted a disclosure of interested parties form to the district that is a party to the existing contract; and either there is a change to the disclosure; or the changed contract requires an action or vote by the board; or the value of the changed contract is at least \$1 million greater than the value of the existing contract.

1 TAC 46.4

Definitions

"Contract" means a contract between a board and a business entity at the time it is voted on by the board or at the time it binds the

board, whichever is earlier, and includes an amended, extended, or renewed contract. *1 TAC 46.3(a)*

“Business entity” means any entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. The term includes an entity through which business is conducted with a district, regardless of whether the entity is a for-profit or nonprofit entity, and does not include a governmental entity or state agency. *Gov’t Code 2252.908(a)(1); 1 TAC 46.3(b)*

“Interested party” means a person who has a controlling interest in a business entity with whom a district contracts or who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the business entity. *Gov’t Code 2252.908(a)(3); 1 TAC 46.3(d), (e)*

“Controlling interest” means:

1. An ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds ten percent;
2. Membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than ten members; or
3. Service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers. This subsection does not apply to an officer of a publicly held business entity or its wholly owned subsidiaries.

1 TAC 46.3(c)

“Signed” includes any symbol executed or adopted by a person with present intention to authenticate a writing, including an electronic signature. *1 TAC 46.3(f)*

“Value” of a contract is based on the amount of consideration received or to be received by a business entity from a board under the contract. *1 TAC 46.3(g)*

[See BBFA for additional conflict of interest disclosures.]

**Contract with Person
Indebted to District**

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

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

Education Code 44.044

**Notice
Publication**

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

**Electronic Bids or
Proposals**

A district may receive bids or proposals through electronic transmission if the board adopts rules to ensure the identification, security, and confidentiality of electronic bids or proposals and to ensure that the electronic bids or proposals remain effectively unopened until the proper time.

An electronic bid or proposal is not required to be sealed. A provision of Education Code Chapter 44 that applies to a sealed bid or proposal applies to a bid or proposal received through electronic transmission in accordance with the rules adopted by the board.

Education Code 44.0313

**Professional
Services**

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

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

Education Code 44.031(f)

Competitive bids shall not be solicited for professional services of any licensed or registered certified public accountant, architect, landscape architect, land surveyor, physician, optometrist, professional engineer, state-certified or state-licensed real estate ap-

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praiser, 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, .003(a)*

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

Prohibited
Contracts

For provisions regarding prohibited contracts, see CV(LEGAL).

**Emergency Damage
or Destruction**

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

Computers

A district may acquire computers and computer-related equipment, including computer software, through the Department of Information Resources (DIR) under contracts with the DIR in accordance with Government Code Chapter 2054 or 2157. *Education Code 44.031(i)*

**Automated
Information System**

A district may purchase an automated information system using the purchasing method described by Government Code 2157.068 for commodity items or a purchasing method designated by the controller to obtain the best value for the state, including a request for offers method. A district that purchases an item using a method listed above satisfies any state law requiring the district to seek competitive bids for the purchase of the item. *Gov't Code 2157.006; 34 TAC 20.391*

**Automated External
Defibrillators**

A school that purchases or leases an automated external defibrillator, as defined by Health and Safety Code 779.001, shall ensure that the defibrillator meets standards established by the federal Food and Drug Administration. *Education Code 44.047*

Sole Source

Compliance with Education Code 44.031 is not required for purchases that are available from only one source, including:

1. An item for which competition is precluded because of a patent, copyright, secret process, or monopoly.
2. A film, manuscript, or book.

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3. A utility service, including electricity, gas, or water.
4. A captive replacement part or component for equipment.

The sole source exception shall not apply to mainframe data processing equipment and peripheral attachments with a single-item purchase price in excess of \$15,000.

Education Code 44.031(j)–(k)

Insurance

A contract for the purchase of insurance is a contract for the purchase of personal property and shall be made in accordance with Education Code 44.031. *Education Code 44.031; Atty. Gen. Op. DM-347 (1995)*

Multiyear Contracts

A district may execute an insurance contract for a period longer than 12 months, if the contract contains either or both of the provisions described at Commitment of Current Revenue, below. If a district executes a multiyear insurance contract, it need not advertise for insurance vendors until the 12-month period during which the district will be executing a new insurance contract. *Atty. Gen. Op. DM-418 (1996)*

Competitive Bidding

Except to the extent prohibited by other law and to the extent consistent with Education Code Chapter 44, Subchapter B, a school district may use competitive bidding to select a vendor as authorized by Education Code 44.031(a)(1).

A district shall award a competitively bid contract at the bid amount to the bidder offering the best value for the district. In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria. The selection criteria may include the factors listed in Education Code 44.031(b) [see Factors, above].

Except as provided below, Local Government Code Chapter 271, Subchapter B does not apply to a competitive bidding process under this policy.

Education Code 44.0351

Opening Bids

Bids may be opened only by a board at a public meeting or by an officer or employee of a district at or in an office of the district. A bid that has been opened may not be changed for the purpose of correcting an error in the bid price. *Local Gov't Code 271.026*

A board shall have the right to reject any and all bids. *Local Gov't Code 271.027(a)*

Safety Record

In determining who is a responsible bidder, a board may take into account the safety record of the bidder; of the firm, corporation,

partnership, or institution represented by the bidder; or of anyone acting for such firm, corporation, partnership, or institution, provided that:

1. The board has adopted a written definition and criteria for accurately determining the safety record of the bidder.
2. The board has given notice in the bid specifications that the safety record of a bidder may be considered in determining the bidder's responsibility.
3. The determinations are not arbitrary and capricious.

Local Gov't Code 271.0275

Identical Bids

If a district receives two or more bids from responsible bidders that are identical, in nature and amount, as the lowest and best bids, it shall select only one bidder from the identical bids.

If only one of the bidders submitting identical bids is a resident of a district, that bidder shall be selected. If two or more such bidders are residents of a district, one shall be selected by the casting of lots. In all other cases, one of the identical bids shall be selected by the casting of lots.

A board shall prescribe the manner of casting lots and shall be present when the lots are cast. All qualified bidders or their representatives may be present at the casting of lots.

Local Gov't Code 271.901

Competitive Sealed Proposals

In selecting a vendor through competitive sealed proposals as authorized by Education Code 44.031(a)(2), a school district shall follow the procedures prescribed below.

Request for Proposals

The district shall prepare a request for competitive sealed proposals that includes information that vendors may require to respond to the request. The district shall state in the request for proposals the selection criteria that will be used in selecting the successful offeror.

Opening Proposals

The district shall receive, publicly open, and read aloud the names of the offerors and, if any are required to be stated, all prices stated in each proposal. Not later than the 45th day after the date on which the proposals are opened, the district shall evaluate and rank each proposal submitted in relation to the published selection criteria.

Selection

The district shall select the offeror that offers the best value for the district based on the published selection criteria and on its ranking evaluation. The district shall first attempt to negotiate a contract

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with the selected offeror. The district may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the district is unable to negotiate a satisfactory contract with the selected offeror, the district shall, formally and in writing, end negotiations with that offeror and proceed to the next offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.

Best Value
Determination

In determining the best value for the district, the district is not restricted to considering price alone but may consider any other factors stated in the selection criteria.

Education Code 44.0352

**Interlocal
Agreements**

To increase efficiency and effectiveness, a district may contract or agree with other local governments and with state agencies, including the comptroller, to perform some of its purchasing functions. *Gov't Code 791.001, .011, .025*

An interlocal contract must be authorized by a board and the governing body of each contracting party; must state the purpose, terms, rights, and duties of the contracting parties; and must specify that each party paying for the performance of governmental functions or services shall make those payments from current revenues available to the paying party.

An interlocal contractual payment must be in an amount that fairly compensates the performing party for the services or functions performed under the contract. The contract may be renewed and may have a specified term of years.

Gov't Code 791.011(d)–(f), (i)

A district may agree with another local government, including a nonprofit corporation that is created and operated to provide one or more governmental functions and services, or with the state or a state agency, including the comptroller, to purchase goods and services reasonably required for the installation, operation, or maintenance of the goods. Such an agreement may not, however, apply 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)

PURCHASING AND ACQUISITION

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(LEGAL)

A district may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the district certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov’t Code 791.011(j)

**State Purchasing
Program**

Purchasing services performed for a district by the comptroller shall include:

1. The extension of state contract prices to a district when the comptroller considers it feasible.
2. Solicitation of bids on items desired by a district if the solicitation is considered feasible by the comptroller and is desired by the district.
3. Provision of information and technical assistance to a district about the purchasing program.

The comptroller may charge a district its actual costs in providing purchasing services.

Local Gov’t Code 271.082

**District
Requirements**

A district may participate in the purchasing program, including participation in purchases that use the reverse auction procedure, by filing with the comptroller a resolution adopted by the board requesting that the district be allowed to participate on a voluntary basis, to the extent the comptroller deems feasible, and stating that the board shall:

1. Designate an official to act for the district in all matters relating to the program, including the purchase of items from the vendor under any contract.
2. Direct the decisions of its representative.
3. Be responsible for:

PURCHASING AND ACQUISITION

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(LEGAL)

- a. Submitting requisitions to the commission under contract(s) and for payment directly to the vendor; and
 - b. Electronically sending purchase orders directly to vendors, or complying with procedures governing a reverse auction purchase, and electronically sending the comptroller reports on actual purchases.
4. Be responsible for the vendor's compliance with all conditions of delivery and quality of the purchased item.

A purchase made through participation in this program meets any state requirement to seek competitive bids for the purchase of the item.

Local Gov't Code 271.083

**Multiple Award
Contract Schedule**

The comptroller shall develop a schedule of multiple award contracts that have been previously awarded using a competitive process by the federal government or any other governmental entity in any state. *Gov't Code 2155.502*

A district may purchase goods or services directly from a vendor under a contract listed on a schedule. A district contracting for the purchase of an automated information system under a contract listed on a schedule shall comply with Government Code 2157.068(e-1) (regarding purchase of information technology commodity items) [see Automated Information System, above]. An authorized purchase satisfies any requirement of state law relating to competitive bids or proposals.

The price listed for a good or service under a multiple award contract is a maximum price. A district may negotiate a lower price for goods or services under a contract listed on a schedule.

Gov't Code 2155.504

**Cooperative
Purchasing Program**

A district may participate in a cooperative purchasing program with another local government of this state or another state or with a local cooperative organization of this state or another state. If a district does so, it may sign an agreement with another participating local government or a local cooperative stating that the district will:

1. Designate a person to act on behalf of the district in all matters relating to the program.
2. Make payments to another participating local government or local cooperative organization or directly under a contract, as provided in the agreement.
3. Be responsible for the vendor's compliance.

PURCHASING AND ACQUISITION

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(LEGAL)

If a district participates in a cooperative purchasing program, it satisfies any law requiring it to seek competitive bids.

Local Gov't Code 271.102; Atty. Gen. Op. JC-37 (1999)

Contract-Related Fee

A school district that enters into a purchasing contract valued at \$25,000 or more under Education Code 44.031(a)(5) (interlocal contract), under Local Government Code Chapter 271, Subchapter F (cooperative purchasing program), or under any other cooperative purchasing program authorized for school districts by law shall document any contract-related fee, including any management fee, and the purpose of each fee under the contract.

The amount, purpose, and disposition of any fee described above must be presented in a written report and submitted annually in an open meeting of the board. The written report must appear as an agenda item. The commissioner of education may audit the written report.

Education Code 44.0331

Reverse Auction

A district that uses the reverse auction procedure must include in the procedure a notice provision and other provisions necessary to produce a method of purchasing that is advantageous to the district and fair to vendors. *Local Gov't Code 271.906(b)*

Reverse auction procedure means:

1. A real-time bidding process usually lasting less than one hour and taking place at a previously scheduled time and Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services; or
2. A bidding process usually lasting less than two weeks and taking place during a previously scheduled period and at a previously scheduled Internet location, in which multiple suppliers, anonymous to each other, submit bids to provide the designated goods or services.

Gov't Code 2155.062(d)

**Commitment of
Current Revenue**

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

1. Retains to the board the continuing right to terminate the contract at the expiration of each budget period during the term of the contract.

2. Is conditioned on a best efforts attempt by the board to obtain and appropriate funds for payment of the contract.

Local Gov't Code 271.903

Change Orders

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

Energy or Water Conservation Measures

A district may contract for energy or water conservation measures. Such a contract shall be let according to the procedures established for professional services by Government Code 2254.004.

A board shall establish a long-range energy plan to reduce a district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan.

Education Code 44.901--.902 [See policy CL for legal requirements pertaining to such contracts and plans.]

Recycled Products

A district shall give preference in purchasing to products made of recycled materials if the products meet applicable specifications as to quantity and quality. A district shall regularly 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.

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(LEGAL)

3. Ensure to the maximum extent economically feasible that the district purchase products that may be recycled when they have served their intended use.

A 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, a district shall give preference in purchasing to agricultural products, including textiles and other similar products, that are produced, processed, or grown in Texas. "Processed" means canning, freezing, drying, juicing, preserving, or any other act that changes the form of a good from its natural state to another form. If Texas agricultural products are not equal in cost and quality to other agricultural products, a district shall give preference in purchasing to agricultural products produced, processed, or grown in the United States, if the cost and quality of the U.S. and foreign products are equal.

A district may not adopt product purchasing specifications that unnecessarily exclude agricultural products produced, processed, or grown in Texas.

Vegetation for
Landscaping

If cost is equal and the quality is not inferior, a district shall give preference to Texas vegetation when it purchases vegetation for landscaping purposes.

Education Code 44.042

Bus Purchase or Lease

Each contract proposed for the purchase or lease of one or more school buses, including a lease with an option to purchase, shall be submitted to competitive bidding when the contract is valued at \$20,000 or more. *Education Code 44.031(l)* [See CNB]

Right to Work

While engaged in procuring goods and services or awarding a contract, a district:

1. May not consider whether a vendor is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization.

Education Code 44.043

PURCHASING AND ACQUISITION

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(LEGAL)

**Lobbying
Restriction: Tobacco
Education Grant
Funds**

A district may not spend grant funds it receives from the Permanent Fund for Tobacco Education and Enforcement to pay:

1. Lobbying expenses incurred by the district;
2. A person or entity that is required under Government Code Chapter 305 to register as a lobbyist with the Texas Ethics Commission;
3. Any partner, employee, employer, relative, contractor, consultant, or related entity of a person or entity of a registered lobbyist (as described in item 2); or
4. A person or entity who has been hired to represent associations or other entities for the purpose of affecting the outcome of legislation, agency rules, ordinances, or other government policies.

Gov't Code 403.1067

Criminal History

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

**Impermissible
Practices**

A board member, employee, or agent shall not, with criminal negligence, make or authorize separate, sequential, or component purchases to avoid the purchasing requirements set out in Education Code 44.031. An officer or employee shall not knowingly violate Education Code 44.031 in any other manner.

"Component purchases" means purchases of the component parts of an item that in normal purchasing practices would be made in one purchase. "Separate purchases" means purchases, made separately, of items that in normal purchasing practices would be made in one purchase. "Sequential purchases" means purchases, over a period, of items that in normal purchasing practices would be made in one purchase.

Violation of this provision is a Class B misdemeanor and an offense involving moral turpitude, conviction of which shall result in removal from office or dismissal from employment. A board member who is convicted of a violation of this provision is considered to have committed official misconduct and for four years after the date of final conviction, the removed person is ineligible to be appointed or elected to public office in Texas, is ineligible to be employed by or act as an agent for the state or a political subdivision, and is ineligible to receive any compensation through a contract with the state or a political subdivision. [See BBC]

Education Code 44.032

PURCHASING AND ACQUISITION

CH
(LEGAL)

Injunction

A court may enjoin performance of a contract made in violation of Education Code Chapter 44, Subchapter B. A county attorney, district attorney, criminal district attorney, citizen of the county in which a district is located, or any interested party may bring an action for an injunction. A party who prevails in an action brought under this subsection is entitled to reasonable attorney's fees as approved by the court. *Education Code 44.032(f)*

SCHOOL PROPERTIES DISPOSAL

CI
(LEGAL)

All rights and title to district property, whether real or personal, shall be vested in the board and its successors in office.

A board may dispose of property that is no longer necessary for district operations in an appropriate manner.

Education Code 11.151(c) [See also CDB(LEGAL)]

**Instructional
Materials and
Technological
Equipment**

The board must dispose of instructional materials and technological equipment in accordance with Education Code 31.105. *Education Code 31.105* [See CMD]

**Surplus or Salvage
Property from a
State Agency**

A district may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of property acquired under Government Code 2175.184 or 2175.241 before the second anniversary of the date the property was acquired. A district that improperly disposes of acquired property must remit to the Texas Facilities Commission the amount the district received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the district's action. *Gov't Code 2175.184(b)*

**Law Enforcement
Vehicles**

A district may not sell or transfer a marked patrol car or other law enforcement motor vehicle to:

1. The public unless the district first removes any equipment or insignia that could mislead a reasonable person to believe that the vehicle is a law enforcement motor vehicle, including any police light, siren, amber warning light, spotlight, grill light, antenna, emblem, outline of an emblem, or emergency vehicle equipment; or
2. A security services contractor who is regulated and licensed by the Department of Public Safety unless each emblem or insignia that identifies the vehicle as a law enforcement motor vehicle is removed before the sale or transfer.

A district that sells or transfers a marked patrol car or other law enforcement motor vehicle to the public in violation of these provisions is liable for damages proximately caused by the use of the vehicle during the commission of a crime, and to the state for a civil penalty of \$1,000. Governmental immunity to suit and from liability is waived and abolished to the extent of this liability.

Local Gov't Code 272.006

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CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

**Notification of
Criminal History**

A person or business entity that enters into a contract with a district must give notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. A district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give such notice or misrepresented the conduct resulting in the conviction. A district must compensate the person or business entity for services performed before the termination of the contract. *Education Code 44.034*

**Criminal History—
Certain Contractor
Employees**

Contractor
Responsibilities

*Employed Before
January 1, 2008*

An entity that contracts with a district to provide services and any subcontractor of the entity shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Education Code 22.0834(b) if:

1. The employee has continuing duties related to the contracted services; and
2. The employee has direct contact with students.

Education Code 22.0834(g)

*Employment
Offered on or
After January 1,
2008*

A person who, on or after January 1, 2008, is offered employment by an entity that contracts with a school district or any subcontractor of the entity must submit to a national criminal history record information review if:

1. The employee or applicant has or will have continuing duties related to the contracted services; and
2. The employee or applicant has or will have direct contact with students.

The person must submit to the review before being employed or serving in a capacity described above.

An entity contracting with a school district and any subcontractor of the entity shall obtain all criminal history record information that relates to a person described above through the criminal history clearinghouse as provided by Government Code 411.0845.

A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to a person described above.

Education Code 22.0834(a), (b), (d), (l)

CONTRACTED SERVICES
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(LEGAL)

Education Code 22.0834 does not apply to a contracting entity, subcontracting entity, or other person subject to Education Code 22.08341. [See Criminal History—Certain Public Works Contractors, below] *Education Code 22.0834(a-1)*

Certification to
District

The entity and any subcontractor of the entity shall certify to the school district that it received all of the criminal history record information required above. The entity and any subcontractor of the entity shall also certify that it will take reasonable steps to ensure that the conditions or precautions that have resulted in a determination that any person is not a covered contract employee continue to exist throughout the time that the contracted services are provided. *Education Code 22.0834(d), (l); 22 TAC 153.1117(c)(5)*

A subcontracting entity must certify to the district and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee described above at Employment Offered On or After January 1, 2008, and has obtained similar written certifications from the subcontracting entity's subcontractors. *Education Code 22.0834(n)*

A contracting entity and any subcontractor of the entity shall provide a school district, at its request, the information necessary for the school district to obtain criminal history record information for all covered contract employees. *22 TAC 153.1117(c)(4)*

A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors. *Education Code 22.0834(m)*

*Disqualifying
Conviction*

A contracting or subcontracting entity may not permit a person described above at Employment Offered On or After January 1, 2008, to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Education Code 22.085(a). *Education Code 22.0834(o)*

A service contractor shall not permit a covered contract employee to provide services at a district if the employee has a disqualifying conviction under Education Code 22.085. *22 TAC 153.1117(c)(6)*

A district may not allow a covered contract employee to serve at the district if the district obtains information through a criminal history record information review that the covered contract employee

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

	has a disqualifying conviction under Education Code 22.085. The district may adopt a stricter standard. 22 TAC 153.1117(b)(3)
District Responsibilities	<p>A district may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person described above at Employment Offered On or After January 1, 2008. <i>Education Code 22.0834(h)</i></p> <p>A district may obtain the criminal history record information of a person described above at Employment Offered On or After January 1, 2008, through the criminal history clearinghouse as provided by Government Code 411.0845. <i>Education Code 22.0834(e)</i></p>
Certification from Contractor	A district shall ensure that each of its service contractors certify that the service contractor has obtained all required criminal history record information for covered contract employees. 22 TAC 153.1117(b)(1)
SBEC Notification	Pursuant to 19 Administrative Code 249.14(d)(1), if a district obtains information that a covered contract employee who holds a certificate issued by the State Board for Educator Certification (SBEC) has a reported criminal history, the superintendent or the superintendent's designee shall notify SBEC of that criminal history within seven calendar days of the date that information is obtained. 19 TAC 153.1117(b)(4) [See DHB(LEGAL)]
Emergency Exception to Criminal History Check	In the event of an emergency, a district may allow a covered contract employee to enter district property, without the required criminal history record information review, if the person is accompanied by a district employee. A district may adopt rules regarding an emergency situation. <i>Education Code 22.0834(f); 19 TAC 153.1117(b)(2)</i>
Definitions	
"Contracting Entity"	A "contracting entity" is an entity that contracts directly with a district to provide services to the district. <i>Education Code 22.0834(p)(1)</i>
"Subcontracting Entity"	A "subcontracting entity" is an entity that contracts with another entity that is not a district to provide services to a district. <i>Education Code 22.0834(p)(2)</i>
"Service Contractor"	A "service contractor" is an entity, including a government entity and an individual independent contractor, that contracts or agrees with a district by written agreement or verbal understanding to provide services through individuals who receive compensation. However, when conducting an investigation or intervention regarding an alleged crime or act of child abuse on a school campus, a law enforcement agency or the Department of Family and Protective Services is not a contracting entity, and the investigator or intervener is not a covered contract employee. 19 TAC 153.1101(10)

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(LEGAL)

*“Continuing
Duties Related to
Contracted
Services”*

“Continuing duties related to contracted services” are work duties that are performed pursuant to a contract to provide services to a district on a regular, repeated basis rather than infrequently or one-time only. *19 TAC 153.1101(2)*

*“Covered
Contract
Employee”*

A “covered contract employee” is an individual who:

1. Is employed or offered employment by a service contractor or a subcontractor of a service contractor, is an individual independent contractor of the district, or is an individual subcontractor of a service contractor;
2. Has or will have continuing duties related to the contracted services;
3. Has or will have direct contact with students; and
4. Is not a student of (or enrolled in) the district for which the services are performed.

19 TAC 153.1101(3)

*“Direct Contact
with Students”*

“Direct contact with students” is the contact that results from activities that provide substantial opportunity for verbal or physical interaction with students that is not supervised by a certified educator or other professional district employee. Contact with students that results from services that do not provide substantial opportunity for unsupervised interaction with a student or students, such as addressing an assembly, officiating a sports contest, or judging an extracurricular event, is not, by itself, direct contact with students. However, direct contact with students does result from any activity that provides substantial opportunity for unsupervised contact with students, which might include, without limitation, the provision of coaching, tutoring, or other services to students. *19 TAC 153.1101(7)*

Note: See DBAA for definitions and provisions regarding confidentiality, consumer credit reports, records retention, and criminal history record checks of employees.

**Criminal History—
Certain Public Works
Contractors**

Applicability

The following provisions apply to a person who is not an applicant for a holder of a certificate under Education Code Chapter 21, Subchapter B, and who is employed by a contracting or subcontracting entity on a project to design, construct, alter, or repair a public work if the person has or will have:

1. Continuing duties related to the contracted services; and

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

2. The opportunity for direct contact with students in connection with the person's continuing duties.

Education Code 22.08341(b)

If a contracting or subcontracting entity determines that the conditions at Applicability do not apply to an employee, the entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in that determination continue to exist throughout the time the contracted services are provided. *Education Code 22.08341(i)*

Certification to
District

The contracting entity or subcontracting entity that employs a person described at Applicability, above, shall:

1. Send or ensure that the person sends to the Department of Public Safety information that is required for obtaining national criminal history record information, which may include fingerprints and photographs;
2. Obtain all criminal history record information that relates to the person through the criminal history clearinghouse as provided by Government Code 411.0845; and
3. Certify to the district or contracting entity, as applicable, that the contracting entity or subcontracting entity that employs the person has received all criminal history record information relating to the person.

A contracting entity shall certify to the district that it has obtained written certification from any subcontracting entity that the subcontracting entity has complied with the above as it relates to the subcontracting entity's employees.

Education Code 22.08341(e), (f)

District
Responsibilities

A district may directly obtain the criminal history record information of a person described above through the criminal history clearinghouse. *Education Code 22.08341(h)*

Disqualifying
Conviction

A contracting or subcontracting entity may not permit an employee to provide services at an instructional facility if the employee, during the preceding 30 years, was convicted of any of the following offenses and the victim was under 18 years of age or was enrolled in a public school:

1. A felony offense under Penal Code Title 5;
2. An offense on conviction of which a defendant is required to register as a sex offender; or

CONTRACTED SERVICES
CRIMINAL HISTORY

CJA
(LEGAL)

3. An offense under the laws of another state or federal law that is equivalent to 1 or 2.

Education Code 22.08341(d)

Emergency

In the event of an emergency, a district may allow a person described at Applicability, above, to enter an instructional facility if the person is accompanied by a district employee. A district may adopt a policy regarding an emergency for purposes of this provision.

Education Code 22.08341(j)

Definitions

*“Contracting
Entity”*

“Contracting entity” means an entity that contracts directly with a district to provide engineering, architectural, or construction services to the district.

*“Instructional
Facility”*

“Instructional facility” has the meaning assigned by Education Code 46.001.

*“Subcontracting
Entity”*

“Subcontracting entity” means an entity that contracts with another entity that is not a district to provide engineering, architectural, or construction services to a school district.

Education Code 22.08341(a)

*Direct Contact
with Students*

A person does not have the opportunity for direct contact with students if:

1. The public work does not involve the construction, alteration, or repair of an instructional facility;
2. For a public work that involves construction of a new instructional facility, the person’s duties related to the contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or
3. For a public work that involves an existing instructional facility,
 - a. The public work area contains sanitary facilities and is separate from all areas used by students by a secure barrier fence that is not less than six feet in height; and
 - b. The contracting entity adopts a policy prohibiting employees, including subcontracting entity employees, from interacting with students or entering areas used by students, informs employees of the policy, and enforces the policy at the public work area.

Education Code 22.08341(c)

CONTRACTED SERVICES
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(LEGAL)

**Contractors
Providing
Transportation
Services**

Except as provided below at Commercial Transportation Company, a district that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates 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 a 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 a 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)*

Commercial
Transportation
Company

A commercial transportation company that contracts with a district to provide transportation services may obtain from any law enforcement or criminal justice agency 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 employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of the district. If the commercial transportation company obtains the criminal history record information, a district is not required to do the same. *Education Code 22.084(c)–(d)*

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 the district's facilities. 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 and exercises to prepare district students and employees for responding to an emergency;
3. Measures to ensure coordination with the Texas Department of State Health Services (TDSHS) and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and
4. The implementation of a required safety and security audit [see CK].

Education Code 37.108(a)

Train Derailment

A district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A district is only required to adopt the policy if a district school is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. A district may use any available community resources in developing the policy. *Education Code 37.108(d)*

**Polling Place
Security**

A district shall include in its multihazard emergency operations plan a policy for district property selected for use as a polling place under Election Code 43.031. In developing the policy, the board may consult with the local law enforcement agency with jurisdiction over the district property selected as a polling place regarding reasonable security accommodations that may be made to the property. This requirement may not be interpreted to require the board to obtain or contract for the presence of law enforcement or security personnel for the purpose of securing a polling place located on district property. Failure to comply with this subsection does not affect the requirement of the board to make a school facility available for use as a polling place under Election Code 43.031. *Education Code 37.108(e)* [See GKD]

Disclosure

A document relating to a school multihazard emergency operations plan is subject to disclosure under Government Code Chapter 552 if the document enables a person to:

1. Verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emer-

SAFETY PROGRAM/RISK MANAGEMENT
EMERGENCY PLANS

CKC
(LEGAL)

gency, including TDSHS, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

2. Verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;
3. Verify that the plan addresses the four phases of emergency management listed at Emergency Operations Plan;
4. Verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;
5. Verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;
6. Verify that the district has established a plan for responding to a train derailment if required [see Train Derailment];
7. Verify that the district has completed a safety and security audit and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the board [see CK];
8. Verify that the district has addressed any recommendations by the board for improvement of the plan and determine the district's progress within the last 12 months; and
9. Verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

Education Code 37.108(c-2)

[See GRC for emergency management training requirements and response to requests from other governmental entities for mutual aid]

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EMERGENCY PLANS

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**Emergency
Operations Plan**

The Superintendent shall ensure updating of the District's Emergency Operations Plan and ongoing staff training.

As required by law, the emergency operations plan shall include the District's procedures addressing reasonable security measures when District property is used as a polling place.

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**School District
Peace Officers and
Security Personnel**

Jurisdiction

A board may employ security personnel and commission peace officers to carry out the provisions of Education Code Chapter 37, Subchapter C, relating to law and order.

A board shall determine the jurisdiction of a peace officer or security personnel, 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.

Commissioned
Peace Officers

If a board authorizes security personnel to carry weapons, they must be commissioned peace officers. Any peace officer commissioned by the board must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE).

Education Code 37.081(a), (h)

*Powers and
Duties*

Code of Criminal
Procedure

Officers commissioned by the board are subject to the general duties of officers set out in Chapter 2 of the Code of Criminal Procedure. *Code of Criminal Procedure 2.12(8)*

A peace officer has the duty to preserve the peace within the officer's jurisdiction by using all lawful means.

The peace officer shall:

1. In every case authorized by the Code of Criminal Procedure, interfere without warrant to prevent or suppress crime;
2. Execute all lawful process issued to the officer by any magistrate or court;
3. Give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and
4. Arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.

It is the duty of every officer to take possession of a missing child under Code of Criminal Procedure 63.009(g).

On a request made by the Texas Civil Commitment Office, a peace officer shall execute an emergency detention order issued by that office under Health and Safety Code 841.0837.

In the course of investigating an alleged criminal offense, a peace officer may inquire as to the nationality or immigration status of a

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victim or witness to the offense only if the officer determines that the inquiry is necessary to:

1. Investigate the offense; or
2. Provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement.

This does not prevent a peace officer from conducting a separate investigation of any other alleged criminal offense, or inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense.

Code of Criminal Procedure 2.13

Determined by
the Board

A district peace officer shall also perform law enforcement duties as determined by the board, which shall include protecting the safety and welfare of any person in the officer's jurisdiction and protecting property of the district. *Education Code 37.081(d)*

Within the officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Chapter 52 of the Family Code [see GRA] or Article 45.058 of the Code of Criminal Procedure; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

Education Code 37.081(b); Family Code 52.01(a)

A board shall determine the scope of the on-duty and off-duty law enforcement activities of its peace officers, and a district must authorize in writing any off-duty law enforcement activities performed by a district peace officer. *Education Code 37.081(e)*

A district peace officer may provide assistance to another law enforcement agency, and a district may contract with a political subdivision for the jurisdiction of district peace officers to include all territory in the jurisdiction of the political subdivision. *Education Code 37.081(c)*

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<i>Refusal or Removal by Peace Officer</i>	A district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. <i>Education Code 37.105(a)</i> [See GKA]
Chief of Police	A district police department's chief of police is accountable to the superintendent and shall report to the superintendent. District police officers shall be licensed by TCOLE and be supervised by the district chief of police or the chief's designee. <i>Education Code 37.081(f)</i>
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. <i>Education Code 37.081(g)</i>
Training	A district with an enrollment of 30,000 or more students that commissions a school district peace officer shall adopt a policy requiring the officer to complete the education and training program developed by TCOLE as required by Occupations Code 1701.263 before or within 120 days of the officer's commission by or placement in the district or a campus of the district. <i>Education Code 37.0812; Occupations Code 1701.262, .263</i>
Body-Worn Cameras	<p>A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by Occupations Code 1701.655(b).</p> <p>A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.</p> <p>A policy must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.</p> <p>Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.</p> <p>Peace officers equipped with a body-worn camera must act consistent with policy and Occupations Code Chapter 1701, Subchapter N.</p> <p><i>Occupations Code 1701.655, .656, .657</i></p>

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Motor Vehicle Stops
Reports Required

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

1. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:
 - a. The person's gender; and
 - b. The person's race or ethnicity, as stated by the person or, if the person does not state his or her race or ethnicity, as determined by the officer to the best of the officer's ability;
2. The initial reason for the stop;
3. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
4. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
5. The reason for the search, including whether:
 - a. Any contraband or other evidence was in plain view;
 - b. Any probable cause or reasonable suspicion existed to perform the search; or
 - c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
6. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
7. The street address or approximate location of the stop;
8. Whether the officer issued a verbal or written warning or a ticket or citation as a result of the stop; and
9. Whether the officer used physical force that resulted in bodily injury, as defined under Penal Code 1.07, during the stop.

The district chief of police is responsible for auditing these reports to ensure that the race or ethnicity of the person operating the motor vehicle is being reported.

Code of Criminal Procedure 2.133

A district police department shall compile and analyze the incident-based data contained in each report received by the department. Not later than March 1 of each year, each district police department shall submit a report containing the information compiled during the previous calendar year, in accordance with Code of Criminal Procedure 2.134, to TCOLE and to the governing body of each county or municipality served by the department. *Code of Criminal Procedure 2.134*

Civil Penalty

If a district's chief of police intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the department is liable to the state for a civil penalty in an amount not to exceed \$5,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

Racial Profiling

Prohibition

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

*Departmental
Policy Required*

Each district police department that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling. The policy must:

1. Clearly define acts constituting racial profiling;
2. Strictly prohibit peace officers employed by the department from engaging in racial profiling;
3. Implement a process by which an individual may file a complaint with the department if the individual believes that a peace officer employed by the department has engaged in racial profiling with respect to the individual;
4. Provide public education relating to the department's complaint and complaint process, including providing the telephone number, mailing address, and e-mail address to make a compliment or complaint with respect to each ticket, citation, or warning issued by a peace officer;
5. Require appropriate corrective action to be taken against a peace officer employed by the department who, after an investigation, is shown to have engaged in racial profiling in violation of the department's policy adopted under this article;
6. Require collection of information relating to motor vehicle stops in which a ticket, citation, or warning is issued and to arrests made as a result of those stops, including information relating to:

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- a. The race or ethnicity of the individual detained;
 - b. Whether a search was conducted and, if so, whether the individual detained consented to the search;
 - c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual;
 - d. Whether the peace officer used physical force that resulted in body injury, as defined in Penal Code 1.07, during the stop;
 - e. The location of the stop; and
 - f. The reason for the stop; and
7. Require the district's chief of police to submit an annual report of the information collected under item 6 to:
- a. TCOLE; and
 - b. The governing body of each county or municipality served by the agency.

On adoption of a racial profiling policy, the department shall examine the feasibility of installing video camera and transmitter-activated equipment in each department law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each department law enforcement motorcycle regularly used to make motor vehicle stops. The department also shall examine the feasibility of equipping each peace officer who regularly detains or stops motor vehicles with a body-worn camera. [See Body-Worn Cameras, above] If the department installs video or audio equipment or equips peace officers with body-worn cameras as provided by this provision, the policy adopted by the department must include standards for reviewing video and audio documentation.

A department shall review the data collected under item 6 above to identify any improvements the department could make in its practices and policies regarding motor vehicle stops.

A report required under item 7 above may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

Code of Criminal Procedure 2.132

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Mental Health Crisis
or Substance Abuse
Issue

A law enforcement agency shall make a good faith effort to divert a person suffering a mental health crisis or suffering from the effects of substance abuse to a proper treatment center in the agency's jurisdiction if:

1. There is an available and appropriate treatment center in the agency's jurisdiction to which the agency may divert the person;
2. It is reasonable to divert the person;
3. The offense that the person is accused of is a misdemeanor, other than a misdemeanor involving violence;
4. The mental health crisis or substance abuse issue is suspected to be the reason the person committed the alleged offense; and
5. The person is not accused of specified offenses involving intoxication.

Code of Criminal Procedure 16.23

Officer-Involved
Injury or Death

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.139(b).

Code of Criminal Procedure 2.139

Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

Failure to Report

A law enforcement agency that fails to submit the required report on or before the seventh day after the date of receiving notice of failure to report from the office of the attorney general, is liable for a civil penalty in the amount of \$1,000 for each day after the seventh day that the agency fails to submit the report. Beginning on the day

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after the date of receiving notice of failure to report, a law enforcement agency that, in the preceding five-year period, has been liable for a civil penalty is liable for a civil penalty for each day the agency fails to submit the required report in the amount of \$10,000 for the first day and \$1,000 for each additional day that the agency fails to submit the report. *Code of Criminal Procedure 2.13951(b), (c)*

Bonding A commissioned and assigned peace officer shall take and file the oath required of peace officers and execute and file the required \$1,000 bond, payable to the board, conditioned on the officer's performance of his or her duties. *Education Code 37.081(h)*

Continuing
Education If a district employs peace officers, it shall provide each officer with a continuing education program as required by Occupations Code Title 10, Chapter 1701, Subchapter H. *Occupations Code 1701, Subch. H*

Complaints Against
Peace Officers 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. *Gov't Code Ch. 614, Subch. B; Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a district police department of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the department shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*

[See DGBA, FNG, and GF for appeals]

Legal
Representation A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee, and the suit involves an official act of the employee within the scope of the employee's authority.

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To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

Local Gov't Code 180.002(b)–(d)

Notice of Exposure
to Communicable
Disease

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice in the form specified by administrative rule, in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

School Marshals

A school marshal is a person who is appointed to serve as a school marshal by the board under Education Code 37.0811, is licensed under Occupations Code 1701.260, and has powers and duties described by Code of Criminal Procedure Article 2.127. *Occupations Code 1701.001(8)*

Eligibility

The board may appoint a person as a school marshal if the person is an employee of the district and certified by TCOLE as eligible for appointment. TCOLE shall license an eligible person who:

1. Completes required training; and
2. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of a required psychological examination.

The TCOLE training program is open to any employee of a school district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H.

A person may not serve as a school marshal unless the person is licensed by TCOLE and appointed by the board.

Education Code 37.0811(b); Occupations Code 1701.260, .301; Code of Criminal Procedure 2.127(d)

Limitation on
Number

The board may appoint not more than the greater of one school marshal per 200 students in average daily attendance per campus; or for each campus, one school marshal per building on a campus at which students regularly receive classroom instruction. *Education Code 37.0811(a)*

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Powers and Duties	<p>A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.</p> <p>A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.</p> <p>A school marshal may not issue a traffic citation for a violation of the Transportation Code.</p> <p><i>Code of Criminal Procedure 2.127</i></p>
Handgun Possession	<p>A school marshal may carry or possess a handgun on the physical premises of a school, but only:</p> <ol style="list-style-type: none">1. In the manner provided by written regulations adopted by the board; and2. At a specific school as specified by the board. <p><i>Education Code 37.0811(c)</i></p>
Accessing Handgun	<p>A school marshal may access a handgun only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33. <i>Education Code 37.0811(e)</i></p>
Board Regulations <i>Locked Gun Safe</i>	<p>A board's written regulations must provide that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty.</p>
<i>Frangible Ammunition</i>	<p>The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible duty ammunition approved for that purpose by TCOLE.</p> <p><i>Education Code 37.0811(d)</i></p>
Inactive Status	<p>A school district employee's status as a school marshal becomes inactive on:</p> <ol style="list-style-type: none">1. Expiration of the employee's school marshal license under Occupations Code 1701.260;2. Suspension or revocation of the employee's handgun license;3. Termination of the employee's employment with the district; or4. Notice from the board that the employee's services as school marshal are no longer required.

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Education Code 37.0811(f)

Identity Confidential The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:

1. The director of the Department of Public Safety;
2. The district;
3. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;
4. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and
5. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed as a school marshal. The notice may not disclose information that is confidential.

Education Code 37.0811(g), (h); Occupations Code 1701.260(j)

Reimbursement for Training The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the required TCOLE training program. *Education Code 37.0811(b)*

No State Benefits A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*

Handgun Licensees
Written Permission By written regulations or written authorization, a district may permit a person to possess a firearm on the physical premises of a school, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school. *Penal Code 46.03(a)(1); Education Code 11.151(b)*

The holder of a handgun license does not commit a criminal offense under Penal Code 46.035 by carrying a handgun in a building where a high school sporting event or interscholastic event is taking place or at any meeting of the board when the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization.

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A board may appoint a school marshal and authorize another person to serve under the district's regulations and authorization under Penal Code 46.03(a)(1).

Att'y Gen. Op. GA-1051 (2014)

**School Resource
Officers**

A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide:

Definition

1. A police presence at a public school;
2. Safety or drug education to students of a public school; or
3. Other similar services.

Occupations Code 1701.601

Refusal or Removal
by School Resource
Officer

A school resource officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a)* [See GKA]

License Required

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*

Firearms Accident
Prevention Program

A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.

A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle Gun Safe Program, including animated videos and activity books.

Occupations Code 1701.603

Training

A district with an enrollment of 30,000 or more students at which a school resource officer provides law enforcement shall require the officer to complete the education and training program developed by TCOLE. [See Training, above] *Education Code 37.0812; Occupations Code 1701.262, .263*

Reduction of Energy Consumption

A board shall establish a long-range energy plan to reduce a district's annual electric consumption by five percent beginning with the 2008 state fiscal year and consume electricity in subsequent fiscal years in accordance with the district's energy plan. The plan must include:

1. Strategies for achieving energy efficiency, including facility design and construction, that:
 - a. Result in net savings for the district; or
 - b. Can be achieved without financial cost to the district; and
2. For each strategy identified above, the initial, short-term capital costs and lifetime costs and savings that may result from implementation of the strategy.

In determining whether a strategy may result in financial cost to the district, the board shall consider the total net costs and savings that may occur over the seven-year period following implementation of the strategy.

The board may submit the plan to the State Energy Conservation Office for the purposes of determining whether funds available through loan programs administered by the office or tax incentives administered by the state or federal government are available to the district. The board may not disallow any proper allocation of incentives.

Education Code 44.902

Energy or Water Conservation Measures

"Energy savings performance contract" has the meaning assigned by Local Government Code 302.001.

Each energy or water conservation measure must comply with current local, state, and federal construction, plumbing, and environmental codes and regulations. An energy savings performance contract may not include improvements or equipment that allow or cause water from any condensing, cooling, or industrial process or any system of nonpotable usage over which the public water supply system officials do not have sanitary control, to be returned to the potable water supply.

The board may enter into energy savings performance contracts only with persons who are experienced in the design, implementation, and installation of the energy or water conservation measures addressed by the contract.

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts.

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Performance Bond Before entering an energy savings performance contract, a board shall require the provider of the energy or water conservation measures to file a payment and performance bond relating to the installation of the measures in accordance with Government Code Chapter 2253. A board may also require a separate bond to cover the value of the guaranteed savings on the contract.

Financing An energy savings performance contract may be financed:

1. Under a lease/purchase contract that has a term not to exceed 20 years from the final date of installation and that meets federal tax requirements for tax-free municipal leasing or long-term financing.
2. With the proceeds of bonds.
3. Under a contract with the provider of the energy or water conservation measures that has a term not to exceed the lesser of 20 years from the final date of installation or the average useful life of the energy or water conservation or usage measures.

Notwithstanding other law, the board may use any available money to pay the provider of the energy or water conservation measures, and the board is not required to pay for such costs solely out of the savings realized by the district under an energy savings performance contract.

An energy savings performance contract for energy or water conservation measures shall contain provisions requiring the provider of the energy or water conservation measures to guarantee the amount of the savings to be realized by a district under the contract. If the term of an energy savings performance contract exceeds one year, the district's contractual obligations in any one year during the term of the contract beginning after the final date of installation may not exceed the total energy, water, wastewater, and operating cost savings, including electrical, gas, water, wastewater, or other utility cost savings and operating cost savings resulting from the measures as determined by the district, divided by the number of years in the contract term.

Contract Procurement An energy savings performance contract shall be let according to the procedures established for professional services by Government Code 2254.004 (the Professional Services Procurement Act). [See CH] Notice of the request for qualifications shall be published in the manner provided for competitive bidding.

The board may contract with the provider of the energy or water conservation measures to perform work that is related to, connect-

ed with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract.

**Cost Savings
Review**

Before entering into an energy savings performance contract, the board must require that the cost savings projected by an offeror be reviewed by a licensed professional engineer who has a minimum of three years of experience in energy calculation and review, is not an officer or employee of an offeror for the contract under review, and is not otherwise associated with the contract. In conducting the review, the engineer shall focus primarily on the proposed improvements from an engineering perspective, the methodology and calculations related to cost savings, increases in revenue, and, if applicable, efficiency or accuracy of metering equipment. An engineer who reviews a contract shall maintain the confidentiality of any proprietary information the engineer acquires while reviewing the contract.

Education Code 44.901

**Energy Usage
Report**

A district shall record in an electronic repository the district's metered amount of electricity, water, or natural gas consumed for which it is responsible to pay and the aggregate costs for those utility services. A district shall report the recorded information on a publicly accessible Internet website with an interface designed for ease of navigation if available, or at another publicly accessible location. *Gov't Code 2265.001*

Light Bulbs

A district shall purchase for use in each type of light fixture in an instructional facility the commercially available model of light bulb that:

1. Uses the fewest watts for the necessary luminous flux or light output;
2. Is compatible with the light fixture; and
3. Is the most cost-effective, considering the factors described above.

Education Code 44.903

[See CS for energy conservation measures related to outdoor lighting fixtures]

Recycling Program

In cooperation with the comptroller or the Texas Commission on Environmental Quality (TCEQ), a district shall establish a program for the separation and collection of all recyclable materials generated by the district's operations, including at a minimum, aluminum, steel containers, aseptic packaging, polycoated paperboard cartons, high-grade office paper, and corrugated cardboard. "Recyclable"

ble materials” includes materials in a district’s possession that have been abandoned or disposed of by the district’s officers or employees or by any other person.

A district shall also:

1. Provide procedures for collecting and storing recyclable materials, provide containers for recyclable materials, and provide procedures for making contractual or other arrangements with buyers of recyclable materials.
2. Evaluate the amount of recyclable material recycled and modify the recycling program as necessary to ensure that all recyclable materials are effectively and practicably recycled.
3. Establish educational and incentive programs to encourage maximum employee participation.

A district may seek an exemption 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 a district sells property, the district shall provide to the buyer a copy of any certificate of mold remediation that has been issued for the property during the five years preceding the date the district sells the property. *Occupations Code 1958.154(b); 25 TAC 295.327(d)*

Pools

Generally

An owner, manager, operator, or other attendant in charge of a public swimming pool, wading pool, baby pool, hot tub, in-ground spa, spray fountain, or other artificial body of water typically used for recreational swimming, bathing, or play shall comply with relevant pool safety standards necessary to prevent drowning adopted by the executive commissioner of the Health and Human Services Commission. *Health and Safety Code 341.0645; 25 TAC 265.181-.208*

Drains

Each public pool and spa shall comply with the drain cover standards found at 15 U.S.C. Section 8003. “Public pool and spa” means a swimming pool or spa that is open to the public generally, whether for a fee or free of charge. *15 U.S.C. 8003*

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. A school administrator, school resource officer, or district peace officer may refuse to allow a person to enter on or may eject a person from property under the district's control in accordance with Education Code 37.105. *Education Code 37.105(a), (b)* [See GKA]

BUILDINGS, GROUNDS, AND EQUIPMENT MANAGEMENT
TRAFFIC AND PARKING CONTROLS

CLC
(LEGAL)

**Operation of
Vehicles**

The board may adopt rules providing for the operation and parking of vehicles on school property. The board may adopt and charge a reasonable fee for parking and for providing traffic control. *Education Code 37.102(a)*

Parking Control

A law or ordinance regulating traffic on a public highway or street applies to the operation of a vehicle on school property, except as modified by Education Code Chapter 37, Subchapter D (pertaining to protection of buildings and grounds). *Education Code 37.102(b)*

**Vehicle Identification
Insignia**

The board may provide for the issuance and use of suitable vehicle identification insignia. The board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule adopted by the board or of Education Code Chapter 37, Subchapter D. Reinstatement of the privileges may be permitted and a reasonable fee assessed. *Education Code 37.106*

Note: For provisions regarding selection and adoption of instructional materials, see EFA.

**Technology and
Instructional
Materials**

Instructional materials selected for use in the public schools shall be furnished without cost to the students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment. *Education Code 31.001*

Each instructional material, including electronic instructional material only to the extent of any applicable licensing agreement, purchased as provided by Education Code Chapter 31 for a district is the property of the district. *Education Code 31.102(a)–(b)*

Allotment

A district is entitled to an allotment each biennium from the state technology and instructional materials fund for each student enrolled in the district on a date during the last year of the preceding biennium specified by the commissioner of education. The commissioner shall determine the amount of the allotment per student each biennium on the basis of the amount of money available in the state technology and instructional materials fund to fund the allotment. The allotment shall be transferred from the state technology and instructional materials fund to the credit of the district's technology and instructional materials account as provided by Education Code 31.0212. *Education Code 31.0211(a)*

The commissioner shall, as early as practicable during each biennium, notify each district of the estimated amount of funding to which the district will be entitled during the next fiscal biennium. *Education Code 31.0215(a)*

No Appeal

The amount of the allotment determined by the commissioner is final and may not be appealed. *19 TAC 66.1307(d)*

**Delayed Publisher
Payment Option**

A district may requisition and receive state-adopted instructional materials before allotment funds for those materials are available. The total cost of delayed-payment-option materials requisitioned may not exceed 80 percent of the district's expected allotment for the subsequent biennium.

When a district submits a requisition for instructional materials under this provision, TEA will expend a district's existing allotment balance before applying the delayed payment option. TEA will make payment for any remaining balance for a district's order as the allotment funds become available and will prioritize payment for requisitions over reimbursement of purchases made directly by a district.

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INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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The commissioner shall ensure that publishers of instructional materials are informed of any potential delay in payment and that payment is subject to the availability of appropriated funds. Publishers may decline orders for which payments could be delayed. A publisher's decision to decline an order shall affect all of that publisher's orders for which payments could be delayed. Publishers may not selectively decline individual orders or orders from individual districts. Government Code Chapter 2251 does not apply to requisitions under this provision.

Education Code 31.0215; 19 TAC 66.1312

Allotment
Adjustment

*Change in
Enrollment*

Not later than May 31 of each school year, a district may request that the commissioner adjust the number of students for which the district is entitled to receive an allotment on the grounds that the number of students attending school in the district will increase or decrease during the school year for which the allotment is provided. The commissioner may also adjust the number of students for which a district is entitled to receive an allotment, without a request by the district, if the commissioner determines a different number of students is a more accurate reflection of students who will be attending school in the district. The commissioner's determination is final. *Education Code 31.0211(e)*

*High Enrollment
Growth*

Each year the commissioner shall adjust the technology and instructional materials allotment of districts experiencing high enrollment growth. *Education Code 31.0214(a)*

High-enrollment growth adjustments will be based on the difference between the district's percentage of enrollment growth and that of the state. Enrollment growth calculations will be determined each fiscal year based on fall Texas Student Data Systems Public Education Information Management System (TSDS PEIMS) enrollment data. The amount of the adjustment determined by the commissioner is final and may not be appealed.

If sufficient funds are available, high-enrollment growth adjustments will be granted once each fiscal year. Notwithstanding this, a district that experiences an unexpected growth:

1. Of at least two percent due to a natural or man-made disaster or catastrophic event may apply for additional funding at any time during a fiscal year.
2. In its bilingual population of at least ten percent in any school year may apply for additional bilingual funding at any time during a fiscal year.

Any additional funding will be dependent on the availability of funds.

EQUIPMENT AND SUPPLIES MANAGEMENT
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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The per-student high-enrollment growth adjustment granted in the second year of a biennium shall not exceed one-half of the per-student amount established as the biennial allotment.

19 TAC 66.1309

Permitted
Expenditures

The allotment may be used to pay for:

1. Instructional materials on the list adopted by the commissioner under Education Code 31.0231;
2. Instructional materials on the list adopted by the State Board of Education (SBOE) under Education Code 31.024;
3. Non-adopted instructional materials;
4. Consumable instructional materials, including workbooks;
5. Instructional materials for use in bilingual education classes, as provided by Education Code 31.029;
6. Versions of non-adopted instructional materials that are fully accessible to students with disabilities;
7. Instructional materials for use in college preparatory courses under Education Code 28.014, as provided by Education Code 31.031;
8. Supplemental instructional materials, as provided by Education Code 31.035;
9. State-developed open-source instructional materials, as provided by Education Code Chapter 31, Subchapter B-1;
10. Instructional materials and technological equipment under any continuing contracts of the district in effect on September 1, 2011;
11. Activities related to the local review and adoption of instructional materials;
12. Technological equipment that contributes to student learning, including equipment that supports the use of instructional materials.
13. Training educational personnel directly involved in student learning in the appropriate use of instructional materials;
14. Providing access to technological equipment for instructional use; and

EQUIPMENT AND SUPPLIES MANAGEMENT
INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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15. The salary and other expenses of an employee who provides technical support for the use of technological equipment directly involved in student learning.

Education Code 31.0211(c); 19 TAC 66.1307(f)

Prohibited
Expenditures

The allotment may not be used to pay for:

1. Services for installation;
2. The physical conduit that transmits data such as cabling and wiring or electricity;
3. Office and school supplies; or
4. Items that are not directly related to student instruction such as furniture, athletic equipment, extension cords, temporary contractors, or video surveillance equipment;
5. Travel expenses; or
6. Equipment or software used for moving, storing, tracking, or taking inventory of instructional materials.

19 TAC 66.1307(g)

Certification of
Allotment

A district shall annually certify to the commissioner that the district's allotment has been used only for permitted expenses. *Education Code 31.0213*

Priority of Purchase

Each biennium a district shall use the district's allotment to purchase, in the following order:

1. Instructional materials necessary to permit the district to certify that the district has instructional materials that cover all elements of the essential knowledge and skills of the required curriculum, other than physical education, for each grade level.
2. Any other instructional materials or technological equipment as determined by the district.

Education Code 31.0211(d); 19 TAC 66.1307(e)

**Technology and
Instructional
Materials Account**

The commissioner shall maintain a technology and instructional materials account for each district. In the first year of each biennium, the commissioner shall deposit the district's allotment in the account. The commissioner shall pay the cost of instructional materials requisitioned by a district under Education Code 31.103 using funds from the district's technology and instructional materials account.

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A district may also use funds in the district's account to purchase electronic instructional materials or technological equipment. The district shall submit to the commissioner a request for funds for this purpose from the district's account in accordance with the commissioner's rules.

Money deposited in a district's technology and instructional materials account during each state fiscal biennium remains in the account and available for use by the district for the entire biennium. At the end of each biennium, a district with unused money in the district's account may carry forward any remaining balance to the next biennium.

Education Code 31.0212

Access to Allotment

The allotment for each biennium will be made available for district use through the state's online instructional material ordering system (EMAT) as early as possible in the fiscal year preceding the beginning of the biennium for which the funds have been appropriated. A district may access its allotment for any upcoming school year upon completion of:

1. Submission to the commissioner certification that:
 - a. The district has instructional materials that cover all the required Texas essential knowledge and skills (TEKS), except those for physical education, as required by Education Code 31.004 [see Certification of Instructional Materials, below]; and
 - b. The district has used its allotment for only the allowable expenditures [see Permitted Expenditures and Certification of Allotment Use, above]; and
2. Preparation by TEA of EMAT for the new school year with the new allotment amounts.

Upon completion of these requirements, a district may access its funds by correctly providing all information required in EMAT.

19 TAC 66.1307(h)–(j)

Online Requisition System (EMAT)

The commissioner shall maintain an online requisition system (EMAT) for districts to requisition instructional materials to be purchased with the district's allotment. *Education Code 31.101(f)*

Delegation of
Authority

The board may delegate to an employee the authority to requisition, distribute, and manage the inventory of instructional materials, consistent with Education Code Chapter 31. *Education Code 31.104(a)*

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Local Funds	A district may use local funds to purchase any instructional materials in addition to those selected under Education Code Chapter 31. <i>Education Code 31.106</i>
Requisitions, Use, and Distribution	A district shall make a requisition for instructional materials using the online requisition program (EMAT) maintained by the commissioner not later than June 1 of each year. A district may requisition instructional materials on the SBOE instructional materials list for grades above the grade level in which a student is enrolled. <i>Education Code 31.103(b)–(c)</i>
Distribution	The board shall distribute printed instructional materials to students in the manner that the board determines is most effective and economical. <i>Education Code 31.102(c)</i>
Supplemental Instructional Materials	A district may requisition supplemental instructional material adopted by the SBOE but not on the instructional material list under Education Code 31.023 only if the district requisitions the supplemental instructional material along with other supplemental instructional materials or instructional materials on the SBOE instructional materials list that in combination cover each element of the essential knowledge and skills for the course for which the district is requisitioning the supplemental instructional materials. <i>Education Code 31.035(d)</i>
Availability of Open-Source Instructional Materials	<p>A district that selects open-source instructional material shall requisition a sufficient number of printed copies for use by students unable to access the instructional material electronically unless the district provides to each student:</p> <ol style="list-style-type: none">1. Electronic access to the instructional material at no cost to the student; or2. Printed copies of the portion of the instructional material that will be used in the course. <p><i>Education Code 31.103(d)</i></p>
Employee Training	The board shall require the employee responsible for ordering instructional materials to complete TEA-developed training in the use of the allotment and the use of the instructional materials ordering system (EMAT). Training shall be completed prior to ordering instructional materials for the first time and again each time the district is notified by TEA that the training has been updated. The district shall maintain documentation of the completion of the required training. <i>19 TAC 66.107(d)</i>
Special Instructional Materials	All laws and rules applying to instructional materials provided to students with no disabilities that are not in conflict with Education Code 31.028 or 19 Administrative Code 66.1311 shall apply to the

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INSTRUCTIONAL MATERIALS CARE AND ACCOUNTING

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distribution and control of special instructional materials. Special instructional materials include braille, large-print, and audio books and any other formats designed specifically to provide equal access to students with disabilities.

Requisitions for special instructional materials shall be based on actual student enrollment but may include up to two copies per student if necessary to meet individual need.

Special instructional materials are the property of the state. A district is responsible for replacing or reimbursing the state for lost, stolen, or damaged special instructional materials.

For Teachers
Adopted instructional materials needed by a teacher with a print disability to carry out his or her instructional duties shall be furnished in the required format without cost. The materials are to be loaned to the district as long as needed and are to be returned to the state when they are no longer needed.

For Parents
Adopted instructional materials in a specialized format that are requested by a parent with a print disability shall be furnished without cost by the state. Requests for electronic files shall be filled by TEA after the parent signs and TEA receives a statement, through the district, promising that the parent will safeguard the security of the files and observe all current copyright laws, including those that forbid reproduction of the files and their transfer to other parties. All specialized instructional material formats and electronic files that have been provided must be returned to the local school district at the end of the school year.

19 TAC 66.1311

**Bilingual
Instructional
Materials**

A district shall purchase with its allotment or otherwise acquire instructional materials for use in bilingual education classes. The commissioner shall determine the amount of the allotment for bilingual education based on TSDS PEIMS bilingual enrollment data from the fall collection of the school year preceding the first year of each biennium. *Education Code 31.029; 19 TAC 66.1307(c)*

**Certification of
Instructional
Materials**

Prior to the beginning of each school year, a district shall submit to the SBOE and commissioner certification that for each subject in the required curriculum under Education Code 28.002, other than physical education, and each grade level, the district provides each student with instructional materials that cover all elements of the essential knowledge and skills adopted by the SBOE for that subject and grade level. The certification shall be submitted in a format approved by the commissioner and can be based on both state-adopted and non-state-adopted materials.

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To determine whether each student has instructional materials that cover all elements of the essential knowledge and skills, a district may consider:

1. Instructional materials adopted by the SBOE;
2. Materials adopted or purchased by the commissioner under Education Code 31.0231 or Education Code Chapter 31, Subchapter B-1;
3. Open-source instructional materials submitted by eligible institutions and adopted by the SBOE;
4. Open-source instructional materials made available by other public schools;
5. Instructional materials developed or purchased by the district; and
6. Open educational resources and other electronic instructional materials included in the instructional materials repository under Education Code 31.083.

The certifications shall be ratified by the board in a public, noticed meeting.

Education Code 31.004; 19 TAC 66.105

Ownership

Except as otherwise provided, a student must return all instructional materials to the teacher at the end of the school year or when the student withdraws from school. At the end of the school year for which open-source instructional material that a district does not intend to use for another student is distributed, the printed copy of the open-source instructional material becomes the property of the student to whom it is distributed.

This provision does not apply to an electronic copy of open-source instructional material.

Education Code 31.104(c), (g)–(h); 19 TAC 66.107(b)

**Responsibility for
Instructional
Materials and
Equipment**

Each student or the student's parent or guardian is responsible for all instructional material and technological equipment not returned in an acceptable condition by the student. A student who fails to return in an acceptable condition all instructional materials and technological equipment forfeits the right to free instructional materials and technological equipment until all instructional materials and technological equipment previously issued but not returned in an acceptable condition are paid for by the student, parent, or guardian.

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As provided by board policy, a district may waive or reduce the payment required if the student is from a low-income family. [See FP] The district shall allow the student to use instructional materials and technological equipment at school during each school day.

If instructional materials or technological equipment is not returned in an acceptable condition or paid for, a district may withhold the student's records. A district may not prevent the student from graduating, participating in a graduation ceremony, or receiving a diploma. [See FL and GBA regarding student and parental right to access records; and FD, FFAB, and FL regarding a district's duties to provide records to another district]

The board may not require an employee of the district who acts in good faith to pay for instructional materials or technological equipment that is stolen, misplaced, or not returned by a student. [See DG]

These provisions do not apply to an electronic copy of open-source instructional material.

Education Code 31.104(d), (e), (h); 19 TAC 66.107(c) [See also EF]

Acceptable
Condition

Printed instructional materials are considered to be in acceptable condition if:

1. The cover, binding, pages, spine, and all integral components of the instructional materials are wholly intact and the instructional materials are fully usable by students; and
2. No component of the instructional materials is soiled, torn, or damaged (whether intentionally or by lack of appropriate care) to the extent that any portion of the content is too disfigured or obscured to be fully accessible to other students.

Electronic instructional materials are considered to be in acceptable condition if:

1. All components or applications that are a part of the electronic instructional materials are returned;
2. The electronic materials perform as they did when they were new;
3. The electronic instructional materials do not contain computer code (e.g., bug, virus, worm, or similar malicious software) that has been designed to self-replicate, damage, change, or otherwise hinder the performance of any computer's memory, file system, or software; and

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4. The electronic instructional materials have not been installed with plug-ins, snap-ins, or add-ins without the prior approval of the district.

Technological equipment is considered to be in acceptable condition if:

1. The equipment is returned with the software and hardware in their original condition unless the district authorized changes; and
2. The physical condition of the equipment is fully usable as it was originally intended to be used.

19 TAC 66.1310

Lost or Damaged
Instructional
Materials

A district may order replacements for instructional materials that have been lost or damaged directly from the publisher of the instructional materials or any source for a printed copy of open-source instructional material. *Education Code 31.104*

Sale or Disposal

The board shall determine how the district will dispose of discontinued printed instructional materials, electronic instructional materials, and technological equipment.

Sale

The board may sell printed instructional materials on the date the instructional material is discontinued for use in the public schools by the SBOE or the commissioner. The board may also sell electronic instructional materials and technological equipment owned by the district. The board may only sell or dispose of online or electronic instructional materials in compliance with the terms of any applicable licensing agreement.

Use of Proceeds

Any funds received by a district from a sale must be used to purchase instructional materials and technological equipment allowed under Education Code 31.0211.

Disposal

The board may dispose of printed instructional material before the date the instructional material is discontinued for use in the public schools by the SBOE if the board determines that the instructional material is not needed by the district and the board does not reasonably expect that the instructional material will be needed. A district must notify the commissioner of any instructional material the district disposes of under this provision.

Education Code 31.105

Annual Inventory

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A district shall conduct an annual physical inventory of all currently adopted instructional materials that have been requisitioned by and delivered to the district. The results of the inventory shall be recorded in the district's files.

19 TAC 66.107(a)

**Local Handling
Expenses**

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

TRANSPORTATION MANAGEMENT
STUDENT TRANSPORTATION

CNA
(LEGAL)

Definitions

For purposes of this policy:

1. "Bus" means a motor vehicle used to transport persons and designed to accommodate more than ten passengers, including the operator.
2. "Passenger car" means a motor vehicle, other than a motorcycle, used to transport persons and designed to accommodate ten or fewer passengers, including the operator.
3. "Passenger van" means a motor vehicle, other than a motorcycle or passenger car, used to transport persons and designed to transport 15 or fewer passengers, including the driver.
4. "School activity bus" means a bus designed to accommodate more than 15 passengers, including the operator, that is owned, operated, rented, or leased by a district and is used to transport public school students on a school-related activity trip, other than on routes to and from school. The term does not include a chartered bus, a bus operated by a mass transit authority, a school bus, or a multi-function school activity bus.
5. "School bus" means a motor vehicle that was manufactured in compliance with the federal motor vehicle safety standards for school buses in effect on the date of manufacture and that is used to transport preprimary, primary, or secondary students on a route to and from school or on a school-related activity trip other than on routes to and from school. The term does not include a school-chartered bus or a bus operated by a mass transit authority.
6. "Motor bus" means a vehicle designed to transport more than 15 passengers, including the driver.

Education Code 34.003(d), (e); Transp. Code 541.201(3)(A), (12), (15), (16)

Authority

A district may establish and operate an economical public school transportation system in the district or outside the district, if the district enters into an interlocal contract as provided by Government Code Chapter 791. In establishing and operating the transportation system, a board shall employ bus drivers certified in accordance with standards and qualifications adopted by the Department of Public Safety. *Education Code 34.007*

**Transportation
Allotment for Eligible
Students**

Each district operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible student of operating and maintaining the regular transportation system and the linear density of that system. *Education Code 42.155(c)*

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“Regular eligible student” means a student who resides two or more miles from the student’s campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as a student eligible for special education services. *Education Code 42.155(b)(1)*

The commissioner of education may not reduce the allotment because a district provides transportation for an eligible student to and from a child-care facility or a grandparent’s residence instead of the student’s residence, if the transportation is provided within the approved routes of the district for the school the student attends. *Education Code 42.155(k)*

A board may require payment of a reasonable fee for transportation to and from school of a student who lives within two miles of the school the student attends, except that a board may not charge a fee for transportation for which a district receives funds under Education Code 42.155(d). *Education Code 11.158(a)(14)*

If the district does not receive any funds under Education Code 42.155 and does not participate in a county transportation system for which an allotment is provided under Education Code 42.155(i), the board may require payment of a reasonable fee for the transportation of a student to and from the school the student attends. *Education Code 11.158(a)(16)*

**Hazardous
Conditions or High
Risk of Violence**

A district may apply for and on approval of the commissioner receive an additional amount of up to ten percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who would be subject to hazardous traffic conditions or a high risk of violence if they walked to school. *Education Code 42.155(d)*

**Explanation and
Documentation**

A board shall provide to the commissioner an explanation of the hazardous traffic conditions or areas presenting a high risk of violence applicable to the district and shall identify the specific hazardous or high risk areas for which the allocation is requested. A hazardous traffic condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition. An area presents a high risk of violence if law enforcement records indicate a high incidence of violent crimes in the area. In addition to the explanation, a board requesting funds for an area presenting a high risk of violence must provide the commissioner with consolidated law enforcement records that document violent crimes identified by reporting agencies within the relevant jurisdiction. *Education Code 42.155(d-1)*

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Community Walking Transportation Programs	A district may use all or part of any additional funds received to support community walking transportation programs, including walking school bus programs, provided that the district requires each supported program to submit a financial report each semester that covers services provided by the program for the benefit of the district. <i>Education Code 42.155(d-2)</i>
Career and Technology Program	The cost of transporting career and technology education students from one campus to another inside a district or from a sending district to another secondary public school for a career and technology program or an area career and technology school, or to an approved postsecondary institution under a contract for instruction approved by TEA shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by the board and approved by TEA. <i>Education Code 42.155(f)</i>
Bus Operation	<p>A person may not operate a school bus if:</p> <ol style="list-style-type: none">1. The door of the school bus is open; or2. The number of passengers on the bus is greater than the manufacturer's design capacity for the bus. <p>An operator of a school bus, while operating the bus, shall prohibit a passenger from:</p> <ol style="list-style-type: none">1. Standing in the bus; or2. Sitting on the floor of the bus or in any location that is not designed as a seat. <p><i>Transp. Code 545.426</i></p>
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. <i>Education Code 34.003(a)</i>
Bus Passes or Cards	A school district may use the state transportation allotment to provide a bus pass or card for another transportation system to each student who is eligible to use the regular transportation system of the district but for whom the regular transportation system of the district is not a feasible method of providing transportation. <i>Education Code 42.155(l)</i>
Designation of Child-Care Facility or Grandparent's Residence	A board, after determining eligibility for transportation services, shall allow a parent to designate a child-care facility or the residence of a grandparent of the child instead of the child's residence as the regular location for purposes of obtaining transportation un-

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der the system to and from the child's school, if the location is an approved stop on an approved route. *Education Code 34.007(b)(2)*

"Child-care facility" means a facility licensed, certified, or registered by the Department of Family and Protective Services to provide assessment, care, training, education, custody, treatment, or supervision for a child who is not related by blood, marriage, or adoption to the owner or operator of the facility for all or part of the 24-hour day, whether or not the facility is operated for profit or charges for the services it offers. *Human Resources Code 42.002(3)*

Transportation of
Homeless Students

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act, a district shall adopt policies and practices to ensure that transportation is provided, at the request of the parent or guardian (or in the case of an unaccompanied youth, at the request of the homeless liaison [see FFC]) to and from the school of origin, as follows:

1. If the child continues to live in the area served by the district in which the school of origin is located, the district of origin will provide the child's transportation to and from the school of origin.
2. If the child's living arrangements in the area served by the district of origin terminate and the child, though continuing his or her education in the school of origin, begins living in an area served by another district, the district of origin and the district in which the child is living shall agree upon a method to apportion the responsibility and costs for providing the child with transportation to and from the school of origin. If the districts are unable to agree, the responsibility and costs shall be shared equally.

42 U.S.C. 11432(g)(1)(J)(iii)(I), (II) [See FDC]

Transportation of
Students in Foster
Care

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to develop and implement clear written procedures governing how transportation to maintain children in foster care in their school of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care. These procedures shall:

1. Ensure that children in foster care needing transportation to the school of origin will promptly receive transportation in a cost-effective manner and in accordance with 42 U.S.C. 675(4)(A); and
2. Ensure that, if there are additional costs incurred in providing transportation to maintain children in foster care in their

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schools of origin, the district will provide transportation to the school of origin if:

- a. The local child welfare agency agrees to reimburse the district for the cost of such transportation;
- b. The district agrees to pay the cost of transportation; or
- c. The district and the local welfare agency agree to share the cost of such transportation.

20 U.S.C. 6312(c)(5) [See FD]

School Activities

When transporting students in connection with school activities other than on routes to and from school:

1. Only school buses or motor buses may be used to transport 15 or more students; and
2. Passenger cars or passenger vans may be used to transport fewer than 15 students.

Education Code 34.003(b)

In all circumstances in which passenger cars or passenger vans are used to transport students, the operator of the vehicle shall ensure that the number of passengers does not exceed the designed capacity of the vehicle and that each passenger is secured by a safety belt. *Education Code 34.003(c)*

**Accelerated
Instruction Programs**

A district shall provide students required to attend the accelerated programs described in policy code EIE with transportation to those programs if the programs occur outside of regular school hours. *Education Code 28.0211(j)*

**Transportation
Company or System**

A board may contract with a mass transit authority, commercial transportation company, or juvenile board for all or any part of a district's public school transportation if the authority, company, or board:

1. Requires its school bus drivers to have the qualifications required by and to be certified in accordance with standards established by the Department of Public Safety; and
2. Uses only those school buses or mass transit authority buses in transporting 15 or more students that meet or exceed safety standards for school buses established under Education Code 34.002.

A mass transit authority contracting under this provision for daily transportation of pre-primary, primary, secondary students to or

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from school shall conduct, in a manner and on a schedule approved by the board, the following education programs:

1. A program to inform the public that public school students will be riding on the authority's or company's buses;
2. A program to educate drivers of the buses to be used under the contract of the special needs and problems of public school students riding on the buses; and
3. A program to educate public school students on bus riding safety and any special considerations arising from the use of the authority's or company's buses.

A board may supplement the state transportation cost allotment with local funds necessary to provide complete transportation services.

Education Code 34.008

[For provisions pertaining to criminal history record information on contractors providing transportation services, see CJA(LEGAL).]

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**Hazardous Traffic
Conditions and High-
Risk Areas**

If the District applies for the additional transportation allotment provided by the state for students who live within two miles of a school campus, the Board shall take action to identify hazardous traffic conditions or areas presenting a high risk of violence within two miles of the school campus. The resolution shall include the specific hazardous or high-risk areas in which transportation shall be provided, and the District shall publish the locations of these routes. The Board shall adopt a revised resolution when necessary to accurately reflect changes to the conditions or areas.

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Safety Standards

A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of TEA. If a 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; Transp. Code 547.102; 37 TAC 14.51–.52*

Student Safety

Prohibitions

A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting:
 - a. On the floor of the bus, or
 - b. In any location on the bus that is not designed as a seat.

Transp. Code 545.426

Seat Belts

*Required on
Buses*

A bus, including a school bus, a school activity bus, multifunction school activity bus, or school-chartered bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement does not apply to:

1. A bus purchased by a school district that is a model year 2017 or earlier; or
2. A bus purchased by a school district that is a model year 2018 or later if the board:
 - a. Determines that the district's budget does not permit the district to purchase a bus that is equipped with the required seat belts; and
 - b. Votes to approve that determination in a public meeting.

Transp. Code 547.701(e)

*Student
Requirement*

A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

Donations

A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts

for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

**School Bus
Emergency
Evacuation Training**

Pursuant to the safety standards established by DPS under Education Code 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. A district that chooses to conduct a training session is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. "Fall" is defined as July 1 to December 31. The district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Immediately before each field trip involving transportation by school bus, a district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Not later than the 30th day after the date that a school district completes a training session, the district shall provide DPS with a record certifying the district's completion of the training.

Note: The [Reporting of School Bus Evacuation Training form](#)¹ is available at the DPS website.

Education Code 34.0021; 37 TAC 14.54

**Wireless
Communication
Devices**

General Rule

An operator commits an offense if the operator uses a portable wireless communication device to read, write, or send an electronic message while operating a motor vehicle unless the vehicle is stopped. *Transp. Code 545.4251(b)*

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School Property

An operator may not use a wireless communication device while operating a motor vehicle within a school crossing zone or on the property of a public elementary, middle, junior high, or high school served by a school crossing zone, during the time a reduced speed limit is in effect for the school crossing zone, unless:

1. The vehicle is stopped; or
2. The wireless communication device is used with a hands-free device.

An operator may not use a wireless communication device while operating a passenger bus with a minor passenger on the bus unless the passenger bus is stopped.

Transp. Code 545.425(c), .4252

Definitions

“Hands-free device” means speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether permanently installed in or on a wireless communication device or in a motor vehicle, that allows use of the wireless communication device without use of either of the operator’s hands, except to activate or deactivate a function of the wireless communication device or hands-free device. The term includes voice-operated technology and a push-to-talk function.

Transp. Code 545.425(a)(1)

“Electronic message” means data that is read from or entered into a wireless communication device for the purpose of communicating with another person. *Transp. Code 545.4251(a)(1)*

**Disruption of
Transportation**

Any person other than a primary or secondary grade student who intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school on a vehicle owned or operated by a district or to or from activities sponsored by a school on a vehicle owned and/or operated by a district shall be guilty of a misdemeanor. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

Exhibition of Firearm

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

1. Exhibits or uses a firearm on a school bus being used to transport children to and from school-sponsored activities; or
2. Threatens to exhibit or use a firearm on a bus as described above and was in possession of or had immediate access to the firearm.

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A person commits a Class A misdemeanor if the person threatens to exhibit or use a firearm on a bus as described above.

Education Code 37.125

Accident Reports

Notice to DPS

A district shall provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)*

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

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

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. *37 TAC 14.65(d)*

Notice to TEA

A district shall report annually to TEA the number of accidents in which its buses were involved in the past year in a manner prescribed by the commissioner. A district shall file the annual report to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;
2. The date each accident occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;
4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

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A school district shall report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus is owned, leased, contracted, or chartered by a school district and was transporting school district personnel, students, or a combination of personnel and students; or
2. The bus was driven by a school district employee or by an employee of the school district's bus contractor with no passengers on board and the accident involved a collision with a pedestrian.

Exceptions

A school district shall not report a bus accident involving a school bus, a multifunction school activity bus, a school activity bus, or a motor bus if:

1. The bus was driven by a school district employee or by an employee of the school district's bus contractor, the accident occurred when no passenger other than the school district's driver or bus contractor's driver was on board the bus, and the accident did not involve a collision with a pedestrian; or
2. The accident involved a bus chartered by a school district for a school activity trip and no school district personnel or students were on board the bus at the time of the accident.

A school district shall not report an accident that occurred in a vehicle that is owned, contracted, or chartered by a school district and is not a school bus, a multifunction school activity bus, a school activity bus, or a motor bus.

Education Code 34.015(b); 19 TAC 61.1028(b)

¹ Reporting of School Bus Evacuation Training: <http://www.dps.texas.gov/Internetforms/FormDetail.aspx?Id=821&FormNumber=SBT-7.doc>

**Minimum Standards
for School Nutrition
Program Directors**

Each district must ensure that all newly hired school nutrition program directors meet minimum hiring standards and ensure that all new and existing directors have completed the minimum annual training/education requirements for school nutrition program directors, as set forth in the Code of Federal Regulations. *7 C.F.R. 210.30*

**Texas Department of
Agriculture School
Nutrition Policies**

Districts must comply with rules adopted by the Texas Department of Agriculture (TDA), which administers federal and state nutrition programs including the National School Lunch Program (NSLP) under 42 U.S.C. Section 1751 et seq.; and the School Breakfast Program (SBP) under 42 U.S.C. Section 1773. *Agriculture Code 12.0025*

Definitions

“School day” means the midnight before, to 30 minutes after, the end of the official school day.

“School campus” means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

4 TAC 26.1

Exempt Fundraisers

Schools that participate in the NSLP or SBP may sell food and beverages that do not meet nutritional standards outlined in 7 C.F.R. Parts 210 and 220 as part of a fundraiser, during the school day, for up to six days per school year on each school campus, provided that no specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during the meal service. *4 TAC 26.2*

Limitation on
Sanctions

TDA may not impose on a district a sanction, including disallowing meal reimbursement, based on the sale to students at a high school of food of minimal nutritional value, if the sale is approved in advance by the school and is made:

1. Outside of a school area designated for food service or food consumption or during a period other than a school meal service period; and
2. For the purpose of raising money for a student organization or activity sponsored or sanctioned by the school or the school district in which the school is located.

Agriculture Code 12.0028

**Insufficient Meal
Card Balance**

A district that allows students to use a prepaid meal card or account to purchase meals served at schools in the district shall adopt a grace period policy regarding the use of the cards or accounts. The policy:

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1. Must allow a student whose meal card or account balance is exhausted or insufficient to continue, for a period determined by the board, to purchase meals by:
 - a. Accumulating a negative balance on the student's card or account; or
 - b. Otherwise receiving an extension of credit from the district;
2. Must require the district to notify the parent of or person standing in parental relation to the student that the student's meal card or account balance is exhausted;
3. May not permit the district to charge a fee or interest in connection with meals purchased under item 1, above; and
4. May permit the district to set a schedule for repayment on the account balance as part of the notice to the parent or person standing in parental relation to the student.

Education Code 33.908

Lauren's Law

A 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:

1. Children in the classroom of the child on the occasion of the child's birthday; or
2. Children at a school-designated function.

Education Code 28.002(l-3)(2)

Donation of Food

A district may allow a campus to donate food to a nonprofit organization through an official of the nonprofit organization who is affiliated with the campus, including a teacher, counselor, or parent of a student enrolled at the campus. The donated food may be received, stored, and distributed on the campus. Food donated by the campus may include:

1. Surplus food prepared for breakfast, lunch, or dinner meals or a snack to be served at the campus cafeteria, subject to any applicable local, state, and federal requirements; or
2. Food donated to the campus as the result of a food drive or similar event.

The type of food donated may include packaged and unpackaged unserved food, packaged served food if the packaging is in good

condition, whole uncut produce, wrapped raw produce, and unpeeled fruit required to be peeled before consumption.

Food donated to a nonprofit may be distributed at the campus at any time. Campus employees may assist in preparing and distributing as volunteers of the nonprofit organization.

A district may adopt a policy under which the district provides food at no cost to a student for breakfast, lunch, or dinner meals or a snack if the student is unable to purchase such meals or snack.

Education Code 33.907

Food Donations

The Superintendent shall be authorized to develop regulations for campuses to donate food in accordance with law.

Meal Charges

State Law

As established by the Board, a student with an exhausted or insufficient balance on his or her meal card or meal account shall be allowed to continue to purchase meals for up to two school days (two breakfasts and two lunches). The Superintendent shall develop administrative regulations for this grace period to address:

1. The District's processes for parent notification during the grace period, including a schedule for repayment; and
2. Whether the student will be limited to certain foods or beverages during this grace period, and, if so, the District's efforts to minimize overt identification of the student.

No fees or interest shall be charged by the District for meals purchased during the grace period.

Federal Law

For each campus that participates in the federal school breakfast or lunch programs under which students may incur a meal charge, the District's administrative regulations shall also address procedures for a student who has insufficient funds to purchase a meal following exhaustion of the grace period described above. The procedures shall address:

1. The parameters under which reimbursable or alternate meals shall be served to the student;
2. The District's efforts to minimize overt identification of the student; and
3. How the District will attempt to collect unpaid debt in order to maintain the financial integrity of the food service account.

Note: The following is an index of website posting requirements that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. The list does not address postings that are required in response to a specific incident or postings required under special circumstances.

Required Internet Postings

The following posting requirements apply to a district that maintains an Internet website:

1. A board may not vote on adoption of a proposed local innovation plan unless the final version of the proposed plan has been available on the district website for at least 30 days, under Education Code 12A.005(a)(1) and 19 Administrative Code 102.1307(a)(1). [See AF]
2. A district designated as a district of innovation shall ensure that a copy of its current local innovation plan is available to the public by posting and maintaining the plan in a prominent location on the district's website, under Education Code 12A.0071(a) and 19 Administrative Code 102.1305(3). [See AF]
3. Not later than 30 days after an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked is assigned, a district must post notice on the home page of its website with a link to the required notification under 19 Administrative Code 97.1055(f), and maintain this until the district is assigned the accredited status. [See AIA]
4. A board shall disseminate its Texas Academic Performance Report (TAPR) by posting it on the district website under 19 Administrative Code 61.1022(f). [See AIB]
5. Not later than the tenth day after the first day of instruction of each school year, a district shall make available each campus report card, the district's performance report, the district's accreditation status and performance rating, and a definition and explanation of each accreditation status, under Education Code 39.362. [See AIB]
6. Not later than August 8 of each year, a district shall post the locally determined performance ratings and compliance status for the district and each campus under 19 Administrative Code 61.1023(h). [See AIB]
7. A district shall post its annual federal report card under 20 U.S.C. 6311(h)(2). [See AIB]

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8. A district shall post a targeted improvement plan for a campus assigned an unacceptable performance rating on its website before the board hearing on the plan under Education Code 39A.057(b). [See AIC]
9. A district shall notify stakeholders of their ability to review the completed campus turnaround plan on the district website at least 30 days before the final plan is submitted to the board of trustees, under 19 Administrative Code 97.1064(d)(1). [See AIC]
10. A district shall post an election notice required under Election Code 85.007. [See BBB]
11. A district shall post the minutes of the last regular board meeting held before an election of trustees if the minutes reflect that a trustee is deficient in meeting the trustee's training requirement, under Education Code 11.159(b). [See BBD]
12. A district that is located wholly or partly in a municipality with a population of more than 500,000 and with a student enrollment of more than 15,000 shall post a report filed pursuant to Election Code Chapter 254 by a board member, a candidate for membership on the board, or a specific-purpose committee for supporting, opposing, or assisting a candidate or member of a board under Election Code 254.04011. [See BBBA]
13. A district shall provide access to the conflicts disclosure statements and questionnaires under Local Government Code 176.009. [See BBFA, CHE]
14. A district shall post the statements regarding activities to support student health under Education Code 28.004. [See BDF]
15. A board must post notice of a board meeting and, if the district contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more, the board must also post the agenda for a board meeting under Government Code 551.056. [See BE]
16. A district that has a student enrollment of 10,000 or more shall post the archived recording, or a link thereto, of its meetings under Government Code 551.128(b-1). [See BE]
17. A district issuing capital appreciation bonds shall post the information required by Government Code 1201.0245. [See CCA]

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18. A district shall include on the home page of its website the prescribed statement if the district increases the amount of taxes to fund maintenance and operation expenditures under Tax Code 26.05(b). [See CCG]
19. A district shall post a summary of its proposed budget concurrently with publication of the proposed budget under Education Code 44.0041. [See CE]
20. A district shall maintain its adopted budget on the district's website until the third anniversary of the date the budget was adopted, under Education Code 44.0051. [See CE]
21. A district shall continuously post its annual financial report under Local Government Code 140.008 on its website until the district posts the next annual report, or, as an alternative, the district may post a link to the comptroller's website where the district's financial information may be viewed. [See CFA]
22. A district shall continuously post on its website the contact information for the district's main office, including the physical address, the mailing address, the main telephone number, and an e-mail address, under Local Government Code 140.008(f)(2). [See CFA]
23. A district shall report its energy usage information on a publicly accessible Internet website with an interface designed for ease of navigation, if available, under Government Code 2265.001. [See CL]
24. A district that does not participate in the uniform group health insurance program (TRS ActiveCare) shall post its comparability report, together with the policy or contract for the group health coverage plan, under Education Code 22.004(d). [See CRD]
25. A district shall post the board's employment policies under Education Code 21.204(d). [See DCB]
26. A district shall post the transition and employment guide for students enrolled in special education programs and their parents in order to provide information on statewide services and programs that assist in the transition to life outside the public school system, under Education Code 29.0112. [See EHBAD]
27. Annually, a district shall post any agreement between the district and a public institution of higher education to provide a dual credit program, under Education Code 28.009(b-2). [See EHDD]

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28. A district shall publish information from TEA under Education Code 28.02121 explaining the advantages of the distinguished level of achievement and each endorsement. [See EIF]
29. A district shall post the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered, under Education Code 29.916. [See EK]
30. A district that receives funds under Title 1, Part A shall post on its website and the website of each campus for each grade served, information on each assessment required by the state to comply with 20 U.S.C. 6311, other assessments required by the state, and assessments required district-wide, under 20 U.S.C. 6312(e)(2)(B). [See EKB]
31. A district shall post information regarding local programs and services, including charitable programs and services, available to assist homeless students, under Education Code 33.906. [See FDC]
32. A district shall prominently post information about required and recommended immunizations and procedures for claiming an exemption from immunization requirements under Education Code 38.019. [See FFAB]
33. To the extent practicable, a district must post the procedure for reporting bullying established by the district's bullying policy, under Education Code 37.0832(e). [See FFI]
34. A district shall post on its website and each campus shall post on any campus website a notice regarding the district's ability to refuse entry or eject certain persons under Education Code 37.105, including the appeal process. [See GKA]

Optional Internet Postings

A district that maintains an Internet website may post the following:

1. A campus intervention team may give the required notice of the public meeting for input prior to the development of a targeted improvement plan fifteen days prior to the meeting by way of the district and campus website, under 19 Administrative Code 97.1061(d)(3)(A)(ii). [See AIB]
2. A board may broadcast an open meeting over the Internet, under Government Code 551.128. [See BE]
3. A district may publish the superintendent's employment contract on the district's website instead of publishing it in the annual financial management report under 19 Administrative Code 109.1001(o). [See CFA]

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4. Notice of a vacant position for which a certificate or license is required may be provided by posting the position on the district's Internet website, rather than on a bulletin board, under Education Code 11.1513. [See DC]
5. A district may place on its Internet website a current copy of the procedural safeguards notice regarding special education and related services, under 34 C.F.R. 300.504(b). [See EHBAE]
6. A district may provide the annual notice to the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, under Education Code 28.010. [See EHDD]

**"Geospatial Data
Products"**

"Geospatial data product" means a document, computer file, or Internet website that contains geospatial data; a map; or information about a service involving geospatial data or a map. *Gov't Code 2051.101(1)*

Notice

A district shall include a notice on each geospatial data product that:

1. Is created or hosted by the district;
2. Appears to represent property boundaries; and
3. Was not produced using information from an on-the-ground survey conducted by or under the supervision of a registered professional land surveyor or land surveyor authorized to perform surveys under laws in effect when the survey was conducted.

The notice must be in substantially the following form: "This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries."

The notice may include language further defining the limits of liability of a geospatial data product producer; apply to a geospatial data product that contains more than one map; or for a notice that applies to a geospatial data product that is or is on an Internet website, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product.

Gov't Code 2051.102

Exemption

A district is not required to include the notice on a geospatial data product that:

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1. Does not contain a legal description, a property boundary monument, or the distance and direction of a property line;
2. Is prepared only for use as evidence in a legal proceeding;
3. Is filed with the clerk of any court; or
4. Is filed with the county clerk.

Gov't Code 2051.103

INSURANCE AND ANNUITIES MANAGEMENT
LIABILITY INSURANCE

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**Board Member
Liability Insurance**

A district may purchase insurance to protect itself and its board members 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. A district may also purchase insurance to indemnify its board members from awards of damages only where the district was or might have been held liable for the same damages. A board may not purchase insurance to indemnify its board members 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, a 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 obtain accident, liability, or automobile insurance coverage to protect:

1. A business or entity that participates with the district to provide district students a career and technology program; and
2. A district student who participates in a district career and technology program.

The coverage must be obtained from a reliable insurer authorized to engage in business in Texas, or provided through the district's self-funded risk pool.

The amount of coverage a district obtains:

1. Must be reasonable considering the financial condition of the district; and
2. May not exceed the amount that is reasonably necessary in the opinion of the board.

If the board obtains accident, liability, or automobile insurance coverage, an administrator designated by the board shall notify the parent or guardian of each student participating in the career and technology program. A district may not directly or indirectly charge a student or the student's parent or guardian for the cost of providing insurance to the student.

The failure of a board to obtain coverage authorized by these provisions or to obtain a specific amount of coverage may not be construed as placing any legal liability on the district or its officers, agents or employees.

Education Code 29.191

INSURANCE AND ANNUITIES MANAGEMENT
LIABILITY INSURANCE

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If a business that contracts with a district to develop or operate a career and technology program 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. *Education Code 29.187(g)*

[See EEL]

Student Immunity

A student who participates in a career and technology program approved by a district is entitled to immunity in the same manner provided under Education Code 22.053 as a volunteer who is serving as a direct service volunteer of a district. *Education Code 29.192*
[See GKG]

**Tort Claims Act
Liability Insurance**

A 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, .027(a)*

**Tort Claims
Payments**

A district may pay actual damages, court costs, and attorney's fees awarded against an employee or officer if the damages result 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. A 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

A district may provide counsel to represent a defendant for whom the district may pay damages. Counsel may be an attorney regularly employed by a 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 damage 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)*

INSURANCE AND ANNUITIES MANAGEMENT
LIABILITY INSURANCE

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**For Law
Enforcement Motor
Vehicles**

A board shall insure each law enforcement officer appointed or employed by a 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. A 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 regarding student insurance]

INSURANCE AND ANNUITIES MANAGEMENT
WORKERS' COMPENSATION

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Options

A district shall extend workers' compensation benefits to its employees by choosing one of the following options:

1. Becoming a self-insurer.
2. Providing insurance under workers' compensation insurance contracts or policies.
3. Entering into interlocal agreements with other political subdivisions providing for self-insurance.

Labor Code 504.011

Definition

For the purposes of this policy, "employee" means every person in the service of a district who has been employed as provided by law or for whom the district provides optional coverage. No person paid on a basis other than by the hour, day, week, month, or year shall be considered an "employee." *Labor Code 504.001, .014*

Optional Coverages

By majority vote of the board, a district may cover as employees an elected official or persons paid for service in the conduct of an election. *Labor Code 504.012(b)*

Notice

A district shall notify the Texas Department of Insurance (TDI) of the method by which district employees shall receive benefits, the approximate number of employees covered, and the estimated amount of payroll. Notice of the provision for workers' compensation benefits and the effective date of the coverage shall be given a district's employees. *Labor Code 504.018*

Report to Carrier

First Report of
Injury

A district shall provide to the district's insurance carrier a report on each:

1. Death;
2. On-the-job injury that results in an employee's absence from work for more than one day; and
3. Occupational disease of which the district has received notice of injury or has knowledge. "Knowledge" means receipt of written or verbal information regarding diagnosis or diagnosis through examination or testing by a doctor employed by the district.

The report shall contain the information and be in the form, format, and manner prescribed by the TDI, and be filed no later than the eighth day after the employee's absence from work for more than one day or upon first knowledge of absence for more than one day. A district shall maintain a record of the date the report of injury is filed with the insurance carrier.

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Copy to Employee	<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 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.</p>
Notice of Modified Duty Program	<p>A district shall, on the written request of the employee, a doctor, the insurance carrier, or the TDI, notify the employee, the employee's treating doctor if known to the district, and the insurance carrier of the existence or absence of opportunities for modified duty or a modified duty return-to-work program available through the district. If those opportunities or that program exists, a district shall identify the district's contact person and provide other information to assist the doctor, the employee, and the insurance carrier to assess modified duty or return-to-work options.</p>
Supplemental Report of Injury	<p>A supplemental report shall be filed with a district's insurance carrier and provided to the employee within ten days after:</p> <ol style="list-style-type: none">1. The end of each pay period in which the employee has a change in earnings, including all post-injury earnings as defined in 28 Administrative Code Chapter 129 [see Offsetting Paid Leave Against Workers' Compensation Income Benefits, below], as a result of the injury; or2. The employee resigns or is terminated. <p>A district's duty to file supplemental reports continues until the employee reaches "maximum medical improvement" or is no longer employed by the district and the district has made the required report.</p> <p>For injuries that require the filing of a first report of injury, a district shall file the supplemental report with the district's insurance carrier and provide a copy to the employee within three days after:</p> <ol style="list-style-type: none">1. The employee begins losing time from work as a result of the injury;2. The employee returns to work; or3. The employee, after returning to work, experiences an additional day of disability as a result of the injury. <p>A district shall maintain a record of the date the supplemental report is filed with the carrier and provided to the employee.</p> <p><i>Labor Code 409.005; 28 TAC 120.2, .3</i></p>

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**Injury and
Occupational
Disease Report**

A district's report of injury filed in accordance with Texas Labor Code 409.005 [see First Report of Injury, above] shall satisfy the district's requirement to file an injury and occupational disease report under Texas Labor Code 411.032. *28 TAC 160.3*

Wage Reports

A district is required to timely file a complete wage statement on a form prescribed by the TDI.

The wage statement shall be filed with the carrier, the claimant, and any claimant representative. The wage statement should be filed and received within 30 days of the earliest of:

1. The date a district is notified that the employee is entitled to income benefits; or
2. The date of the employee's death as a result of a compensable injury.

A subsequent wage statement shall be filed with the carrier, the claimant, and any claimant representative within seven days of a change in any wage information provided on the previous wage statement. A wage statement shall also be filed with TDI within seven days of receiving a request from TDI.

28 TAC 120.4(a)

**Ombudsman
Program**

A district shall notify its employees, in the manner prescribed by the Office of Injured Employee Counsel, of the ombudsman program to assist injured workers and persons claiming death benefits in obtaining benefits under the Texas Workers' Compensation Act.

A district that employs first responders, as defined in Labor Code 504.055, or supervises volunteer first responders shall notify the first responders, in the manner prescribed by the Office of Injured Employee Counsel, of the first responder liaison who shall assist an injured first responder during a workers' compensation administrative dispute resolution process.

Labor Code 404.153

**Reports of Safety
Violations**

A district shall notify its employees, in the manner prescribed by the TDI, of the 24-hour-a-day toll-free telephone system for reporting violations of an occupational health or safety law. A district shall not suspend, terminate, or otherwise discriminate against an employee for making a good faith report of a violation of an occupational health or safety law. *Labor Code 411.081, .082*

**Relation to Paid
Leave**

Once temporary income benefits (TIBs) accrue, an injured employee is entitled to TIBs to compensate the employee for lost wages due to the compensable injury during a period in which the em-

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ployee has a disability and has not reached maximum medical improvement.

"Lost wages" are the difference between the employee's gross average weekly wage (AWW) and the employee's gross post-injury earnings (PIE). If the employee's PIE equals or exceeds the employee's AWW, the employee has no lost wages.

"Post-injury earnings" include, among several other components:

1. The value of any full days of accrued sick or annual leave that the employee voluntarily elects to use after the date of injury; and
2. The value of any partial days of accrued or annual leave that the employee has voluntarily elected to use after the date of injury that, when combined with the employee's TIBs, exceeds the AWW.

28 TAC 129.2

Offsetting Paid
Leave Against
Workers'
Compensation
Income Benefits

A board may provide that while an employee is receiving workers' compensation benefits, the employee may elect to receive previously accrued sick leave benefits in an amount equal to the difference in the workers' compensation benefits and the weekly compensation the employee was receiving before the injury that resulted in the claim, with a proportionate deduction in the employee's sick leave balance. *Labor Code 504.052* [See DEC(LOCAL)]

Unless a board adopts the option provided by Labor Code 504.052, sick leave benefits and annual leave benefits shall not be offset against benefits paid under the Workers' Compensation Law. *Atty. Gen. Op. JC-0040 (1999)*

**Prohibited
Discrimination**

A person may not discharge or in any other manner discriminate against an employee because the employee has:

1. Filed a workers' compensation claim in good faith.
2. Hired a lawyer to represent the employee in a claim.
3. Instituted or caused to be instituted in good faith a proceeding under the Texas Workers' Compensation Act.
4. Testified or is about to testify in a proceeding under the Texas Workers' Compensation Act.

Labor Code 451.001

A person who violates the above provision is liable for reasonable damages incurred by the employee as a result of the violation, and an employee discharged in violation of the above provision is enti-

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tled to reinstatement in the former position of employment. The burden of proof in a proceeding alleging violation of the above provision is on the employee. *Labor Code 451.002*

Claims by First
Responder

A first responder, as defined in Government Code 421.095, who alleges a violation of Labor Code 451.001 [at Prohibited Discrimination, above] by a district that employs the first responder may sue the district for relief provided by Labor Code Chapter 451. Sovereign or governmental immunity from suit is waived and abolished to the extent of liability created by Chapter 451. To the extent a person has official or individual immunity from a claim for damages, these provisions do not affect that immunity. *Labor Code 451.0025*

Note: A retaliatory discharge claim may not be brought against a school district without its consent. Except as stated above, current state law does not waive a school district's immunity and provide consent. *Labor Code 504.053(e); Travis Cent. Appraisal Dist. v. Norman*, 342 S.W.3d 54 (Tex. 2011)

Leaves of Absence

A district shall not terminate an employee who is on an unpaid leave of absence and receiving workers' compensation benefits, except when the termination is for a legitimate reason independent from the employee's workers' compensation claim. *Atty. Gen. Op. JM-227 (1984)*

A district that terminates an employee 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]

Note: For information on procuring goods and services under Education Code Chapter 44, see CH(LEGAL).

Board Authority

A district may adopt rules as necessary to implement Government Code Chapter 2269. *Gov't Code 2269.051*

Delegation of
Authority

The board may delegate its authority under Government Code Chapter 2269 regarding an action authorized or required by Chapter 2269 to a designated representative, committee, or other person.

The board shall provide notice of the delegation, the limits of the delegation, and the name or title of each designated person by rule or in the request for bids, proposals, or qualifications or in an addendum to the request.

Gov't Code 2269.053

**Contracts Valued at
or Above \$50,000**

All district contracts valued at \$50,000 or more in the aggregate for each 12-month period shall be made by the method that provides the best value for a district [see also CH]:

1. An interlocal contract. [See CH]
2. Competitive bidding. [See CVA]
3. Competitive sealed proposals. [See CVB]
4. Construction manager-agent method. [See CVC]
5. Construction manager-at-risk method. [See CVD]
6. Design-build method. [See CVE]
7. Job order contract. [See CVF]
8. The reverse auction procedure as defined by Government Code 2155.062(d). [See CH]

Education Code 44.031(a); Gov't Code Ch. 2269

[For information on contract-related fees, see CH.]

Selecting a
Contracting Method

A board that considers a construction contract using a method authorized by Government Code Chapter 2269 other than competitive bidding must, before advertising, determine which method provides the best value for the district. *Gov't Code 2269.056(a)*

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Exceptions

*Emergency
Damage or
Destruction*

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

Contracts

Requiring a Bond

A reverse auction procedure, whether the same or similar to that described by Government Code 2155.062, may not be used to obtain services related to a public work contract for which a bond is required under Government Code 2253.021 [see Payment and Performance Bonds, below]. *Gov't Code 2253.021(h)*

Public Notice

Notice of the time by when and place where the bids or proposals, or the responses to a request for qualifications, will be received and opened shall be published in the county in which a district's central administrative office is located, once a week for at least two weeks before the deadline for receiving bids, proposals, or responses to a request for qualifications. If there is not a newspaper in that county, the advertising shall be published in a newspaper in the county nearest the county seat of the county in which a district's central administrative office is located. In a two-step procurement process, the time and place where the second-step bids, proposals, or responses will be received are not required to be published separately. *Education Code 44.031(g); Gov't Code 2269.052(a)–(b)*

**Contract Selection
Criteria**

In determining the award of a contract, the district shall consider and apply:

1. Any existing laws, including any criteria, related to historically underutilized businesses; and
2. Any existing laws, rules, or applicable municipal charters, including laws applicable to local governments, related to the use of women, minority, small, or disadvantaged businesses.

In determining the award of a contract, the district may consider:

1. Price.
2. The offeror's experience and reputation.
3. The quality of the offeror's goods or services.

4. The impact on the ability of the district to comply with rules relating to historically underutilized businesses.
5. The offeror's safety record.
6. The offeror's proposed personnel.
7. Whether the offeror's financial capability is appropriate to the size and scope of the project.
8. Any other relevant factor specifically listed in the request for bids, proposals, or qualifications.

Gov't Code 2269.055

**Out-of-State
Bidders**

A board shall not award a contract for general construction, improvements, services, or public works projects or for purchase of supplies, materials, or equipment to a bidder whose principal place of business is not in this state, unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the greater of the amount by which a resident bidder would be required to underbid a nonresident bidder to obtain a comparable contract in the state in which the nonresident's principal place of business is located or a state in which a majority of the manufacturing relating to the contract will be performed. *Gov't Code 2252.001–.002*

This requirement shall not apply to a contract involving federal funds. A district shall rely on information published by the comptroller in evaluating the bids of a nonresident bidder. *Gov't Code 2252.003–.004*

Publishing Criteria

A district shall publish in the request for proposals or qualifications the criteria that will be used to evaluate the offerors and the applicable weighted value for each criterion. *Gov't Code 2269.056(b)*

Submission

A person who submits a bid, proposal, or qualification to a governmental entity shall seal it before delivery. *Gov't Code 2269.059*

Selection

A district shall base its selection among offerors on applicable criteria listed for the particular method used. *Gov't Code 2269.056(b)*

**Making Evaluations
Public**

A district shall document the basis of its selection and shall make the evaluations public not later than the seventh day after the date the contract is awarded. *Gov't Code 2269.056(c), .105*

**Required Contract
Provision**

A district may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it does not boycott Israel and will not during the term of the contract. *Gov't Code 2270.002*

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“Company” means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. *Gov’t Code 808.001(2)*

Change Orders

If a change in plans or specifications is necessary after the performance of a contract is begun or if it is necessary to decrease or increase the quantity of work to be performed or of materials, equipment, or supplies to be furnished, the district may approve change orders making the changes. The district may grant general authority to an administrative official to approve the change orders.

The total contract price may not be increased because of the changes unless additional money for increased costs is approved for that purpose from available money or is provided for by the authorization of the issuance of time warrants.

A contract with an original contract price of \$1 million or more may not be increased by more than 25 percent. If a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, the total of the subsequent change orders may not increase the revised contract amount by more than 25 percent of the original contract price.

Education Code 44.0411

**Inspection,
Verification, and
Testing**

Independently of the contractor, construction manager-at-risk, or design-build firm, a district shall provide or contract for the construction materials engineering, testing, and inspection services and the verification testing services necessary for acceptance of the facility by the district. The district shall select the services for which it contracts in accordance with Government Code 2254.004. *Gov’t Code 2269.058*

Impact Fees

A district is not required to pay impact fees imposed under Local Government Code Chapter 395 unless the board consents to the payment of the fees by entering a contract with the political subdivision that imposes the fees. The contract may contain terms the board considers advisable to provide for the payment of the fees. *Local Gov’t Code 395.022*

**Energy Savings
Performance
Contracts**

The contracting and delivery procedures for construction projects described at Government Code Chapter 2269 do not apply to energy savings performance contracts described at Education Code 44.901. *Education Code 44.901(j)* [See CL]

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**Professional
Services**

Architects and
Engineers

An architect or engineer required to be selected or designated under Government Code Chapter 2269 has full responsibility for complying with Occupations Code Chapter 1051 or 1001, as applicable.

If the selected or designated architect or engineer is not a full-time employee of the district, the district shall select the architect or engineer on the basis of demonstrated competence and qualifications as provided by Government Code 2254.004 [see Procuring Professional Services, below].

Gov't Code 2269.057

*Registered
Architect*

An architectural plan or specification for any of the following may be prepared only by an architect registered in accordance with Occupations Code, Title 6, Chapter 1051:

1. A new building constructed and owned by a district that will be used for education, assembly, or office occupancy when the total projected construction costs at the commencement of construction exceed \$100,000.
2. Any alteration or addition to an existing building owned by a district that is, or will be, used for education, assembly, or office occupancy when the total projected construction costs of alteration or addition at the commencement of construction exceed \$50,000 and the alteration or addition requires the removal, relocation, or addition of any walls or partitions or the alteration or addition of an exit.

This section does not prohibit a district from choosing a registered architect or a registered professional engineer as the prime design professional for a building construction, alteration, or addition project. Designation as the prime design professional does not expand, limit, or otherwise alter the scope of a design professional's practice nor does it allow a design professional to prepare an architectural plan or specification described above.

Occupations Code 1051.703; 22 TAC 1.212

*Registered
Engineer*

Electrical or mechanical engineering plans, specifications, and estimates for a district construction project whose contemplated cost at completion is more than \$8,000 and that involves public health, welfare, or safety must be prepared by a registered professional engineer, and the engineering construction executed under the supervision of such an engineer. *Occupations Code 1001.053; Atty. Gen. Op. C-791 (1966)*

A district is not required to secure the services of a registered professional engineer to prepare plans for or supervise a construction

project that does not involve electrical or mechanical engineering and for which the contemplated cost does not exceed \$20,000.

Occupations Code 1001.053

*Certification for
Purchases
Through
Purchasing
Cooperatives*

A district may not enter into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the district certifies in writing that:

1. The project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications under Chapter 1001 or 1051, Occupations Code; or
2. The plans and specifications required under Chapters 1001 and 1051, Occupations Code, have been prepared.

“Purchasing cooperative” means a group purchasing organization that governmental entities join as members and the managing entity of which receives fees from members or vendors.

Gov’t Code 791.011(j)

*Procuring
Professional
Services*

The purchasing requirements of Education Code 44.031 do not apply to a contract for professional services rendered, including the services of an architect. A district may contract for professional services rendered by a financial consultant or a technology consultant in the manner provided by Government Code 2254.003, in lieu of the methods provided by Education Code 44.031. *Education Code 44.031(f)*

Competitive bids shall not be solicited for professional services of any architect, landscape architect, land surveyor, professional engineer, or state-certified or state-licensed real estate appraiser. Contracts for these professional services shall be made on the basis of demonstrated competence and qualifications to perform the services and for a fair and reasonable price. *Gov’t Code 2254.002, .003(a)*

In procuring architectural, engineering, or land-surveying services, a district shall:

1. First select the most highly qualified provider on the basis of demonstrated competence and qualifications; and
2. Then attempt to negotiate a contract with that provider at a fair and reasonable price.

If a satisfactory contract cannot be negotiated with the most highly qualified provider of architectural, engineering, or land-surveying services, a district shall formally end negotiations with that provid-

er, select the next most highly qualified provider, and attempt to negotiate a contract with that provider at a fair and reasonable price. A district shall continue this process until the parties enter into a contract.

Gov't Code 2254.004

An interlocal contract between a district and a purchasing cooperative may not be used to purchase engineering or architectural services. *Gov't Code 791.011(h)*

Contracts for
Engineering or
Architectural
Services

Indemnification

A covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which the district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the district against liability for damage, other than liability for damage to the extent that the damage is caused by or results from an act of negligence, intentional tort, intellectual property infringement, or failure to pay a subcontractor or supplier committed by the indemnitor or the indemnitor's agent, consultant under contract, or another entity over which the indemnitor exercises control.

Duty to Defend

Except as provided below, a covenant or promise in, in connection with, or collateral to a contract for engineering or architectural services to which the district is a party is void and unenforceable if the covenant or promise provides that a licensed engineer or registered architect whose work product is the subject of the contract must defend a party, including a third party, against a claim based wholly or partly on the negligence of, fault of, or breach of contract by the district, the district's agent, the district's employee, or other entity, excluding the engineer or architect or that person's agent, employee, or subconsultant, over which the district exercises control. A covenant or promise may provide for the reimbursement of the district's reasonable attorney's fees in proportion to the engineer's or architect's liability.

*District as
Additional
Insured*

The district may require in a contract for engineering or architectural services that the engineer or architect name the district as an additional insured under the engineer's or architect's general liability insurance policy and provide any defense provided by the policy.

Standard of Care

A contract for engineering or architectural services to which a governmental agency is a party must require a licensed engineer or registered architect to perform services:

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1. With the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license; and
2. As expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

In a contract for engineering or architectural services to which the district is a party, a provision establishing a different standard of care than a standard described above is void and unenforceable. If a contract contains a void and unenforceable provision, the standard of care described above applies.

Nothing in these provisions prohibits a district in a contract for engineering or architectural services to which the district is a party from including and enforcing conditions that relate to the scope, fees, and schedule of a project in the contract.

Local Gov't Code 271.904

Right to Work

While engaged in procuring goods or services, awarding a contract, or overseeing procurement or construction for a public work or public improvement under Government Code Chapter 2269, a district:

1. May not consider whether a person is a member of or has another relationship with any organization; and
2. Shall ensure that its bid specifications and any subsequent contract or other agreement do not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to an organization.

Gov't Code 2269.054

Accessibility

Each facility or part of a facility constructed by, on behalf of, or for the use of a district shall be designed and constructed in such manner that the facility or part of the facility is readily accessible to and usable by individuals with disabilities. Alterations of facilities that affect or could affect their usability shall, to the maximum extent feasible, be altered in such manner that the altered portion is readily accessible to and usable by individuals with disabilities. 28 C.F.R. 35.151, 34 C.F.R. 104.23

**Payment and
Performance Bonds**

When a board makes a public work contract for constructing, altering, or repairing a public building or carrying out or completing any public work, it shall require the contractor, before beginning the work, to execute payment and/or performance bonds as specified below. The bonds shall be executed by a corporate surety in accordance with Insurance Code 7.19-1. The bond shall be payable

to the board and in a form approved by the board. *Gov't Code 2253.021(a), (d)–(e)*

For a contract in excess of \$100,000, a performance bond shall be executed in the amount of the contract conditioned on the faithful performance of the work according to the plans, specifications, and contract documents. The bond is solely for the protection of a district. *Gov't Code 2253.021(b)*

For a contract in excess of \$25,000, a payment bond shall be executed in the amount of the contract solely for the protection and use of payment bond beneficiaries who have a direct contractual relationship with the prime contractor or a subcontractor to supply public work labor or material. *Gov't Code 2253.021(c)*

Failure to Obtain
Payment Bond

If a board fails to obtain a payment bond covering a contract in excess of \$25,000 from the prime contractor, it is subject to the same liability as a surety would be, and a payment bond beneficiary is entitled to a lien on money due to the prime contractor in the same manner and to the same extent as if the contract were subject to Subchapter J, Chapter 53, Property Code. *Gov't Code 2253.027*

No Bond for Design
Services Only

A payment or performance bond is not required and may not provide coverage for the design portion of the design-build contract with the design-build firm. *Gov't Code 2269.311(a)* [See CVE for more information on design/build contracts, including bond amounts.]

Bond for Insured
Loss

A board shall ensure that an insurance company that is fulfilling its obligation under a contract of insurance by arranging for the replacement of a loss, rather than by making a cash payment directly to the governmental entity, furnishes or has furnished by a contractor:

1. A performance bond for the benefit of a district, as described above; and
2. A payment bond, as described above. If the payment bond is not furnished, a district is subject to the same liability that a surety would have if the surety had issued the payment bond and the district had required the bond to be provided.

These bonds shall be furnished before the contractor begins work. It is an implied obligation under a contract of insurance for the insurance company to furnish these bonds.

Exception to Bond
Requirement

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The requirement that a district secure a performance or payment bond from an insurance company, above, does not apply when a surety company is complying with an obligation under a bond that had been issued for the benefit of the district.

Gov't Code 2253.022

**Prevailing Wage on
Public Works**

A worker, laborer, or mechanic employed on a public work, exclusive of maintenance work, by or on behalf of a district shall be paid not less than the general prevailing rate of per diem wages. The general prevailing rate of per diem wages is the rate of per diem wages for work of a similar character in the locality in which the work is performed, and also includes the rate of per diem wages for legal holiday and overtime work. A worker is employed on a public work if the worker is employed by a contractor or subcontractor in the execution of a contract for public work with a district.

Gov't Code 2258.001, .021

A board shall determine, as a sum certain, the general prevailing rate of per diem wages in a district for each craft or type of worker needed to execute the contract and also for legal holiday and overtime work. To ascertain the general prevailing rate of per diem wages, a board shall either conduct a survey of the wages received by classes of workers, laborers, and mechanics employed on projects of a character similar to the contract work in a district or adopt the prevailing wage rate as determined by the U.S. Department of Labor. A board shall specify the prevailing rate of per diem wages in the call for bids and in the contract itself. A board's determination of the general prevailing rates of per diem wages shall be final. *Gov't Code 2258.001, .022*

Enforcement

A board, and an agent or officer of the board, shall receive complaints regarding violations of the prevailing wage requirements of Chapter 2258, and withhold money from the contractor as required by statute. Upon receipt of a complaint, a board shall determine, before the 31st day after the date the information is received, whether good cause exists to believe that a contractor or subcontractor has failed to pay the prevailing wage and shall provide written notice of its determination to the contractor or subcontractor and any affected laborer, worker, or mechanic of its initial determination. *Gov't Code 2258.051–.052*

Retainage and
Reimbursement

A board shall retain any amounts due under the contract pending a final determination of the violation. Upon a final determination that violations have occurred, a board shall use those retained amounts to pay the laborer, worker, or mechanic the difference between the amount the worker received in wages and the amount the worker would have received at the prevailing rate of per diem wages provided in the arbitrator's award. A board may adopt rules, orders, or

ordinances relating to the manner in which the reimbursement is made. *Gov't Code 2258.052(d), .056*

Penalty for
Noncompliance

The contractor to whom the contract is awarded or any subcontractors of the contractor shall pay not less than the specified rates to all laborers, workers, and mechanics employed in the execution of the contract. A contractor or subcontractor who fails to pay the specified rates as required shall pay to a district \$60 for each worker, laborer, or mechanic employed for each calendar day or part of a calendar day the worker is paid less than the wage rates specified in the contract. A board must specify this penalty in the contract. If a district does not determine the prevailing wage rates and specify them in the contract, the contractor or subcontractor may not be fined. A board shall use any penalty money collected to offset the costs incurred in administering Government Code Chapter 2258. *Gov't Code 2258.023*

**Required Workers'
Compensation
Coverage**

A district that enters into a building or construction contract shall require the contractor to certify in writing that the contractor provides workers' compensation insurance coverage for each employee of the contractor employed on the public project. Each subcontractor shall provide such a certificate relating to coverage of the subcontractor's employees to the general contractor, who shall provide the subcontractor's certificate to the district. *Labor Code 406.096*

"Project" includes the provision of all services related to a building or construction contract for a district. A district that enters into a building or construction contract on a project shall:

1. Include in the bid specifications all the duties and responsibilities of contractors pertaining to required workers' compensation coverage, using the language required by 28 Administrative Code 110.110(c)(7).
2. As part of the contract, using the language required by 28 Administrative Code 110.110(c)(7), require the contractor to perform the duties and responsibilities pertaining to required workers' compensation coverage as set out in 28 Administrative Code 110.110(d).
3. Obtain from the contractor a certificate of coverage for each person providing services on the project, prior to that person beginning work on the project. This provision includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, but is not limited to, independent contractors, sub-

contractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity furnishing persons to perform services on the project. "Services" includes, but is not limited to, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

4. Obtain from the contractor a new certificate of coverage showing extension of coverage:
 - a. Before the end of the current coverage period, if the contractor's current certificate shows that the coverage period ends during the duration of the project; and
 - b. No later than seven days after the expiration of the coverage for each other person providing services on the project whose current certificate shows that the coverage period ends during the duration of the project.
5. Retain certificates of coverage on file for the duration of the project and for three years thereafter.
6. Provide a copy of the certificate of coverage to the Texas Department of Insurance, Division of Workers' Compensation upon request and to any person entitled to a copy by law.
7. Use the language contained in 28 Administrative Code 110.110(c)(7) for bid specifications and contracts, without any additional words or changes, except those required to accommodate the specific document in which they are contained or to impose stricter standards of documentation.

28 TAC 110.110(a)(7), (8), (c)

Exception

This coverage requirement does not apply to sole proprietors or partners of a covered business entity or certain corporate officers, if the sole proprietor, partner or officer is explicitly excluded from the coverage of their business entity through an endorsement to the insurance policy or certificate of authority to self-insure. *Labor Code 406.097; 28 TAC 110.110(i)*

Criminal History

For provisions pertaining to criminal history record information on contractors, see CJA(LEGAL).

Impermissible Practices

A board member, employee, or agent of a district who knowingly or with criminal negligence violates the purchasing laws found in Ed-

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	Education Code Chapter 44 as described at Education Code 44.032 is subject to criminal penalties. <i>Education Code 44.032</i> [See CH]
Enforcement Actions	Government Code Chapter 2269 may be enforced through an action for declaratory or injunctive relief filed not later than the tenth day after the date on which the contract is awarded. <i>Gov't Code 2269.452</i>
Defects in Instructional Facilities	<p>A district that brings an action for recovery of damages for the defective design, construction, renovation, or improvement of an instructional facility financed by bonds for which the district receives state assistance under Education Code Chapter 46, Subchapter A (Instructional Facilities Allotment) shall provide the Commissioner with written notice of the action. The Commissioner may join in the action on behalf of the state to protect the state's share.</p> <p>The district shall use the net proceeds from the action to repair the defect or to replace the facility. Education Code 46.008 applies to the repair.</p> <p>The state's share is state property. The school district shall send to the comptroller any portion of the state's share not used by the school district to repair the defect or to replace the facility. Education Code 42.258 applies to the state's share.</p>
"Net Proceeds"	"Net proceeds" means the difference between the amount recovered by or on behalf of a school district in an action, by settlement or otherwise, and the legal fees and litigation costs incurred by the district in prosecuting the action.
"State's Share"	<p>"State's share" means an amount equal to the district's net proceeds from the recovery multiplied by a percentage determined by dividing the amount of state assistance under Education Code Chapter 46, Subchapter A used to pay the principal of and interest on bonds issued in connection with the instructional facility that is the subject of the action by the total amount of principal and interest paid on the bonds as of the date of the judgment or settlement.</p> <p><i>Education Code 46.0111</i></p>
Attorney Fees	<p>A governmental contract for general construction, an improvement, a service, or a public works project may not provide for the award of attorney's fees to a district in a dispute in which the district prevails unless the contract provides for the award of attorney's fees to each other party to the contract if that party prevails in the dispute. <i>Gov't Code 2252.904</i></p> <p>The term includes a contract to obtain professional services subject to Government Code 2254. <i>Gov't Code 2252.151(3)</i></p>

Prohibited Contracts

A district may not enter into a governmental contract with a company identified on a list prepared and maintained under Government Code 806.051 (companies with business operations in Sudan), 807.051 (companies with business operations in Iran), and 2252.153 (companies known to have contracts with or provide supplies or services to foreign terrorist organization). *Gov't Code 2252.152*

“Governmental contract” means a contract awarded by a governmental entity for general construction, an improvement, a service, or a public works project or for a purchase of supplies, materials, or equipment. The term includes a contract to obtain professional services subject to Government Code 2254. *Gov't Code 2252.151(3)*

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Notice to Parents

Teacher
Qualifications

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall, 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 student's teacher:
 - a. Has met state qualification and licensing criteria for the grade levels and subject areas in which the teacher provides instruction;
 - b. Is teaching under emergency or other provisional status through which state qualification or licensing criteria have been waived; and
 - c. Is teaching in the field of discipline of the certification of the teacher.
2. Whether the child is provided services by paraprofessionals and, if so, their qualifications.

20 U.S.C. 6312(e)(1)(A)

Federally Required
Notice—Lack of
Credentials

A school that receives such federal funds shall also provide to each individual parent of a child who is a student in such school, with respect to such student, timely notice that the student has been assigned, or has been taught for four or more consecutive weeks by, a teacher who does not meet applicable state certification or licensure requirements at the grade level and subject area in which the teacher has been assigned. *20 U.S.C. 6312(e)(1)(B)(ii)*

State-Required
Notice—Lack of
Credentials

If a 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.

A 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. A 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. A district shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

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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 State Board for Educator Certification (SBEC) rules specifying the certificate required for an assignment;
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 of education.

The state notice requirement does not apply if a school is required in accordance with Section 1006, Every Student Succeeds Act [20 U.S.C. Section 6312(e)(1)(B)(ii)], to provide notice to a parent or guardian regarding a teacher who does not meet certification requirements at the grade level and subject area in which the teacher is assigned, provided the school provides notice as required by that Act. [See Federally Required Notice—Lack of Credentials, above]

Education Code 21.057; 19 TAC 231.1

**Professional
Personnel**

Certificate

A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a 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 a district before the person’s contract with a board is binding.

A person is not required to hold a certificate under Education Code 21.0487 to be employed by a district as a Junior Reserve Officer Training Corps instructor.

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 21.003(a), .0487(d), .053(a)–(b)

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License

A person may not be employed by a district as an audiologist, occupational therapist, physical therapist, physician, nurse, school psychologist, associate school psychologist, licensed professional counselor, marriage and family therapist, 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 a district only if the person holds the appropriate credentials from the appropriate state agency.

A person employed by a district before September 1, 2011, to perform marriage and family therapy is not required to hold a license as a marriage and family therapist as long as the person remains employed by the district.

Education Code 21.003(b)

**School District
Teaching Permit**

A 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. To be eligible for a school district teaching permit, a person must hold a baccalaureate degree. *Education Code 21.055(a)–(b)*

Statement to
Commissioner

Promptly after employing a person under a school district permit, a district shall 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.

Not later than the 30th day after the commissioner receives a 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, a 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.

Education Code 21.055(c)–(d)

Noncore Career
and Technical
Courses

The following requirements do not apply to a person who will teach only noncore academic career and technical education courses:

1. The requirement to hold a baccalaureate degree;
2. The requirement that the district send a written statement to the commissioner identifying the person, the person's qualifications as a teacher, and the subject or class the person will teach; and

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3. The requirement that the commissioner inform the district in writing if the commissioner finds the person to be not qualified to teach.

A board may issue a school district teaching permit to a person who will teach courses only in career and technical education based on qualifications certified by the superintendent. Qualifications must include demonstrated subject matter expertise such as professional work experience, formal training and education, holding an active professional relevant industry license, certification, or registration, or any combination of work experience, training and education, or industry license, certification, or registration, in the subject matter to be taught.

The superintendent shall certify to the board that a new employee has undergone a criminal background check and is capable of proper classroom management. A district shall require a new employee to obtain at least 20 hours of classroom management training and to comply with continuing education requirements as determined by the board.

A person may teach a career and technical education course immediately upon issuance of a permit. Promptly after employing a person who qualifies under Education Code 21.055(d-1), the board shall send to the commissioner a written statement identifying the person, the course the person will teach, and the person's qualifications to teach the course.

Education Code 21.055(d-1)

Duration of Permit

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. *Education Code 21.055(e)*

Emergency Permit

Emergency permits are issued under the authority of SBEC. *19 TAC 230.71(a)*

Activation

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, as specified in 19 Administrative Code Chapter 231, Requirements for Public School Personnel Assignments.

In order to activate an emergency permit, the superintendent or designee must:

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1. Document locally the efforts the district has taken to employ an appropriately certified individual in the position for which an emergency permit is activated;
2. Apply for an emergency permit when a vacant position is filled with an uncertified or inappropriately certified individual who will serve as the teacher of record or will serve in the assignment for more than 30 consecutive instructional days. The application must be submitted to TEA within 45 instructional days of the date of assignment;
3. Verify that the district maintains a support system, has assigned a trained mentor, and will provide release time as needed to assist the individual serving on an emergency permit. However, a district shall not be required to provide a mentor for a degreed, certified teacher assigned on an emergency permit if the teacher has one or more creditable years' experience within the district, as defined at 19 Administrative Code Chapter 153, Subchapter CC; and
4. Verify that the individual for whom the emergency permit is activated has been advised of the SBEC rules regarding permits and permit renewal requirements in 19 Administrative Code Chapter 230, Subchapter F.

19 TAC 230.71(d)

*Temporary
Vacancies*

A 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. A district must, however, comply with the parent notification requirements above. *19 TAC 230.71(i)*

General Eligibility
Requirements

An individual for whom an emergency permit is activated must meet the following criteria:

1. The individual must hold a bachelor's degree or higher from an accredited institution of higher education. [See 19 Administrative Code 230.75(1) for career and technical and trade and industrial education assignments.]
2. The individual must be at least 18 years of age.
3. The individual must be able to communicate and understand the English language sufficiently to use it easily and readily in daily communication and teaching, as specified in 19 Administrative Code 230.11, General Requirements.

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4. The individual must be of good moral character. SBEC may refuse to authorize an emergency permit for an individual, applying the same standards that would be applied to the administrative denial of an applicant for certification under 19 Administrative Code 249.12, Administrative Denial; Appeal.
5. The individual must submit fingerprints in accordance with 19 Administrative Code 232.35(c), Submission of Required Information, and Education Code 22.0831. [See DBAA]

19 TAC 230.75

Specific
Requirements for
Initial Permits

An individual for whom an emergency permit is activated must:

1. Have completed the appropriate semester credit hours or equivalent contact hours required for the emergency permit sought as specified in 19 Administrative Code 230.77, or, for a degreed, certified teacher, have passed the appropriate content specialization portions of the appropriate certification examination required for the target certificate; and
2. Have satisfied the appropriate experience requirement specified in 19 Administrative Code 230.77 for the emergency permit sought.

19 TAC 230.77(a)

SBEC rules provide requirements for the following assignments:

1. Elementary grades (early childhood–grade 6) (general education).
2. Secondary grades (grades 7–12) (general education).
3. All grade levels (early childhood–grade 12) (general education).
4. Career and technical education programs.
5. Special populations, such as English language learners (ELLs) and students with special learning needs.
6. Other instructional and support personnel, such as school counselor, educational diagnostician, school librarian, and JROTC instructor.

19 TAC 230.77 (b)–(g)

*Hardship
Exception*

An emergency permit may be authorized on a hardship basis for an individual who does not meet all eligibility requirements only if approval has been granted and e-mail notification received from TEA staff. The district must:

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1. Document local conditions requiring the assignment of an individual who does not meet emergency permit requirements;
2. Verify that the deficiencies for the certificate sought do not exceed 36 semester credit hours; and
3. Verify:
 - a. That the individual will be enrolled in the first available course listed on the certification plan; or
 - b. Registration for the next available administration of the appropriate content specialization portion of the certification examination for an individual who holds a valid Texas classroom teaching certificate and a bachelor's degree or higher from an accredited institution of higher education and is placed in an assignment requiring a different classroom teaching certificate.

19 TAC 230.71(h)

*Holders of Intern
or Probationary
Certificates*

Candidates who hold an intern certificate under the provisions of 19 Administrative Code 230.36, Intern Certificates, or a probationary certificate under 19 Administrative Code 230.37, Probationary Certificates, may not be employed on an emergency permit during the validity of the intern certificate or probationary certificate. *19 TAC 230.71(j)*

Procedures for
Initial Permit

The superintendent or his or her designee or authorized representative must verify the individual's eligibility for the emergency permit [see General Eligibility Requirements and Specific Requirements for Initial Permits, above] and submit online to TEA the following information within 45 instructional days of assignment.

For all assignments (except career and technical education assignments based on skill and experience):

1. A completed online emergency permit application;
2. One of the following:
 - a. A certification plan from an approved Texas educator preparation program (EPP); or
 - b. Verification of registration for an appropriate certification examination for a teacher that is already certified; and
3. The appropriate fee (payable by the school district).

For career and technical education assignments based on skill and experience:

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1. A completed online emergency permit application;
2. A copy of the individual's statement of qualifications, approved by the certification officer of a Texas EPP;
3. Acceptable license, registration, or certification by a state-authorized or nationally recognized agency in an occupational area appropriate for the assignment;
4. A certification plan from an approved Texas EPP for the career and technical education certificate appropriate for the assignment; and
5. The appropriate fee (payable by the school district).

19 TAC 230.79

Validity of
Emergency Permit

The validity date of an activated and authorized emergency permit is specified in 19 Administrative Code 230.97, Effective Dates of Certificates and Permit Issuance.

An emergency permit is valid for the remainder of the school year for which it is activated and authorized by SBEC. The emergency permit must be submitted to TEA within 45 instructional days from the date of assignment. A permit authorized by SBEC is valid for service only in the requesting district and only for the assignments indicated on the emergency permit application.

Effective with the 2017–18 school year, the employment of an individual on an emergency permit, with the exception of the assignment as a JROTC instructor or a teacher of students with visual impairments may not exceed one school year in the same assignment. [See One-Year Limitation, below]

Prior to the 2017–18 school year, the individual may serve in a specific assignment no more than one additional school year beyond the initial emergency permit. To continue beyond the initial emergency permit year, the individual must comply with the renewal provisions specified in 19 Administrative Code 230.81. [See Renewal Requirements and Procedures, below]

Effective with the 2017–18 school year, to continue employment in the assignment beyond the validity of the initial emergency permit, the individual must hold the appropriate certificate, in accordance with 19 Administrative Code, Chapter 231, Requirements for Public School Personnel Assignments. An individual may not serve as a classroom teacher of record in the district for more than three school years without obtaining initial, standard certification.

19 TAC 230.73

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One-Year Limitation	Effective with the 2017–18 school year, an emergency permit will limit an individual to one year of service and no renewal will be allowed.
<i>Exceptions</i>	<p>The one-year limitation does not apply to individuals serving in the position of Junior Reserve Officer Training Corps (JROTC) instructor or teachers of students with visual impairments.</p> <p>As indicated in 19 Administrative Code 230.77(g)(4)(B), emergency permits for JROTC instructors must be reissued every year.</p> <p>Emergency permits for teachers of students with visual impairments referenced in 19 Administrative Code 230.77(f)(2)(B) may be renewed a maximum of two years.</p> <p><i>19 TAC 230.71(b), (c)</i></p>
Renewal Requirements and Procedures	<p>Effective with the 2017–18 school year, these renewal provisions no longer apply for emergency permits, with the exception of teachers of students with visual impairments. <i>19TAC 230.73(f)</i></p> <p>A superintendent, designee, or authorized representative may renew an emergency permit for the same assignment in the same district for which the initial emergency permit was activated.</p> <p>No individual may continue in the same assignment for more than one school year of service on an emergency permit, except that emergency permits used fewer than 90 calendar days may be renewed for one additional year of service, if needed.</p> <p>The total of semester credit hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of emergency permit renewals for which the individual may be eligible.</p> <p>For six semester credit hours or less plus appropriate examination requirements, an individual is not eligible for renewal.</p> <p>For seven semester credit hours or more plus appropriate examination requirements, an individual is eligible for one renewal.</p> <p>The superintendent or his or her designee or authorized representative may renew an emergency permit provided the following requirements and procedures are met:</p> <ol style="list-style-type: none">1. The emergency permit must be renewed for the same assignment in the same school district.2. Official transcripts verifying completion of a minimum of six semester credit hours or documentation of completion of equivalent contact hours toward the appropriate target certificate must be placed in the individual's personnel file.

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3. If the individual has not completed permit renewal requirements as indicated above, the superintendent or his or her designee must obtain hardship approval from the Texas Education Agency prior to continuation of the assignment.
4. The appropriate renewal of the emergency permit application must be completed online prior to the beginning date of duties for the current school year.
5. The school district shall pay the appropriate fee.

19 TAC 230.81

Nonrenewable
Permits

A superintendent or designee may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in 19 Administrative Code 230.21, Educator Assessment.

A nonrenewable permit may be activated for an individual who:

1. Has completed all course and degree requirements of a Texas EPP except for successful completion of all appropriate examination requirements. Nonrenewable permits activated for individuals in this category expire 12 months from the date of activation; or
2. Holds a Texas teacher certificate with an effective date before February 1, 1986, but has not revalidated the certificate for employment purposes by passing an examination. The individual must not have been employed in a Texas school district since the start of the 1985–86 school year. A nonrenewable permit activated for an individual in this category expires six months from the date of activation or at the end of the school year, whichever is less.

A nonrenewable permit may not be activated for an individual in the same assignment area for which another permit had previously been authorized.

The superintendent, designee, or authorized representative must verify that an individual is eligible for the permit and submit the following information within 45 calendar days of assignment:

1. An application for a nonrenewable permit completed before the effective date of the assignment; and
2. The appropriate fee (payable by the district).

19 TAC 230.83

Educator Consent

A certified teacher must consent to the activation of an emergency permit and be advised of the conditions of the emergency permit.

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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 emergency permit. However, a teacher's refusal to consent shall not impair a district's right to implement a necessary reduction in force or other personnel actions in accordance with local policy.

19 TAC 230.71(e)

No Property Right

An emergency permit is authorized for the district for a specific assignment and is not the property of the individual for whom the emergency permit was activated. *19 TAC 230.71(f)*

Unused Permits

If an emergency permit authorized by SBEC is not used, the district shall notify TEA staff by e-mail. *19 TAC 230.71(g)*

**Certification of
Paraprofessional
Employees**

Educational aides shall be certified according to standards established by SBEC. *19 TAC 230.51*

**Federal
Requirements for
Teachers and
Paraprofessionals**

Teachers and paraprofessionals working in a program supported with funds under Title I, Part A of the Elementary and Secondary Education Act (20 U.S.C. 6301 et seq.) shall meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification. *20 U.S.C. 6311(g)(2)(J), 6312(c)(6)*

The state's professional standards for paraprofessionals working in a program supported with Title I funds must include qualifications that were in place under former 20 U.S.C. 6319, as that section existed before December 10, 2015. *20 U.S.C. 6311(g)(2)(M)*

Qualifications
Before December
10, 2015

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:

1. Be assigned only duties consistent with the following:
 - a. A paraprofessional may be assigned to:
 - (1) Provide one-on-one tutoring for eligible students, if the tutoring is scheduled at a time when a student would not otherwise receive instruction from a teacher;
 - (2) Assist with classroom management, such as organizing instructional and other materials;
 - (3) Provide assistance in a computer laboratory;
 - (4) Conduct parental involvement activities;

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- (5) Provide support in a library or media center;
 - (6) Act as a translator; or
 - (7) Provide instructional services to students in accordance with items (b) and (c).
 - b. A paraprofessional may not provide any instructional service to a student unless the paraprofessional is working under the direct supervision of a teacher consistent with this section; and
 - c. A paraprofessional may assume limited duties that are assigned to similar personnel who are not working in a program supported with funds under this part, including duties beyond classroom instruction or that do not benefit participating children, so long as the amount of time spent on such duties is the same proportion of total work time as prevails with respect to similar personnel at the same school.
2. Regardless of a paraprofessional's hiring date, have earned a secondary school diploma or its recognized equivalent.
3. If hired after January 8, 2002, have one of the following credentials:
- a. Completed at least two years of study at an institution of higher education;
 - 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.

The requirements at item 3, 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

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2. Whose duties consist solely of conducting parental involvement activities.

Former 20 U.S.C. 6319 in effect before Dec. 10, 2015

**Federal
Requirements for
Special Education
Teachers**

Each person employed as a special education teacher who teaches elementary school, middle school, or secondary school must:

1. Have obtained full state certification as a special education teacher [including participating in an alternate route to certification as a special educator, if such alternate route meets minimum requirements described in 34 C.F.R. 2005.56(a)(2)(ii) as in effect November 28, 2008], or passed the state special education teacher licensing examination, and holds a license to teach in the state as a special education teacher;
2. Have not had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and
3. Hold at least a bachelor's degree.

20 U.S.C. 1412(a)(14)(C)

**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. A 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*

AED Certification

Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other employee specified by the commissioner must receive and maintain certification in the use of an automated external defibrillator (AED) from the American Heart Association, the American Red Cross, or a similar nationally recognized association. *Education Code 22.902 [See DMA]*

**School Bus Drivers
Credentials**

For purposes of the following provisions, a "school bus driver" is a driver transporting school children and/or school personnel on routes to and from school or on a school-related activity trip while operating a multifunction school activity bus, school activity bus, or school bus. *37 TAC 14.1 [See CNA]*

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At a minimum, to become employed and maintain employment status as a school bus driver, a person must meet the following requirements:

1. Be at least 18 years old.
2. Possess a valid driver's license designating a class appropriate (with applicable endorsement, if commercial driver license) for the gross vehicle weight rating and manufacturer's designed passenger capacity of the vehicle to be operated.
3. Meet the medical qualifications specified by the Department of Public Safety (DPS) at 37 Administrative Code 14.12. [See DBB]
4. Maintain an acceptable driving record in accordance with the minimum standards established by the DPS at 37 Administrative Code 14.14.
5. Maintain an acceptable criminal history record, secured from any law enforcement agency or criminal justice agency, and reviewed in accordance with the provisions of Education Code Chapter 22. [See DBAA]
6. Possess a valid Texas School Bus Driver Safety Training Certificate, as specified at 37 Administrative Code 14.35 or a valid Enrollment Certificate, as specified at 37 Administrative Code 14.36.

Transp. Code 521.022; 37 TAC 14.11, .12, .14

Pre-Employment
Inquiries

An applicant for employment as a school bus driver must disclose to the district:

1. Any violations of motor vehicle laws or ordinances (other than parking violations) of which the applicant was convicted or forfeited bond or collateral during the three years preceding the date the application is submitted;
2. Any serious traffic violations, as defined by Transportation Code 522.003(25), of which the applicant was convicted during the ten years preceding the date the application is submitted; and
3. Any suspension, revocation, or cancellation of driving privilege that the applicant has ever received.

The district shall make an inquiry into the applicant's complete driving record, with DPS and with any state in which the applicant held a motor vehicle operator's license or permit within the past seven years. If no previous driving record is found to exist, the district

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must document its efforts to obtain such information and certify that no previous driving record exists for the individual.

The district shall review the applicant's driving record to determine whether that person meets minimum requirements, as described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements).

37 TAC 14.14(b)

Annual Evaluation A district shall, at least once every 12 months, make an inquiry into the complete driving record of each school bus driver it employs, with DPS and with any state in which the individual held a motor vehicle operator's license or permit during that time period. The district shall review the driving record to determine whether the individual meets the minimum requirements described at 37 Administrative Code 14.14(d) (penalty points for convictions of traffic law violations and crash involvements). *Transp. Code 521.022(d); 37 TAC 14.14(c)*

Disqualification Any person who has accumulated ten or more penalty points shall be considered ineligible to transport students until such time as he or she may become qualified. A school bus driver who receives notice that his or her license, permit, or privilege to operate a motor vehicle has been revoked, suspended, or withdrawn shall notify the district of the contents of the notice before the end of the business day following the day the driver received it. A district shall not permit a disqualified driver to drive a school bus, school activity bus, or multifunction school activity bus. *37 TAC 14.14(g)*

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.

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The service record must be validated by a person designated by a district to sign service records. The service record shall be kept on file at the district.

Former Employees

On request by a classroom teacher, librarian, school counselor, or nurse or by the school district employing one of those individuals, a district that previously employed the individual shall provide a copy of the individual's service record to the district employing the individual. The district must provide the copy not later than the 30th day after the later of:

1. The date the request is made; or
2. The date of the last day of the individual's service to the district.

The original service record, signed by the employee, shall be given to the employee upon request or sent to the next employing district. A district must maintain a legible copy for audit purposes. A scanned version of the original service record may be considered official if sent directly from one employing district to another employing district.

Education Code 21.4031; 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 Ch. 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.

Except as provided below, an employee of a 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, emergency contact information, or social security number, or that reveals whether the person has family members.

Gov't Code 552.024, .102(a)

The social security number of an employee of a district in the custody of the district is confidential. A district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number. *Gov't Code 552.024(a-1), .147(a-1)*

*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 rep-

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representative has a special right of access, beyond the right of the general public, to information held by a district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests.

A 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. A 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 a 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, a 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, .102(a), .307

Employment Policies	<p>A board shall adopt a policy providing for the employment and duties of district personnel. The policy shall provide that:</p> <ol style="list-style-type: none">1. A board employs and evaluates the superintendent;2. A superintendent has sole authority to make recommendations to a board regarding the selection of all personnel, except that the board may delegate final authority for those decisions to the superintendent [see Superintendent Recommendation, below];3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP];4. Notice will be provided of vacant positions [see Posting of Vacancies, below]; and5. Each employee has the right to present grievances to the board. [See Grievances, below] <p><i>Education Code 11.1513</i></p>
Tax Identifier	<p>A board shall adopt a policy prohibiting the use of social security numbers as employee identifiers other than for tax purposes [see Social Security Numbers, below]. <i>Education Code 11.1514</i></p>
Contract Positions	<p>A board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. <i>Education Code 21.002(c)</i></p>
Delegation of Authority	<p>A district's employment policy may specify the terms of district employment or delegate to the superintendent the authority to determine the terms of employment with the district. <i>Education Code 11.1513(c)</i> [For nepotism implications, see BBFB and DBE]</p>
Internal Auditor	<p>If a 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 11.170</i></p>
Superintendent Recommendation	<p>A board may accept or reject a superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If a board rejects a superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation. <i>Education Code 11.1513(b)</i></p>

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Pre-Employment
Affidavit

An applicant for a certified or licensed position [see Professional Personnel at DBA(LEGAL)] with a school district, including a district of innovation, must submit, using a form adopted by TEA, a pre-employment affidavit disclosing whether the applicant has ever been charged with, adjudicated for, or convicted of having an inappropriate relationship with a minor.

An applicant who answers affirmatively concerning an inappropriate relationship with a minor must disclose in the affidavit all relevant facts pertaining to the charge, adjudication, or conviction, including, for a charge, whether the charge was determined to be true or false.

An applicant is not precluded from being employed based on a disclosed charge if the district determines based on the information disclosed in the affidavit that the charge was false.

A determination that an employee failed to disclose required information is grounds for termination of employment.

The State Board for Educator Certification (SBEC) may revoke the certificate of an administrator if the board determines it is reasonable to believe that the administrator employed an applicant for a position described by Education Code 21.003(a) or (b) despite being aware that the applicant had been adjudicated for or convicted of having an inappropriate relationship with a minor.

Education Code 21.009

Posting of Vacancies

A district's employment policy must provide that not later than the tenth school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the board, the district must provide to each current district employee:

1. Notice of the position by posting the position on:
 - a. A bulletin board at:
 - (1) A place convenient to the public in the district's central administrative office, and
 - (2) The central administrative office of each campus during any time the office is open; or
 - b. The district's Internet website, if the district has a website; and
2. A reasonable opportunity to apply for the position.

Education Code 11.1513(d)

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Exception	If, during the school year, a district must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the district must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, a district is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. <i>Education Code 11.1513(e)</i>
Grievances	<p>A district's employment policy must provide each employee with the right to present grievances to the board. The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of a district, except that the policy may prohibit ex parte communication relating to:</p> <ol style="list-style-type: none">1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board. <p><i>Education Code 11.1513(i)–(j)</i> [See DGBA]</p>
Transfers	<p>A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. <i>Education Code 11.1513(c)(3)</i> [See DK]</p>
Contract Employees	<p>A district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under a probationary contract, a continuing contract, or a term contract. A district is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. <i>Education Code 21.002</i></p>
"Classroom Teacher"	<p>"Classroom teacher" means an educator who is employed by a district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator. <i>Education Code 5.001(2)</i></p>
Length of Contract	<p>A contract between a district and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. The commissioner of education may reduce the number of days of service, but such a reduction by the commissioner does not reduce an educator's salary. <i>Education Code 21.401</i></p>

Educational Aides	<p>A board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. <i>Education Code 54.363(f)</i></p>
Employment of Retirees	<p>A district shall file a monthly certified statement of employment of a retiree in the form and manner required by TRS. A district shall inform TRS of changes in status of the district that affect the district's reporting responsibilities.</p> <p>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 a district.</p> <p>An administrator of a district who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.</p> <p><i>Gov't Code 824.6022, 825.403(k); 34 TAC 31.2</i></p>
Former Board Member Employment	<p>A board member is prohibited from accepting employment with the district until the first anniversary of the date the board member's membership on a board ends. <i>Education Code 11.063</i></p>
New Hires I-9 Forms	<p>A district shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.</p> <p>A district must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:</p> <ol style="list-style-type: none">1. Within three business days of initial hiring. If a district hires an individual for employment for a duration of less than three business days, the district must verify employment at the time of hire. <p>A district shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times.</p> <p>When a district rehires an individual, the district may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.</p> <ol style="list-style-type: none">2. For an individual whose employment authorization expires, not later than the date of expiration. <p><i>8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii)</i></p>

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New Hire Reporting A district shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain a district's name, address, and employer identification number.

A district may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the district's payroll address for mailing of notice to withhold child support.

A district shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the district and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date a district hires the employee; or
2. In the case of a district transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

Penalties

A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I

Social Security Numbers

A board shall adopt a policy prohibiting the use of the social security number of an employee of the district as an employee identifier other than for tax purposes. *Education Code 11.1514*

Federal Law

A district shall not deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

Exceptions

The federal law does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;
2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such dis-

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closure was required under statute or regulation adopted before such date to verify the identity of an individual; or

3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.

Statement of Uses

A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974)

**Employment
Assistance
Prohibited**

Federal Law

A district that receives Title I funds shall have regulations or policies that prohibit any individual who is a school employee, contractor, or agent, or a district, from assisting a school employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or district knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;
2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or
3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926 [See also CJ]

State Law

SBEC may suspend or revoke a certificate, impose other sanctions against the person, or refuse to issue a certificate to the person if:

1. The person assists another person in obtaining employment at a school district or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and
2. The person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

The commissioner may require a school district to revoke or decline to issue a school district teaching permit under Education Code 21.055 issued to or requested by a person subject to SBEC action above.

Education Code 21.0581

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Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

State Leave

State Personal
Leave

A district shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. A district may provide additional personal leave beyond this minimum.

A board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

State Sick Leave
(Accumulated Prior
to 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see Use During Military Leave, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

Former Education
Service Center
Employees

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. Education Code 8.007

Order of Use

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

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Use During Military
Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB]

Temporary Disability

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

At Employee's
Request

A request for a leave of absence for temporary disability must be made to a superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

By Board Authority

A board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]

Return to Active
Duty

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.

Notice

Placement

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, a district must place the

COMPENSATION AND BENEFITS
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	employee at the school at which the employee formerly taught or was assigned.
Length of Absence	<p>A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.</p> <p><i>Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)</i></p>
Sick Leave Different from Temporary Disability Leave	<p>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. <i>Atty. Gen. Op. H-352 (1974)</i></p>
Assault Leave	<p>In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at Coordination with Workers' Compensation Benefits.</p> <p>A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:</p> <ol style="list-style-type: none">1. Could be prosecuted for assault; or2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.
Notice of Rights	<p>Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.</p>
Assignment to Assault Leave	<p>At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.</p>

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Coordination with
Workers'
Compensation
Benefits

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b)–(c-1)

**Religious
Observances**

A district shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of district business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

**Compliance with a
Subpoena**

A 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

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a district shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. *Education Code 22.006*

**Attendance at
Truancy Hearing**

A district may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a truancy court hearing. *Family Code 65.063*

**Developmental
Leaves of Absence**

A board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in a district at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of a district for purposes of participating in programs,

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holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

An employer commits an unlawful employment practice under Labor Code, Chapter 21 if:

1. The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
2. The leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who:
 - a. Resides in the same household as the employee; and
 - b. Is under the conservatorship of the Texas Department of Family and Protective Services.

Labor Code 21.0595

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc.*, 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); *Specialty Retailers v. DeMoranville*, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); *Gonzalez v. El Paso Natural Gas Co.*, 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

Note: This policy summarizes the Family and Medical Leave Act (FMLA) and implementing regulations, including FML for an employee seeking leave because of a relative's military service. For provisions on leaves in general, see DEC. For provisions addressing leave for an employee's military service, see DECB.

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General Provisions

Covered Employer

All public elementary and secondary schools are “covered employers” under the FMLA, without regard to the number of employees employed. The term “employer” includes any person who acts directly or indirectly in the interest of a district to any of the district's employees. *29 U.S.C. 2611(4), 2618(a); 29 C.F.R. 825.104(a)*

Eligible Employee

“Eligible employee” means an employee who:

1. Has been employed by a district for at least 12 months. The 12 months need not be consecutive;
2. Has been employed by a district for at least 1,250 hours of service during the 12-months immediately preceding the commencement of leave; and
3. Is employed at a worksite where 50 or more employees are employed by the district within 75 miles of that worksite.

29 U.S.C. 2611(2); 29 C.F.R. 825.110

[A district that has no eligible employees must comply with the requirements at General Notice, below.]

Qualifying Reasons
for Leave

A district shall grant leave to eligible employees:

1. For the birth of a son or daughter, and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care [For the definitions of “adoption” and “foster care,” see 29 C.F.R. 825.122.];
3. To care for the employee’s spouse, son or daughter, or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee’s job [For the definition of “serious health condition,” see 29 C.F.R. 825.113.];
5. Because of any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty) [For the definition of “military member,” see 29 C.F.R. 825.126(b). For the definition of “covered active duty” and “call to covered active duty status,” see 29 C.F.R. 825.102.]; and
6. To care for a covered service member with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the service

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member. [For the definitions of “covered service member” and “serious injury or illness,” see 29 C.F.R. 825.102, .122.]

29 U.S.C. 2612(a); 29 C.F.R. 825.112

For provisions regarding treatment for substance abuse, see 29 C.F.R. 825.119.

*Qualifying
Exigency*

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that the district and employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

29 C.F.R. 825.126

*Pregnancy or
Birth*

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition. [For the definition of “needed to care for,” see 29 C.F.R. 825.124.] *29 C.F.R. 825.120*

Definitions

*“Equivalent
Position”*

An “equivalent position” is one that is virtually identical to the employee’s former position in terms of pay, benefits, and working conditions, including privileges, perquisites, and status. It must involve the same or substantially similar duties and responsibilities, which

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must entail substantially equivalent skill, effort, responsibility, and authority. *29 C.F.R. 825.215(a)*

"Next of Kin"

"Next of kin of a covered service member" (for purposes of military caregiver leave) means:

1. The blood relative specifically designated in writing by the covered service member as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. The designated individual shall be deemed to be the covered service member's only next of kin; or
2. When no such designation has been made, the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:
 - a. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
 - b. Brothers and sisters,
 - c. Grandparents,
 - d. Aunts and uncles, and
 - e. First cousins.

If there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

29 C.F.R. 825.127(d)(3)

"Parent"

"Parent" (for purposes of family, medical, and qualifying exigency leave) means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents "in law." *29 C.F.R. 825.122*

For the definition of "parent of a covered service member" for purposes of military caregiver leave, see *29 C.F.R. 825.127(d)(2)*.

"Son or Daughter"

"Son or daughter" (for purposes of family and medical leave) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. *29 C.F.R. 825.122*

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For the definition of “son or daughter on active duty or call to active duty status” for purposes of qualifying exigency leave, see 29 C.F.R. 825.122.

For the definition of “son or daughter of a covered service member” for purposes of military caregiver leave, see 29 C.F.R. 825.127(d)(1).

“Spouse”

“Spouse” means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state.

This definition includes an individual in a same-sex or common law marriage that either:

1. Was entered into in a state that recognizes such marriages; or
2. If entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.

29 C.F.R. 825.102, .122

**Leave Entitlement
and Use**

Amount of Leave

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by the same district may be limited to a combined total of 12 weeks of FMLA leave during any 12-month period if leave is taken for the birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

29 U.S.C. 2612(a), (f); 29 C.F.R. 825.120(a)(3), .200, .201

*Determining the
12-Month Period*

Except with respect to military caregiver leave, a district may choose any one of the following methods for determining the “12-month period” in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month “leave year,” such as a fiscal year or a year starting on an employee's “anniversary” date;
3. The 12-month period measured forward from the date any employee's first FMLA leave begins; or

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4. A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

29 C.F.R. 825.200(b)

*Military Caregiver
Leave*

In the case of military caregiver leave, an eligible employee’s FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee’s first FMLA leave to care for the covered service member begins, regardless of the method used by a district to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee’s FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason. *29 C.F.R. 825.200(f), (g)*

Spouses who are employed by the same district may be limited to a combined total of 26 weeks of FMLA leave during the “single 12-month period” if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. *29 C.F.R. 825.127(e)(3)*

*Summer
Vacation and
Other Extended
Breaks*

If a district’s activity temporarily ceases and employees generally are not expected to report for work for one or more weeks (e.g., a school closing for two weeks for the Christmas/New Year holiday), those days do not count against the employee’s FMLA leave entitlement. Similarly, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee’s FMLA leave entitlement. *29 C.F.R. 825.200(h), .601(a)*

*Intermittent or
Reduced Leave
Schedule*

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. “Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A “reduced leave schedule” is a leave schedule that reduces an employee’s usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee’s own serious health condition, to care for a spouse, parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may

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take leave intermittently or on a reduced leave schedule only if the district agrees.

29 U.S.C. 2612(b); 29 C.F.R. 825.102, .202

*Transfer to
Alternative
Position*

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, a district may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. *29 U.S.C. 2612(b)(2); 29 C.F.R. 825.204*

*Calculating
Leave Use*

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. A district must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the district uses to account for use of other forms of leave, provided the increment is not greater than one hour. *29 C.F.R. 825.205*

Special Rules for
Instructional
Employees

Special rules apply to certain employees of school districts. These special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

"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 instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

29 C.F.R. 825.600

*Failure to Provide
Notice of
Foreseeable
Leave*

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, a district may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, a district may require the employee to delay the taking of leave until the notice provision is met. *29 C.F.R. 825.601(b)*

20 Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service member, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20 percent of the total

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number of working days over the period the leave would extend, a district may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or
2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

29 U.S.C. 2618(c); 29 C.F.R. 825.601, .603

Leave at the End of
a Semester

As a rule, a district may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, the district may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of the FMLA.

If a district requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the district to the end of the semester is not counted as FMLA leave; however, the district shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

29 U.S.C. 2618(d); 29 C.F.R. 825.603

*More Than Five
Weeks Before
End of Semester*

A district may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;
2. The leave will last at least three weeks; and

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3. The employee would return to work during the three-week period before the end of the semester.

*During Last Five
Weeks of
Semester*

A district may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

*During Last
Three Weeks of
Semester*

A district may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

29 C.F.R. 825.602

Substitution of Paid
Leave

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, a district may require the employee to do so. The term "substitute" means that the paid leave provided by the district, and accrued pursuant to established policies of the district, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the district's normal leave policy. *29 U.S.C. 2612(d); 29 C.F.R. 825.207(a)*

*Compensatory
Time*

If an employee requests and is permitted to use accrued compensatory time to receive pay during FMLA leave, or if a district requires such use, the compensatory time taken may be counted against the employee's FMLA leave entitlement. *29 C.F.R. 825.207(f)*

*FMLA and
Workers'
Compensation*

A serious health condition may result from injury to the employee "on or off" the job. If a district designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor the district may require the substitution of paid leave. However, a district and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

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If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a "light duty job" but is unable to return to the same or equivalent job, the employee may decline the district's offer of a "light duty job." As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the district may require the use of accrued paid leave.

29 C.F.R. 825.207(e)

Maintenance of
Health Benefits

During any FMLA leave, a district must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

29 U.S.C. 2614(c); 29 C.F.R. 825.209

*Payment of
Premiums*

During FMLA leave, the employee must continue to pay the employee's share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates. *29 C.F.R. 825.210*

*Failure to Pay
Premiums*

Unless a district has an established policy providing a longer grace period, a district's obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee's coverage, the district must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the district must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the

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plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

29 C.F.R. 825.212

*Recovery of
Benefit Cost*

If an employee fails to return to work after FMLA leave has been exhausted or expires, a district may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. A district may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave. *29 C.F.R. 825.213*

*Right to
Reinstatement*

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. *29 C.F.R. 825.214, .216(a)*

*Moonlighting
During Leave*

If a district has a uniformly applied policy governing outside or supplemental employment, the policy may continue to apply to an employee while on FMLA leave. A district that does not have such a policy may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained. *29 U.S.C. 2618(e); 29 C.F.R. 825.216(e)*

*Reinstatement of
School
Employees*

A district shall make the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave on the basis of established school board policies and practices. The "established policies" must be in writing, must be made known to the employee before the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA. For example, an employee may not be restored to a position requiring additional licensure or certification. *29 C.F.R. 825.604*

*Pay Increases
and Bonuses*

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with a district's policy or practice with respect to other employees on an

equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

29 C.F.R. 825.215(c)

Key Employees

A district may deny job restoration to a key employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the district. *29 U.S.C. 2614(b); 29 C.F.R. 825.217–.219*

**Notices and Medical
Certification**

Employer Notices

General Notice

Every covered employer must post on its premises a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints with the Department of Labor's Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Covered employers must post this general notice even if no employees are eligible for FMLA leave.

If a district has any eligible employees, it shall also:

1. Include the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist; or
2. Distribute a copy of the general notice to each new employee upon hiring.

Electronic posting is sufficient if it meets the other requirements of this section.

If a district's workforce is comprised of a significant portion of workers who are not literate in English, the district shall provide the general notice in a language in which the employees are literate.

A district may use Department of Labor (DOL) form WHD 1420 or may use another format so long as the information provided includes, at a minimum, all of the information contained in that notice.

29 C.F.R. 825.300(a)

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Eligibility Notice

When an employee requests FMLA leave, or when a district acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the district must notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.

A district must provide the eligibility notice within five business days, absent extenuating circumstances. Notification of eligibility may be oral or in writing. The district may use DOL form WH-381 to provide such notification to employees. The district shall translate the notice in any situation in which it is required to translate the general notice.

29 C.F.R. 825.300(b)

*Rights and
Responsibilities
Notice*

Each time a district provides an eligibility notice to an employee, the district shall also provide a written rights and responsibilities notice. The rights and responsibilities notice must include the information required by the FMLA regulations at 29 C.F.R. 825.300(c)(1).

A district may use DOL form WH-381 to provide such notification to employees. A district may adapt the prototype notice as appropriate to meet these notice requirements. The notice may be distributed electronically if it meets the other requirements of this section. The district shall translate the notice in any situation in which it is required to translate the general notice.

29 C.F.R. 825.300(c)

*Designation
Notice*

When a district has enough information to determine whether leave is being taken for an FMLA-qualifying reason, the district must notify the employee whether the leave will be designated as FMLA leave. If the district determines that the leave will not be designated as FMLA-qualifying, the district must notify the employee of that determination. Absent extenuating circumstances, a district must provide the designation notice within five business days.

A district may use DOL form WH-382 to provide such notification to employees. If the leave is not designated as FMLA leave because it does not meet the requirements of the Act, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

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The designation notice must include the information required by the FMLA regulations at 29 C.F.R. 825.300(d)(1) (substitution of paid leave), (d)(3) (fitness for duty certification), and (d)(6) (amount of leave charged against FMLA entitlement). For further provisions on designation of leave, see 29 C.F.R. 825.301.

29 C.F.R. 825.300(d)

*Retroactive
Designation*

A district may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the district's failure to timely designate leave does not cause harm or injury to the employee. In addition, a district and an employee may agree that leave will be retroactively designated as FMLA leave. *29 C.F.R. 825.301(d)*

Employee Notice

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, below. The employee does not need to expressly assert rights under the Act or even mention the FMLA. *29 C.F.R. 825.301*

*Foreseeable
Leave*

An employee must provide at least 30 days' advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment of the employee, a family member, or a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with the district and make a reasonable effort to schedule the treatment so as not to disrupt unduly the district's operations, subject to the approval of the health-care provider.

29 C.F.R. 825.302

*Unforeseeable
Leave*

When the approximate timing of leave is not foreseeable, an employee must provide notice to a district as soon as practicable under the facts and circumstances of the particular case. It generally should be practicable for the employee to provide notice of leave that is unforeseeable within the time prescribed by the district's usual and customary notice requirements applicable to such leave. *29 C.F.R. 825.303*

*Compliance with
District
Requirements*

A district may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no un-

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usual circumstances justify the failure to comply, FMLA leave may be delayed or denied. 29 C.F.R. 825.302(d), .303(c)

Certification of
Leave

A district may require that an employee's FMLA leave be supported by certification, as described below. The district must give notice of a requirement for certification each time certification is required. At the time the district requests certification, the district must advise the employee of the consequences of failure to provide adequate certification. 29 C.F.R. 825.305(a)

Timing

In most cases, a district should request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The district may request certification at a later date if the district later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to the district within 15 calendar days after the district's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. 29 C.F.R. 825.305(b)

*Incomplete or
Insufficient
Certification*

A district shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The district must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is "incomplete" if one or more of the applicable entries have not been completed. A certification is "insufficient" if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the district is not considered incomplete or insufficient, but constitutes a failure to provide certification.

29 C.F.R. 825.305(c)

*Medical
Certification of
Serious Health
Condition*

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, a district may require the employee to obtain medical certification from a health-care provider. A district may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. A district may not require information beyond that specified in the FMLA regulations.

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An employee may choose to comply with the certification requirement by providing the district with an authorization, release, or waiver allowing the district to communicate directly with the health-care provider.

For the definition of "health-care provider," see 29 C.F.R. 825.125.

29 C.F.R. 825.306

Genetic
Information

A district subject to the Genetic Information Nondiscrimination Act (GINA) shall comply with the GINA rules with respect to a request for medical information. 29 C.F.R. 1635.8(b)(1)(i)(A) [See DAB]

*Authentication
and Clarification*

If an employee submits a complete and sufficient certification signed by the health-care provider, a district may not request additional information from the health-care provider. However, the district may contact the health-care provider for purposes of clarification and authentication of the certification after the district has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, a district must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee's direct supervisor contact the employee's health-care provider.

"Authentication" means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

"Clarification" means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. A district may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with a district by a HIPAA-covered health-care provider.

29 C.F.R. 825.307(a)

*Second and Third
Opinions*

If a district has reason to doubt the validity of a medical certification, the district may require the employee to obtain a second opinion at the district's expense. If the opinions of the employee's and the district's designated health-care providers differ, the district may require the employee to obtain certification from a third health-care provider, again at the district's expense. 29 C.F.R. 825.307(b), (c)

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*Foreign Medical
Certification*

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the district shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other than English, the employee must provide the district with a written translation of the certification upon request. 29 C.F.R. 825.307(f)

Recertification

A district may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The district must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, the district may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

29 C.F.R. 825.308

*Certification—
Qualifying
Exigency Leave*

The first time an employee requests leave because of a qualifying exigency, a district may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status, and the dates of the covered military member's covered active duty service.

A district may also require that the leave be supported by a certification that addresses the information at 29 C.F.R. 825.309(b). The district may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The district may not require information beyond that specified in the regulations.

29 C.F.R. 825.309

*Certification—
Military Caregiver
Leave*

When an employee takes military caregiver leave, a district may require the employee to obtain a certification completed by an authorized health-care provider of the covered service member. In addition, the district may request that the employee and/or covered service member address in the certification the information at 29 C.F.R. 825.310(c). The district may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill service member.

A district may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The district may not require information beyond that specified in the regula-

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tions. A district must accept as sufficient certification “invitational travel orders” (“ITOs”) or “invitational travel authorizations” (“ITAs”) issued to any family member to join an injured or ill service member at his or her bedside.

A district may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered service member.

29 C.F.R. 825.310

*Intent to Return
to Work*

A district may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The district's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation. *29 C.F.R. 825.311*

*Fitness for Duty
Certification*

As a condition of restoring an employee who took FMLA leave due to the employee's own serious health condition, a district may have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. A district may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. *29 C.F.R. 825.312*

*Failure to Provide
Certification*

If the employee fails to provide the district with a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the district may deny the taking of FMLA leave. This provision applies in any case where a district requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient. *29 C.F.R. 825.305*

For failure to provide timely certification of foreseeable leave, see *29 C.F.R. 825.313(a)*. For failure to provide timely certification of unforeseeable leave, see *29 C.F.R. 825.313(b)*. For failure to provide timely recertification, see *29 C.F.R. 825.313(c)*. For failure to provide timely fitness-for-duty certification, see *29 C.F.R. 825.313(d)*.

**Miscellaneous
Provisions**

Records

A district shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. A district shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the DOL upon request.

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If the district is preserving records electronically, the district must comply with 29 C.F.R. 825.500(b). A district that has eligible employees must maintain records with the data set forth at 29 C.F.R. 825.500(c). A district that has no eligible employees must maintain just the data at 29 C.F.R. 825.500(c)(1). For districts in a joint employment situation, see 29 C.F.R. 825.500(e).

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files.

If the Genetic Information Nondiscrimination Act (GINA) is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA (see 29 C.F.R. 1635.9), which permit such information to be disclosed consistent with the requirements of the FMLA. [For information regarding GINA, see DAB(LEGAL).]

If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements [see 29 C.F.R. 1630.14(c)(1)], except as set forth in this section of the regulations.

29 C.F.R. 825.500

*Prohibition
Against
Discrimination
and Retaliation*

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. 29 U.S.C. 2615; 29 C.F.R. 825.220

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Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA.

**Federal Military
Leave**

Reemployment

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services 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 a 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.

For purposes of federal military leave, "uniformed services" means 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.

A person who is reemployed under USERRA is entitled to the seniority, and other rights and benefits determined by seniority, that the person had on the date of the commencement of uniformed service, plus the additional seniority, rights, and benefits that such person would have attained if the person had remained continuously employed.

Exception

A 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

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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
Member of Military or
Rescue Team**

Leave of Absence

An employee of a district who is a member of the state military forces, a reserve component of the United States Armed Forces, or a member of a state or federally authorized Urban Search and Rescue team shall be granted a paid leave of absence from the employee's duties without loss of time, efficiency rating, vacation time, personal time, sick leave, or salary on all days during which the employee is engaged in authorized training or duty ordered or authorized by proper authority. Such leave shall not exceed 15 workdays in a fiscal year.

On employment, a district shall provide written notice of the number of workdays of paid leave to which an employee is entitled each fiscal year under Government Code 437.202(a).

On request, a district shall provide to an employee a statement that contains the number of workdays for which the employee claimed paid leave under Government Code 437.202(a) in that fiscal year.

An employee of a district with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

Gov't Code 437.202(a), (d), (e)–(f)

Called to Duty

A service member of the Texas military forces who is ordered to state active duty or training and other 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 (USERRA) and to persons in the military service of the United States under 50 U.S.C. 3901–3959, 3991, and 4011–4026. *Gov't Code 437.213*

Reemployment

After Authorized
Training or Duty

A district may not terminate the employment of an employee who is a member of the military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The em-

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ployee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. *Gov't Code 437.204*

After Active
Military Service

Any employee, other than a temporary employee, who leaves a position with a 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), .002*

An employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in a 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.

A 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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	Note: For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).
Withholding Information	An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). <i>Education Code 26.008(b)</i>
Discharge of Convicted Employees	<p>A district shall discharge an employee if the district obtains information through a criminal history record information (CHRI) review that:</p> <ol style="list-style-type: none">1. The employee has been convicted of:<ol style="list-style-type: none">a. A felony under Penal Code Title 5;b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; orc. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and2. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.
Exception	<p>However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:</p> <ol style="list-style-type: none">1. The date of the offense is more than 30 years before June 15, 2007; and2. The employee satisfied all terms of the court order entered on conviction.
Certification to the Commissioner	Each school year, a superintendent shall certify to the Commissioner that a district has complied with the above provisions.
Sanctions	The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee if the educator knows or should have known, through a criminal history record information review, that the employee has been convicted of an offense described above.
Optional Termination	A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not

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disclose to SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085 [See DBAA]

**Certain Offenses
Against Students**

**Mandatory
Termination**

If a district receives notice that SBEC has revoked the certificate of a person based on conviction of or placement on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender under Code of Criminal Procedure, Chapter 62, or a conviction of a felony under Penal Code Title 5 if the victim of the offense was under 18 years of age at the time the offense was committed the district shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and
2. If the person is employed under a probationary, continuing, or term contract, with the approval of the board or its designee:
 - a. Suspend the person without pay;
 - b. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and
 - c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

**Discretionary
Termination**

If a district becomes aware that a person employed by the district under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to the mandatory termination provision above, the district may, with the approval of the board or its designee:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and
3. Terminate the employment of the person as soon as practicable.

Education Code 21.058(c-1)

Notice to Employee

A person's probationary, continuing, or term contract is void if, with the approval of the board or its designee, the district provides written notice to the person, under the mandatory or discretionary ter-

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mination provisions above, that the person's contract is void. *Education Code 21.058(c-2)*

No Appeal

Action taken by a district under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. *Education Code 21.058(e)*

**Invalid or Expired
Certification**

An employee's probationary, term, or continuing contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or
3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

A certificate or permit is not considered to have expired if:

1. The employee has completed the requirements for renewal of the certificate or permit;
2. The employee submitted the request for renewal before the expiration date; and
3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.

Education Code 21.0031(f)

District's Options

If a district has knowledge that an employee's contract is void under Education Code 21.0031(a), the district may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

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Education Code 21.0031(b)

Exception

A district may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and
2. Not later than the tenth day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

Education Code 21.0031(b-1)

No Appeal or
Chapter 21 Hearing

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision. *Education Code 21.0031*

Applicability

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified. *Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)*

Report to SBEC

A superintendent shall report the educator's termination to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]

**Report to
Superintendent**

A principal shall report the educator's termination to the superintendent if the conditions set forth at Education Code 21.006 exist. [See DP]

**Falsification of
Military Record**

A district may discharge an employee, regardless of whether the employee is employed under an employment contract, if the district determines, based on a reasonable factual basis, that the employee, in obtaining the employee's employment or any benefit relating to the employee's employment, falsified or otherwise misrepresented any information regarding the employee's military record in a manner that would constitute an offense under Penal Code 32.54.

An employment contract entered into by a district with an employee discharged by the employer under Labor Code Chapter 105 is void and unenforceable as against public policy. [See DF series]

Labor Code Ch. 105

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(LOCAL)

**Board's Designee for
Certain Termination
Actions**

The Superintendent shall serve as the Board's designee to suspend a contract employee without pay, provide written notice that the person's contract is void, and terminate employment as soon as practicable when the District:

1. Receives notice that an individual's certificate has been revoked by the State Board for Educator Certification (SBEC) for reasons that require immediate action by the District; or
2. Becomes aware that a contract employee has been convicted of or has received deferred adjudication for a felony offense.

[See also DFAA, DFBA, and DFCA, as appropriate.]

TERM CONTRACTS
SUSPENSION/TERMINATION DURING CONTRACT

DFBA
(LEGAL)

Suspension without Pay

A 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 an employee is not discharged after being suspended without pay pending discharge, the employee is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

Grounds for Dismissal

A 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 a 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 (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 of education not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The employee must provide a 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(a), .253 [See DFD]

Financial Exigency

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract

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[see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the board. *Education Code 21.159*

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)

[See DHB regarding circumstances in which a certified employee's dismissal must be reported to the State Board for Educator Certification.]

Report by Principal The principal of a district, including a district of innovation, must notify the superintendent not later than the seventh business day after the date of an educator's termination of employment following an alleged incident of misconduct described by Education Code 21.006(b) [see DP]. *Education Code 21.006(b-2)*

TERMINATION OF EMPLOYMENT
RESIGNATION

DFE
(LEGAL)

**Resignation without
Consent (Unilateral
Resignation)**

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 a board or a 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 a board president or a board's designee at the post office address of the district is considered filed at the time of mailing.

Education Code 21.105(a), .160(a), .210(a)

An unequivocal resignation filed not later than the 45th day before the first day of instruction of the following school year is effective upon filing with a district and the district cannot reject such a resignation. The resignation cannot be withdrawn by the teacher based on an argument that the district has not accepted the resignation. *Fantroy v. Dallas Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 034-R9-0206 (Mar. 5, 2009); Garcia v. Miles Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 055-R1-503 (Nov. 30, 2006).*

**Resignation with
Consent**

The educator may resign, with the consent of the board or the board's designee, at any other time. *Education Code 21.105(b), .160(b), .210(b)*

**Sanctions for
Abandonment of
Contract**

On written complaint by a district, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a probationary contract, or under a continuing or term 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(c), .160(c), .210(c)

Acceptance or approval of a resignation indicates consent to abandonment of contract. *Quitman Indep. Sch. Dist. v. Wilkerson, Tex. Comm'r of Educ. Decision No. 142-TTC-698 (Dec. 2, 1999); Houston Indep. Sch. Dist. v. Johnson, Tex. Comm'r of Educ. Decision No. 054-TTC-1196 (Sept. 28, 1998)*

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless a board:

1. Submits a written complaint within 30 calendar days after the effective date of the educator's separation from employment

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from the district. Unless the district and the educator have a written agreement to the contrary, the effective date of separation from employment is the first day that, without district permission, the educator fails to appear for work under the contract.

2. Renders a finding that good cause did not exist under Education Code 21.105(c)(2) (probationary contract), 21.160(c)(2) (continuing contract), or 21.210(c)(2) (term contract). This finding constitutes prima facie evidence of the educator's lack of good cause but is not a conclusive determination.
3. Submits the following required attachments to the written complaint:
 - a. The educator's resignation letter, if any;
 - b. The agreement with the educator regarding the effective date of separation from employment, if any;
 - c. The educator's contract; and
 - d. Board meeting minutes indicating a finding of "no good cause." If the board does not meet within 30 calendar days of the educator's separation from employment, the minutes may be submitted within 10 calendar days after the next board meeting.

19 TAC 249.14(g)

Report to SBEC

A superintendent shall report the educator's resignation to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB] *Education Code 21.006*

Investigation

A superintendent of a district, including a district of innovation, shall complete an investigation of an educator that involves evidence that the educator may have abused or otherwise committed an unlawful act, was involved in a romantic relationship with, or solicited or engaged in sexual contact with a student or minor, despite the educator's resignation from employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

Report by Principal

The principal of a district, including a district of innovation, must notify the superintendent not later than the seventh business day after the date of an educator's resignation following an alleged incident of misconduct described by Education Code 21.006(b) [see DP]. *Education Code 21.006(b-2)*

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Educator Ethics

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)

Public Servants

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

**Electronic
Communication
Policy**

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or e-mail address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

Education Code 38.027

**Ineligible for
Retirement Annuity**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

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"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or children);
2. Section 21.12 (improper relationship between educator and student); or
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

Gov't Code 824.009

**Transportation or
Storage of Firearm in
School Parking Area**

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125 or Penal Code 46.03 or 46.035, or other law. [See GKA]

Education Code 37.0815

**Tobacco and
E-Cigarettes**

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

Education Code 38.006(b) [See also FNCD and GKA]

**Drug and Alcohol
Abuse Program**

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property.

Education Code 38.007(a)

Federal Drug-Free
Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

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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;
2. Establishing a drug-free awareness program for employees pursuant to the DFWA;
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, or requiring the employee's satisfactory participation in a drug abuse or rehabilitation program; and
5. Making a good faith effort to continue to maintain a drug-free workplace.

41 U.S.C. 702(a)(1)

Dietary Supplements

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

Education Code 38.011

Low-THC Cannabis

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

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	<p>Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. The District holds all employees accountable to the Educators' Code of Ethics. [See DH(EXHIBIT)]</p> <p>Each District employee 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.</p> <p>An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]</p>
Violations of Standards of Conduct	<p>Each employee 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 his or her status as a District employee. Violation of any policies, regulations, or guidelines may result in disciplinary action, including termination of employment. [See DCD and DF series]</p>
Weapons Prohibited	<p>The District prohibits the use, possession, or display of any firearm, location-restrictedillegal knife, club, or prohibited weapon, as defined at FNCG, on District property at all times.</p>
Exceptions	<p>No violation of this policy occurs when:</p> <ol style="list-style-type: none">1. A District employee who holds a Texas handgun license stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area provided by the District, provided the handgun or other firearm is not loaded and not in plain view; or <p>Thethe use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities. [See FOD]</p>
Electronic Communication Media	<p>Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing websites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and web-based applications.</p>
Use with Students	<p>AIn accordance with administrative regulations, a certified employee, or licensed employee, or any other employee designated in writing by the Superintendent or a campus principal, may use electronic communication, as this term is defined by law, media to communicate with currently enrolled students only about matters within the scope of the employee's professional responsibilities.</p>

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	<p><u>Unless an exception has been made in accordance with the employee handbook or other administrative regulations, an employee shall not use a personal electronic communication platform, application, or account to communicate with currently enrolled students.</u></p> <p><u>Unless authorized above, all</u>All other employees are prohibited from using electronic <u>communication</u>media to communicate directly with students who are currently enrolled in the District. The <u>employee handbook or other administrative</u> regulations shall <u>further detail</u>address:</p> <ol style="list-style-type: none">1. Exceptions for family and social relationships;2. The circumstances under which an employee may use text messaging to communicate with <u>individual</u> students <u>or student groups</u>; and1. <u>Hours of the day during which electronic communication is discouraged or prohibited; and</u>3. Other matters deemed appropriate by the Superintendent or designee.
Personal Use	<p><u>In accordance with ethical standards applicable to all District employees [see DH(EXHIBIT)], an employee shall be prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a District student; adversely affects the student's learning, mental health, or safety; includes threats of violence against the student; reveals confidential information about the student; or constitutes an inappropriate communication with a student, as described in the Educators' Code of Ethics.</u></p> <p><u>An employee shall have no expectation of privacy in electronic communications with students.</u> Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic <u>communication</u>media. [See CPC]</p> <p><u>All employees</u>An employee shall be held to the same professional standards in <u>their</u>his or her public use of electronic <u>communication</u>media as for any other public conduct. If an employee's use of electronic <u>communication</u>media violates state or federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.</p> <p><u>Reporting Improper Communication</u></p> <p><u>In accordance with administrative regulations, an employee shall notify his or her supervisor when a student engages in improper electronic communication with the employee.</u></p>

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<u>Disclosing Personal Information</u>	<u>An employee shall not be required to disclose his or her personal e-mail address or personal phone number to a student.</u>
Safety Requirements	<p>Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.</p>
Harassment or Abuse	<p>An employee shall not engage in prohibited harassment, including sexual harassment, of:</p> <ol style="list-style-type: none">1. Other employees. [See DIA]2. Students. [See FFH; see FFG regarding child abuse and neglect.] <p>While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.</p> <p>An employee shall report child abuse or neglect as required by law. [See FFG]</p>
Relationships with Students	<p>An employee 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]</p>
Tobacco and E-Cigarettes	<p><u>As required by law, the District shall notify the parent of a student with whom an educator is alleged to have engaged in certain misconduct. [See FFF]</u></p> <p>An employee shall not smoke or use tobacco products or e-cigarettes on District property, in District vehicles, or at school-related activities. [See also GKA]</p>
Alcohol and Drugs / <u>Notice of Drug-Free Workplace</u>	<p><u>As a condition of employment, an employee shall abide by the terms of the following drug-free workplace provisions. An employee shall notify the Superintendent in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace in accordance with Arrests, Indictments, Convictions, and Other Adjudications, below.</u></p> <p>An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while on District property or at school-related activities during or outside of usual working hours:</p> <ol style="list-style-type: none">1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug,

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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 drug.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

Exceptions

It shall not be considered a violation of this policy if the employee:

1. Manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities;
2. Uses or possesses a controlled substance or drug authorized by a licensed physician prescribed for the employee's personal use; or
3. Possesses a controlled substance or drug that a licensed physician has prescribed for the employee's child or other individual for whom the employee is a legal guardian.

Sanctions
Notice

~~Each employee who violates these 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 provisions shall be subject to disciplinary sanctions. Sanctions may include: , shall be provided to each employee at the beginning of each year or upon employment.~~

2. Referral to drug and alcohol counseling or rehabilitation programs;

3. Referral to employee assistance programs;

4. Termination from employment with the District; and

5. Referral to appropriate law enforcement officials for prosecution.

Notice

Employees shall receive a copy of this policy.

**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:

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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;
 - Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to 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 or neglect under the Texas Family Code.

Dress and Grooming

An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.

EMPLOYEE STANDARDS OF CONDUCT
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Note: This policy applies to a district of innovation under Education Code, Chapter 12A. [See AF]

Permissive Reports

The superintendent may notify the State Board for Educator Certification (SBEC) of any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and/or Chapter 247, Educators' Code of Ethics. 19 TAC 249.14(d)

Required Reports

A superintendent shall notify SBEC if:

1. An educator employed by or seeking employment with the district has a criminal record and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety under Government Code 411.0845;
2. An educator's employment at the district was terminated and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below];
3. The educator resigned and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below]; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.

Education Code 21.006, 22.087; 19 TAC 249.14(d)

**Reportable
Misconduct**

A superintendent shall make a report to SBEC under items 2 and 3, above, if an educator was terminated or resigned and there is evidence that the educator:

1. Abused or otherwise committed an unlawful act with a student or minor;
2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
3. 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.;
4. Illegally transferred, appropriated, or expended funds or other school property;

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5. Attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or
6. Committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event.

Education Code 21.006(b); 19 TAC 249.14(d)

Investigation

A superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct described above at Reportable Misconduct, items 1 and 2, despite the educator's resignation from employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

Deadline to Report

The superintendent must notify SBEC by filing a report not later than the seventh business day after the date the superintendent receives a report from a principal [see DP(LEGAL)] or knew about an educator's termination of employment or resignation following an alleged incident of misconduct or an employee's criminal record. [See Required Reports, above] *Education Code 21.006(c)*

Contents of Report

The report must be in writing and in a form prescribed by SBEC. The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator. The report shall, at a minimum, describe in detail the factual circumstances requiring the report and identify the subject of the report by providing the following available information:

1. Name and any aliases;
2. Certificate number, if any, or social security number;
3. Last known mailing address and home and daytime phone numbers;
4. All available contact information for any alleged victim or victims; and
5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report.

Education Code 21.006(c-1); 19 TAC 249.14(e)

The name of the student or minor is not public information under the Public Information Act. [See GBAA] *Education Code 21.006(h)*

Notice

To the Board and
Educator

A superintendent shall notify the board and the educator of the filing of a written report with SBEC. The superintendent shall notify the board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*

EMPLOYEE STANDARDS OF CONDUCT
REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

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Before Accepting Resignation	Before accepting an employee's resignation that requires filing a report, the superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. <i>19 TAC 249.14(d)(3)(A)</i>
Policy to Notify Parents	The board shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have abused or otherwise committed an unlawful act with a student or minor. [See FFF] <i>Education Code 21.0061</i>
Sanctions for Failure to Report	SBEC shall determine whether to impose sanctions, including an administrative penalty against a superintendent who fails to file a report. <i>Education Code 21.006(f); 19 TAC 249.14(d), (e)</i>
Administrative Penalty	If a superintendent is required to file a report and fails to file the report by the required date, SBEC may impose an administrative penalty of not less than \$500 and not more than \$10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. <i>Education Code 21.006 (i)</i>
Criminal Offense	A superintendent required to file a report commits a state jail felony if the superintendent fails to file the report by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. <i>Education Code 21.006(j)</i>
Immunity	A superintendent or principal who, in good faith and while acting in an official capacity, files a report with SBEC or communicates with another superintendent or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. <i>Education Code 21.006(e)</i>
Definitions	"Abuse" includes the following acts or omissions:
"Abuse"	<ol style="list-style-type: none">1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or

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4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

19 TAC 249.3(1)

"Reported Criminal History"

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *19 TAC 249.3(43)*

"Solicitation of a Romantic Relationship"

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context, may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
 - a. The nature of the communications;
 - b. The timing of the communications;
 - c. The extent of the communications;
 - d. Whether the communications were made openly or secretly;
 - e. The extent that the educator attempts to conceal the communications;
 - f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
 - g. Any other evidence tending to show the context of the communications between educator and student.

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REPORTS TO STATE BOARD FOR EDUCATOR CERTIFICATION

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2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
3. Making sexually demeaning comments to a student.
4. Making comments about a student's potential sexual performance.
5. Requesting details of a student's sexual history.
6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.
7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
8. Inappropriate hugging, kissing, or excessive touching.
9. Providing the student with drugs or alcohol.
10. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
11. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(50)

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

Staff Development

Educator

The staff development provided by a district to an educator other than a principal must be conducted in accordance with standards developed by the district and designed to improve education in the district.

Principal

The staff development provided by a district to a principal shall be governed by Education Code 21.3541 and rules adopted under that section. [See DNB]

Education Code 21.451(a), (a-1)

Training Specifics—
Educators

Staff development shall be predominantly campus-based, related to achieving campus performance objectives, and developed and approved by the campus-level committee.

A district may use district-wide staff development that has been developed and approved through the district-level decision process. [See BQA and BQB, as appropriate]

Staff development may include:

1. Training in technology, conflict resolution, and discipline strategies, including classroom management, district discipline policies, and the Student Code of Conduct;
2. Training in preventing, identifying, responding to, and reporting incidents of bullying;
3. Digital learning; and
4. Instruction as to what is permissible under law, including opinions of the United States Supreme Court, regarding prayer in public school.

The digital learning training must discuss basic technology proficiency expectations and methods to increase an educator's digital literacy; and assist an educator in the use of digital technology in learning activities that improve teaching, assessment, and instructional practices.

Education Code 21.451(b)–(d), (d-3), (g)

*Students with
Disabilities*

Staff development must include training that is evidence-based, as defined by Section 8101, Every Student Succeeds Act (20 USC 7801), that relates to the instruction of students with disabilities and is designed for educators who work primarily outside the area of special education.

A district is required to provide such training only if the educator does not possess the knowledge and skills necessary to implement the individualized education program developed for a student re-

PROFESSIONAL DEVELOPMENT
REQUIRED STAFF DEVELOPMENT

DMA
(LEGAL)

ceiving instruction from the educator. A district may determine the time and place at which the training is delivered.

In developing or maintaining such training, a district must consult persons with expertise in research-based practices for students with disabilities, including colleges, universities, private and non-profit organizations, regional education service centers, qualified district personnel, and any other persons identified as qualified by the district.

Education Code 21.451(d)(2), (e)–(f)

Suicide Prevention

Staff development must include suicide prevention training that must be provided to all new district educators on an annual basis, as part of a new employee orientation and to existing district educators on the following schedule adopted by TEA rule:

1. All districts shall provide the training to all new educators as a part of new employee orientation during the 2016–17 school year.
2. Each subsequent school year, districts shall provide the training to all new educators as a part of new employee orientation.
3. Districts shall provide the training to all currently employed educators on or by September 30, 2016.

The suicide prevention training must use a best practice-based program recommended by the Texas Department of State Health Services (TDSHS) in coordination with TEA. The training may be satisfied through independent review of suicide prevention training material that complies with guidelines developed by TEA and is offered online.

Suicide prevention training that was provided to existing educators by a district on or after September 1, 2013, may be used to meet the requirements if the training program is on the recommended best practice-based list, or is an online program that meets the TEA guidelines for independent review.

Districts shall maintain records that include the name of each educator who participated in the training.

Education Code 21.451(d)(3)–(d-2); 19 TAC 153.1013

**Mental Health
Support Programs**

The Texas Department of State Health Services (DSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior

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high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district:

1. Early mental health intervention;
2. Mental health promotion;
3. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
4. Substance abuse prevention and intervention;
5. Suicide prevention;
6. Grief-informed and trauma-informed practices;
7. Positive behavior interventions and supports and positive youth development; and
8. Safe, supportive, and positive school climate.

"School climate" means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

The programs on the list must include components that provide for training counselors, teachers, nurses, administrators, and other staff, as well as law enforcement officers and social workers who regularly interact with students, to:

1. Recognize students at risk of committing suicide, including students who are or may be the victims of or who engage in bullying;
2. Recognize students displaying early warning signs and a possible need for early mental health or substance abuse intervention, which warning signs may include declining academic performance, depression, anxiety, isolation, unexplained changes in sleep or eating habits, and destructive behavior toward self and others; and
3. Intervene effectively with students described above by providing notice and referral to a parent or guardian so appropriate action, such as seeking mental health or substance abuse services, may be taken by a parent or guardian.

Required Training

A district shall provide training described in components 1–3, above for teachers, counselors, principals, and all other appropri-

ate personnel. The district may use a program from the DSHS list above to satisfy the training requirements. [See Mental Health Support Programs, above]

A district is required to provide the training at an elementary school campus only to the extent that sufficient funding and programs are available. A school district may implement a program on the list described at Health and Safety Code 161.325 to satisfy the training requirements. [See FFB]

If a district provides the training, a district employee must participate in the training at least one time, and the district shall maintain records that include the name of each district employee who participated in the training.

Health and Safety Code 161.325

**Child Abuse and
Maltreatment**

A district's methods for increasing awareness of issues regarding sexual abuse and other maltreatment of children [see BQ, district improvement plan, and FFG] must address employee training.

The training must be provided as part of employee orientation to all new employees. The training may be included in staff development under Education Code 21.451.

The training shall address:

1. Factors indicating a child is at risk for sexual abuse or other maltreatment;
2. Likely warning signs indicating a child may be a victim of sexual abuse or other maltreatment;
3. Internal procedures for seeking assistance for a child who is at risk for sexual abuse or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;
4. Techniques for reducing a child's risk of sexual abuse or other maltreatment; and
5. Community organizations that have relevant existing research-based programs and that are able to provide training or other education for employees, students, and parents.

A district shall maintain records of the training that include the name of each employee who participated.

If a district determines that the district does not have sufficient resources to provide the required training, the district shall work with a community organization to provide the training at no cost to the district.

Education Code 38.0041

Student Discipline

Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding Education Code Chapter 37, Subchapter G. The professional development shall include training relating to the distinction between a discipline management technique used at the principal's discretion under Education Code 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Education Code 37.002(b) [see FOA].

The professional development training may be provided in coordination with an education service center through the use of distance learning methods, such as telecommunications networks, and using available TEA resources.

Education Code 37.0181

**Special Programs
Training**

Texas Adolescent
Literacy Academies

A teacher shall attend a Texas adolescent literacy academy under 19 Administrative Code 102.1101 if:

1. The teacher teaches at a campus that receives a rating that reflects unacceptable performance and that fails to meet the state system safeguard performance target in reading for one or more student groups; and
2. The teacher teaches in general education, special education, or English as a second language for students in grade 6, 7, or 8, and:
 - a. The teacher is a certified, full-time English language arts and reading teacher who instructs English language arts and/or reading for at least 50 percent of the teacher's instructional duties; or
 - b. The teacher is a certified, full-time content area teacher who instructs mathematics, science, and/or social studies for at least 50 percent of the teacher's instructional duties.

A teacher described above is required to complete the training not later than December 31 of the calendar year in which the rating that reflects unacceptable performance is assigned.

A teacher who is required to attend an academy is eligible for a teacher stipend upon completion of face-to-face training if funds have been appropriated and are available for that purpose. A teacher who completes online training is not eligible for a stipend.

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The stipend shall not be considered in determining whether a district is paying the teacher the state minimum monthly salary [see DEA and DEAA].

Each school district with teachers required to attend and complete Texas adolescent reading academies must maintain records to verify teacher attendance and completion in accordance with the district's record retention policy.

Education Code 21.4551(c), (e); 19 TAC 102.1101

Gifted and Talented
Education

A district shall ensure that:

1. Before assignment to the program for gifted students, teachers who provide instruction and services that are part of the program have a minimum of 30 hours of staff development that includes nature and needs of gifted/talented students, assessment of student needs, and curriculum and instruction for gifted students.
2. Teachers without the required training who provide instruction and services that are part of the gifted/talented program complete the 30-hour training requirement within one semester.
3. Teachers who provide instruction and services that are part of a program for gifted students receive a minimum of six hours annually of professional development in gifted education.
4. Administrators and counselors who have authority for program decisions have a minimum of six hours of professional development that includes nature and needs of gifted/talented students and program options.

19 TAC 89.2

Elective Bible
Course

A teacher of an elective Bible course offered under Education Code 28.011 [see EMI] must hold a minimum of a High School Composite Certification in language arts, social studies, or history with, where practical, a minor in religious or biblical studies. The teacher must successfully complete the staff development training developed by the commissioner of education with respect to Bible elective courses. *Education Code 28.011(f)*

**Automated External
Defibrillators**

A district shall annually make available to employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator (AED).

The instruction provided in the use of AEDs must meet guidelines for approved AED training under Health and Safety Code 779.002. Each school nurse, assistant school nurse, athletic coach or spon-

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sor, physical education instructor, marching band director, cheer-leading coach, and any other employee specified by the commissioner, and each student who serves as an athletic trainer, must:

1. Participate in the instruction; and
2. Receive and maintain certification in the use of an AED from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

Education Code 22.902

**Extracurricular
Activity Safety
Training**

The following persons must satisfactorily complete the extracurricular safety training program developed by the commissioner:

1. A coach or sponsor for an extracurricular athletic activity;
2. A trainer, unless the trainer has completed the educational requirements for licensure as a licensed athletic trainer set forth at 22 Administrative Code 871.7 and the continuing education requirements at 22 Administrative Code 871.12;
3. A physician who is employed by a district or who volunteers to assist with an extracurricular athletic activity, unless the physician attends a continuing medical education course that specifically addresses emergency medicine; and
4. A director responsible for a school marching band.

The training may be conducted by a district, the American Red Cross, the American Heart Association, or a similar organization, or by the University Interscholastic League (UIL).

Education Code 33.202(b), (f); 19 TAC 76.1003

Records

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

A campus that is determined by a superintendent to be out of compliance with the safety training requirements shall be subject to the range of penalties determined by the UIL.

Education Code 33.206; 19 TAC 76.1003(e)

Steroids

A district shall require that each employee who serves as an athletic coach at or above the seventh grade level for an extracurricular athletic activity sponsored or sanctioned by the UIL complete:

1. The educational program developed by the UIL regarding the health effects of steroids; or

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2. A comparable program developed by the district or a private entity with relevant expertise.

Education Code 33.091(c-1)

Concussions

At least once every two years, the following employees shall take a training course from an authorized provider in the subject matter of concussions:

1. A coach of an interscholastic athletic activity shall take a course approved by the UIL.
2. An athletic trainer who serves as a member of a district's concussion oversight team shall take a course approved by the Texas Department of Licensing and Regulation (TDLR) or a course approved for continuing education credit by the licensing authority for athletic trainers.
3. A licensed health-care professional, other than an athletic trainer, who serves as a member of a district's concussion oversight team shall take a course approved by the UIL, TDLR, or the appropriate licensing authority for the profession.

The employee must submit proof of timely completion of an approved course to the superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity. [See FM]

Education Code 38.158

Resources for Staff Development

If a district receives resources from the commissioner's staff development account, it must pay to the commissioner for deposit in the account an amount equal to one-half of the cost of the resources provided to the district. *Education Code 21.453(b)*

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Teacher Appraisal	<p>The employment policies adopted by the board must require a written evaluation of each teacher at annual or more frequent intervals.</p> <p>A teacher appraisal must be done at least once during each school year. A teacher may be appraised less frequently if the teacher agrees in writing and the teacher's most recent evaluation rated the teacher as at least proficient, or the equivalent, and did not identify any area of deficiency. A teacher who is appraised less frequently than annually must be appraised at least once during each period of five school years.</p> <p><i>Education Code 21.203, .352(c)</i></p>
Interim Evaluations and Guidance	<p>In addition to conducting a complete appraisal as frequently as required by Education Code 21.352(c), a district shall require that appropriate components of the appraisal process, such as classroom observations and walk-throughs, occur more frequently as necessary to ensure that a teacher receives adequate evaluation and guidance. A district shall give priority to conducting appropriate components more frequently for inexperienced teachers or experienced teachers with identified areas of deficiency. <i>Education Code 21.352(c-1)</i></p>
Required Components	<p>The statutorily required components of teacher appraisal are defined as follows:</p> <ol style="list-style-type: none">1. The implementation of discipline management procedures is the teacher's pedagogical practices that produce student engagement and establish the learning environment.2. The performance of teachers' students is how the individual teacher's students progress academically in response to the teacher's pedagogical practice as measured at the individual teacher level by one or more student growth measures. <p><i>19 TAC 150.1001(f)</i></p>
Notice and Use of Evaluations	<p>A district shall use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and developing career recommendations for the teacher. <i>Education Code 21.352(e)</i></p> <p>The district shall notify a teacher of the results of any appraisal of the teacher in a timely manner so that the appraisal may be used as a developmental tool by the district and the teacher to improve the overall performance of the teacher. <i>Education Code 21.352(f)</i></p>
Role of Extracurricular Activities	<p>A teacher who directs extracurricular activities in addition to performing classroom teaching duties shall be appraised only on the</p>

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basis of classroom teaching performance and not on performance in connection with extracurricular activities. *Education Code 21.353*

**Access to
Evaluations**

A district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file.

Each teacher is entitled to receive a written copy of the evaluation promptly on its completion. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district.

Education Code 21.352(c)

Confidentiality

A document evaluating the performance of a teacher is confidential and is not subject to disclosure under the Public Information Act, Government Code 552. [See GBA]

A district may give TEA a document evaluating the performance of a teacher employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedures Act, Government Code, Chapter 2001.

Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against a teacher if the document may be admitted under rules of evidence applicable to a contested case under Government Code 2001.081.

Education Code 21.355

**Two Appraisal
Methods**

A district shall use one of the following methods to appraise teachers:

1. The teacher appraisal system recommended by the commissioner of education [see State Method (T-TESS), below]; or
2. A local teacher appraisal system [see District Option and Campus Option, below].

Education Code 21.352(a); 19 TAC 150.1001(a)

**Selection of
Appraisal Method**

A superintendent, with the approval of a board, may select the state appraisal method. Each district or campus wanting to select or develop an alternative teacher appraisal system must follow the requirements set forth below at District Option or Campus Option. *19 TAC 150.1001(c)*

**Notice to Service
Center**

A superintendent shall notify the executive director of the district's regional education service center in writing of the district's choice of appraisal system when using an alternative to the state appraisal

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al method and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

A district shall submit annually to its service center a summary of the campus-level evaluation scores from the state appraisal method or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

19 TAC 150.1008

Note: The following provisions apply to teacher appraisal using the state appraisal method.

**State Method
(T-TESS)**

The commissioner's recommended teacher appraisal system, the Texas Teacher Evaluation and Support System (T-TESS), was developed in accordance with Education Code 21.351. *19 TAC 150.1001(b), .1002(a)*

Orientation and
Annual Review

A district shall ensure that all teachers are provided with an orientation to the T-TESS no later than the final day of the first three weeks of school and at least two weeks before the first observation when:

1. The teacher is new to the district;
2. The teacher has never been appraised under the T-TESS; or
3. District policy regarding teacher appraisal has changed since the last time the teacher was provided with an orientation to the T-TESS.

The teacher orientation shall be conducted in a face-to-face setting during a district's first year of T-TESS implementation and include all state and local appraisal policies and the local appraisal calendar. In addition to the orientation, campuses may hold other sessions sufficient in length allowing teachers to actively participate in a discussion of the T-TESS specifics and to have their questions answered.

19 TAC 150.1006

Appraisers

The teacher appraisal process requires at least one certified appraiser. An appraiser must be the teacher's supervisor or a person approved by the board.

*Campus
Administrator*

Only a campus administrator may act as a certified appraiser, except as provided below.

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Under the T-TESS, a “campus administrator” includes a principal, an assistant principal, an administrator who holds a comparable administrator/supervisor certificate established by the State Board for Educator Certification, or supervisory staff whose job description includes the appraisal of teachers and who is not a classroom teacher.

An individual other than a campus administrator may act as a certified appraiser if:

1. The individual has been certified by completing the required training prior to conducting appraisals; and
2. In the case where the certified appraiser is a classroom teacher, the certified appraiser:
 - a. Conducts appraisals at the same school campus at which the certified appraiser teaches if the certified appraiser is the chair of a department or grade level whose job description includes classroom observation responsibilities; or
 - b. Does not conduct appraisals of classroom teachers who teach at the same campus as the certified appraiser if the certified appraiser is not a department or grade-level chair.

*Training and
Certification*

Before conducting appraisals, an appraiser must be certified by having satisfactorily completed the state-approved T-TESS appraiser training and having passed the T-TESS certification examination, and must have received Instructional Leadership Training (ILT), Instructional Leadership Development (ILD), or Advanced Educational Leadership (AEL) certification. Appraisers without ILT, ILD, or AEL certification before January 1, 2016, may not take ILT or ILD to satisfy the requirement. Periodic recertification and training shall be required.

Education Code 21.351(c); 19 TAC 150.1005

Appraisal Calendar

A district shall establish a calendar for teacher appraisals and provide that calendar to teachers within three weeks from the first day of instruction. The appraisal period for each teacher must include all of the days of the teacher’s contract.

Observations during the appraisal period must be conducted during the required days of instruction for students during one school year.

The appraisal calendar shall:

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1. Exclude observations in the two weeks after the day of completion of the T-TESS orientation in the school years when an orientation is required; and
2. Indicate a period for end-of-year conferences that ends no later than 15 working days before the last day of instruction for students.

19 TAC 150.1003(d)

A teacher may be given advance notice of the date or time of an appraisal, but advance notice is not required. *Education Code 21.352(d); 19 TAC 150.1003(c)*

Assessment of
Teacher
Performance

Each teacher must be appraised each school year, except as provided below at Less-Than-Annual Appraisal. Whenever possible, an appraisal shall be based on the teacher's performance in fields and teaching assignments for which he or she is certified. *19 TAC 150.1003(a)*

During the appraisal period, the certified appraiser shall evaluate and document teacher performance specifically related to the domain criteria as identified in 19 Administrative Code 150.1002(a) and the performance of teachers' students as defined in 19 Administrative Code 150.1001(f)(2). *19 TAC 150.1003(e)*

*Less-Than-
Annual Appraisal*

A teacher may receive a full appraisal less than annually if the teacher agrees in writing and the teacher's most recent full appraisal resulted in the teacher receiving summative ratings of at least proficient on nine of the sixteen dimensions and did not identify any area of deficiency, defined as a rating of Improvement Needed or its equivalent, on any of the sixteen dimensions identified in 19 Administrative Code 150.1002(a) or the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2). A teacher who receives a full appraisal less than annually must receive a full appraisal at least once during each period of five school years.

District policy may stipulate:

1. Whether the option to receive a full appraisal less frequently than annually is to be made available to teachers;
2. Whether the option to receive a full appraisal less frequently than annually is to be adopted district-wide or is to be campus specific;
3. If the appraisal accompanying a teacher new to a district or campus meets this option, whether the appraisal is to be ac-

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cepted or whether that teacher is to be appraised by the new campus administrator; and

4. Whether a certified appraiser may place a teacher on the traditional appraisal cycle as a result of performance deficiencies documented in accordance with 19 Administrative Code 150.1003(b)(6) and (f) (related to cumulative data regarding teacher performance in addition to formal classroom observations).

A school district may choose annually to review the written agreement to have less frequent full appraisals with the teacher. However, at the conclusion of the school year, the district may modify appraisal options through board policy and may make changes to expectations for appraisals that apply to all teachers regardless of a teacher's participation in the appraisal option in the previous year(s).

In a year in which a teacher does not receive a full appraisal due to meeting the requirements, a teacher shall participate in:

1. The Goal-Setting and Professional Development Plan process;
2. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and
3. A modified end-of-year conference that addresses:
 - a. The progress on the Goal-Setting and Professional Development Plan;
 - b. The performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2); and
 - c. The following year's Goal-Setting and Professional Development plan.

19 TAC 150.1003(l)

*Domains and
Dimensions*

Each teacher shall be appraised on the following domains and dimensions of the T-TESS rubric that is aligned to the Texas Teacher Standards in 19 Administrative Code Chapter 149 (relating to Commissioner's Rules Concerning Educator Standards):

1. Domain I. Planning, which includes the following dimensions:
 - a. Standards and alignment;
 - b. Data and assessment;
 - c. Knowledge of students; and

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- d. Activities.
- 2. Domain II. Instruction, which includes the following dimensions:
 - a. Achieving expectations;
 - b. Content knowledge and expertise;
 - c. Communication;
 - d. Differentiation; and
 - e. Monitor and adjust.
- 3. Domain III. Learning Environment, which includes the following dimensions:
 - a. Classroom environment, routines, and procedures;
 - b. Managing student behavior; and
 - c. Classroom culture.
- 4. Domain IV. Professional Practices and Responsibilities, which includes the following dimensions:
 - a. Professional demeanor and ethics;
 - b. Goal setting;
 - c. Professional development; and
 - d. School community involvement.

The evaluation of each of the dimensions above shall consider all data generated in the appraisal process. The data for the appraisal of each dimension shall be gathered from pre-conferences, observations, post-conferences, end-of-year conferences, the Goal-Setting and Professional Development Plan process, and other documented sources.

Each teacher shall be evaluated on the 16 dimensions in Domains I–IV identified above using the following categories:

- 1. Distinguished;
- 2. Accomplished;
- 3. Proficient;
- 4. Developing; and
- 5. Improvement needed.

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*Student
Performance*

Beginning with the 2017–18 school year, each teacher appraisal shall include the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (relating to student growth measures).

If calculating a single overall summative appraisal score for teachers, the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), shall count for at least 20 percent of a teacher's summative score.

Each teacher shall be evaluated on the performance of teachers' students using one of the terms from the following categories:

1. Distinguished or well above expectations;
2. Accomplished or above expectations;
3. Proficient or at expectations;
4. Developing or below expectations; or
5. Improvement needed or well below expectations.

19 TAC 150.1002

Appraisal Process

The annual teacher appraisal, or full appraisal, shall include:

1. A completed and appraiser-approved Goal-Setting and Professional Development Plan that shall be:
 - a. Submitted to the teacher's appraiser within the first six weeks from the day of completion of the T-TESS orientation for teachers in their first year of appraisal under the T-TESS or for teachers new to the district; or
 - b. Initially drafted in conjunction with the teacher's end-of-year conference from the previous year, revised as needed based on changes to the context of the teacher's assignment during the current school year, and submitted to the teacher's appraiser within the first six weeks of instruction; and
 - c. Maintained throughout the course of the school year by the teacher to track progress in the attainment of goals and participation in professional development activities detailed in the approved plan;
 - d. Shared with the teacher's appraiser prior to the end-of-year conference; and

- e. Used after the end-of-year conference in the determination of ratings for the goal setting and professional development dimensions of the T-TESS rubric;
2. For a teacher in the first year of appraisal under the T-TESS or for teachers new to the district, a Goal-Setting and Professional Development Plan conference prior to the teacher submitting the plan to the teacher's appraiser;
3. After a teacher's first year of appraisal under the T-TESS within the district, an observation pre-conference conducted prior to announced observations;
4. At least one classroom observation of a minimum of 45 minutes, with additional walk-throughs and observations conducted at the discretion of the certified appraiser and in accordance with the Education Code 21.352(c-1). Additional observations and walk-throughs do not require an observation post-conference. Additional observations and walk-throughs do require a written summary if the data gathered during the additional observation or walk-through will impact the teacher's summative appraisal ratings, in which case the written summary shall be shared within ten working days after the completion of the additional observation or walk-through. Title 19 Administrative Code 150.1004 (relating to Teacher Response and Appeals) applies to a written summary of an additional observation or walk-through that will impact the teacher's summative appraisal ratings;
5. An observation post-conference that:
 - a. Shall be conducted within ten working days after the completion of an observation;
 - b. Is diagnostic and prescriptive in nature;
 - c. Includes a written report of the rating of each dimension observed that is presented to the teacher only after a discussion of the areas for reinforcement and areas for refinement; and
 - d. Can allow for, at the discretion of the appraiser, a revision to an area for reinforcement or refinement based on the post-conference discussion with the teacher;
6. Cumulative data from written documentation collected regarding job-related teacher performance, in addition to formal classroom observations;
7. An end-of-year conference that:

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- a. Reviews the appraisal data collected throughout the current school year and previous school years, if available;
 - b. Examines and discusses the evidence related to the teacher's performance on the four dimensions of Domain IV of the T-TESS rubric;
 - c. Examines and discusses evidence related to the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2) (relating to student growth measures), when available; and
 - d. Identifies potential goals and professional development activities for the teacher for the next school year; and
8. A written summative annual appraisal report to be provided to the teacher within ten working days of the conclusion of the end-of-year conference.

19 TAC 150.1003(b)

*Shorter
Observations*

By written, mutual consent of the teacher and the certified appraiser, the required 45 minutes of observation may be conducted in shorter time segments. The time segments must aggregate to at least 45 minutes. *19 TAC 150.1003(g)*

Cumulative Data

The certified appraiser is responsible for documentation of cumulative data. Any third-party information from a source other than the certified appraiser that the certified appraiser wishes to include as cumulative data shall be verified and documented by the certified appraiser. Any documentation that will influence the teacher's summative annual appraisal report must be shared in writing with the teacher within ten working days of the certified appraiser's knowledge of the occurrence. The principal shall also be notified in writing of the cumulative data when the certified appraiser is not the teacher's principal. *19 TAC 150.1003(f)*

Summative Report

A written summative annual appraisal report shall be shared with the teacher no later than 15 working days before the last day of instruction for students. The written summative annual appraisal report shall be placed in the teacher's personnel file by the end of the appraisal period. *19 TAC 150.1003(h)*

**End-of-Year
Conference**

An end-of-year conference shall be held within a time frame specified on the district calendar, no later than 15 working days before the last day of instruction for students. The end-of-year conference shall focus on the data and evidence gathered throughout the appraisal year; the teacher's efforts as they pertain to Domain IV; the results of the performance of teachers' students, when available, as defined in 19 Administrative Code 150.1001(f)(2); and the po-

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tential goals and professional development plans for the following year. The written summative annual appraisal report shall be shared with the teacher within ten working days following the conclusion of the end-of-year conference but no later than 15 working days before the last day of instruction.

In cases where the certified appraiser is not an administrator on the teacher's campus, either the principal, assistant principal, or another supervisory staff member designated as an administrator on the campus must participate in the end-of-year conference.

19 TAC 150.1003(i), (j)

Additional
Documentation

Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a teacher. If the documentation affects the teacher's evaluation in any dimension, another summative report shall be developed to inform the teacher of the changes. *19 TAC 150.1003(k)*

**Teacher Response
and Rebuttal**

A teacher may submit a written response or rebuttal at the following times:

1. For Domains I, II, and III, after receiving a written observation summary or any other written documentation related to the ratings of those three domains; or
2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report.

Any written response or rebuttal must be submitted within ten working days of receiving a written observation summary, a written summative annual appraisal report, or any other written documentation associated with the teacher's appraisal. A teacher may not submit a written response or rebuttal to a written summative annual appraisal report for the ratings in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to submit a written response or rebuttal.

Education Code 21.352(c); 19 TAC 150.1004(a), (b)

**Request for Second
Appraisal**

A teacher may request a second appraisal by another certified appraiser at the following times:

1. For Domains I, II, and III, after receiving a written observation summary with which the teacher disagrees; or

2. For Domain IV and for the performance of teachers' students, as defined in 19 Administrative Code 150.1001(f)(2), after receiving a written summative annual appraisal report with which the teacher disagrees.

The second appraisal must be requested within ten working days of receiving a written observation summary or a written summative annual appraisal report. A teacher may not request a second appraisal by another certified appraiser in response to a written summative annual appraisal report for the ratings of dimensions in Domains I, II, and III if those ratings are based entirely on observation summaries or written documentation already received by the teacher earlier in the appraisal year for which the teacher already had the opportunity to request a second appraisal.

A teacher may be given advance notice of the date or time of a second appraisal, but advance notice is not required.

The second appraiser shall make observations and walk-throughs as necessary to evaluate the dimensions in Domains I–III or shall review the Goal-Setting and Professional Development Plan for evidence of goal attainment and professional development activities, when applicable. Cumulative data may also be used by the second appraiser to evaluate other dimensions.

A district shall adopt written procedures for determining the selection of second appraisers. The procedures shall be disseminated to each teacher at the time of employment and updated annually or as needed.

Education Code 21.352(c); 19 TAC 150.1004(c)–(g)

Note: The following provisions apply to teacher appraisal using a district-developed appraisal method.

District Option

A district that does not choose to use the T-TESS must develop its own teacher-appraisal system supported by locally adopted policy and procedures and by the processes outlined below.

Development of
Appraisal System

The district-level planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Consult with the campus-planning and decision-making committee on each campus in the district.

Appraisal Process

The appraisal process shall include:

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EVALUATION OF TEACHERS

DNA
(LEGAL)

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see Teacher Appraisal, above];
2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
 - a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and
 - b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

Board Acceptance

A district-level planning and decision-making committee shall submit the appraisal process and criteria to the superintendent, who shall submit the appraisal process and criteria to the board with a recommendation to accept or reject.

The board may accept or reject, with comments, the appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1007(a)

Note: The following provisions apply to teacher appraisal using a campus-developed appraisal method.

Campus Option

A campus within a district may choose to develop a local appraisal system.

Development of
Appraisal System

The campus planning and decision-making committee shall:

1. Develop an appraisal process;
2. Develop evaluation criteria, including discipline management and performance of the teachers' students; and
3. Submit the process and criteria to the district-level planning and decision-making committee.

Appraisal Process

The appraisal process shall include:

1. At least one appraisal each year, or less frequently if in accordance with Education Code 21.352(c) [see Teacher Appraisal above];

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2. A conference between the teacher and the appraiser that is diagnostic and prescriptive with regard to remediation needed in overall performance by category; and
3. Criteria based on observable, job-related behavior, including:
 - a. Teachers' implementation of discipline management procedures, as defined in 19 Administrative Code 150.1001(f)(1); and
 - b. Beginning with the 2017–18 school year, the performance of the teachers' students as defined in 19 Administrative Code 150.1001(f)(2).

Board Acceptance

Upon submission of the appraisal process and criteria to the district-level planning and decision-making committee, the committee shall make a recommendation to accept or reject the appraisal process and criteria and transmit that recommendation to the superintendent.

The superintendent shall submit to the board:

1. The recommended campus appraisal process and criteria;
2. The district-level planning and decision-making committee's recommendation; and
3. The superintendent's recommendation.

The board may accept or reject, with comments, an appraisal process and performance criteria, but may not modify the process or criteria.

Education Code 21.352(a)(2), (b); 19 TAC 150.1007(b)

Note: The following provision applies to appraiser training under a local appraisal process (district- or campus-developed).

Appraisers

A district that locally develops and adopts its own educator appraisal system should have a clearly defined set of procedures for training appraisers. The district should identify the qualities appraisers must demonstrate and include appropriate proficiency checks to evaluate the performance of all educators performing appraisals under the district's locally adopted appraisal systems. The school district shall be responsible for documenting that appraisers have met training criteria established by the district. 19 TAC 244.3

Note: The standards to be used to inform the training, appraisal, and professional development of teachers are outlined in 19 Administrative Code 149.1001.

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Frequency

The employment policies adopted by a board must require a written evaluation at annual or more frequent intervals of each principal, supervisor, school counselor, or other full-time, certified professional employee, and nurse. *Education Code 21.203(a)*

District funds may not be used to pay an administrator who has not been appraised in the preceding 15 months. *Education Code 21.354(d)*

Principal Appraisal

A district shall appraise each principal annually. In appraising principals, a school district shall use either:

1. The appraisal system and school leadership standards and indicators developed or established by the commissioner of education; or
2. An appraisal process and performance criteria developed by the district in consultation with the district-level and campus-level committees [see BQA and BQB] and adopted by the board.

Education Code 21.3541(f), (g); 19 TAC 150.1023(a)

The commissioner's recommended principal appraisal system, the Texas Principal Evaluation and Support System (T-PESS), was developed in accordance with Education Code 21.3541.

The superintendent, with the approval of the board, may select the T-PESS. Each school district wanting to select or develop an alternative principal appraisal system must follow Education Code 21.3541, and 19 Administrative Code 150.1026 (relating to Alternatives to the Commissioner's Recommended Principal Appraisal System).

19 TAC 150.1021(b), (c)

Notice to ESC

The superintendent shall notify the executive director of its regional education service center in writing of the school district's choice of appraisal system when using an alternative to the commissioner's recommended appraisal system and detail the components of that system by the first day of instruction for the school year in which the alternative system is used.

Each school district shall submit annually to its regional education service center a summary of the evaluation scores from the T-PESS or the district's locally adopted appraisal system, in a manner prescribed by the commissioner.

19 TAC 150.1027

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(LEGAL)

Texas Principal
Evaluation and
Support System
(T-PESS)

Each principal shall be appraised on the following standards and indicators of the T-PESS rubric that is aligned to the Texas Administrator Standards in 19 Administrative Code, Chapter 149 (relating to Commissioner's Rules Concerning Educator Standards):

1. Standard I. Instructional Leadership, which includes four indicators;
2. Standard II. Human Capital, which includes four indicators;
3. Standard III. Executive Leadership, which includes four indicators;
4. Standard IV. School Culture, which includes five indicators; and
5. Standard V. Strategic Operations, which includes four indicators.

The evaluation of each of the standards and indicators above shall consider all data generated in the appraisal process.

Each principal shall be evaluated on the attainment and progress toward at least one goal, as referenced in 19 Administrative Code 150.1023 (relating to Appraisals, Data Sources, and Conferences). At least one goal shall be focused on the improvement of the principal's practice, as captured in the T-PESS rubric indicators and descriptors.

If calculating a single overall summative appraisal score for principals, the rating for the attainment of goals shall count for:

1. At least 20 percent of a principal's summative score for a principal who has served at least one year in his or her role on the same campus; or
2. At least 30 percent of a principal's summative score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on each of the 21 indicators in Standards I–V identified above and on the attainment of each goal, using the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; and
5. Improvement needed.

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EVALUATION OF CAMPUS ADMINISTRATORS

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Beginning with the 2017–18 school year, each principal appraisal shall include the campus-level academic growth or progress of the students enrolled at the principal's campus.

If calculating a single overall summative appraisal score for principals, the measure of student growth or progress shall count for:

1. At least 20 percent of a principal's summative score for a principal who has served two or more years in his or her role on the same campus;
2. At least 10 percent of a principal's summative score for a principal who has served one year in his or her role on the same campus; or
3. May not be included in calculating a single overall summative appraisal score for a principal who is in his or her first year as principal on a particular campus.

Each principal shall be evaluated on student growth or progress using one of the terms from the following categories:

1. Distinguished;
2. Accomplished;
3. Proficient;
4. Developing; or
5. Improvement needed.

19 TAC 150.1022

*Appraisal
Procedures*

The annual principal appraisal shall include:

1. At least one appraiser-approved goal that shall be:
 - a. Initially drafted in conjunction with the principal's end-of-year conference from the previous year, as applicable, revised as needed based on changes to the context of the principal's assignment at the beginning of the current school year, and submitted to the principal's appraiser; and
 - b. Maintained throughout the course of the school year by the principal to track progress in the attainment of goals and the actions taken to achieve the goals;
 - c. Shared with the principal's appraiser prior to the end-of-year conference; and

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- d. Used after the end-of-year conference in the determination of ratings for the attainment of goals;
2. A pre-evaluation conference prior to the principal submitting his or her goals to the principal's appraiser;
3. A mid-year conference to determine and discuss progress toward the attainment of goals;
4. An end-of-year conference that:
 - a. Reviews data collected throughout the current school year and previous school years, if available;
 - b. Examines and discusses the artifacts and evidence related to the principal's performance on the 21 indicators of T-PESS rubric and the attainment of goals;
 - c. Examines and discusses evidence related to student growth or progress measures, as described in 19 Administrative Code 150.1022(f)–(h), when available; and
 - d. Identifies potential goals and professional development activities for the principal for the next school year; and
5. A written summative annual appraisal report to be provided to the principal after the conclusion of the end-of-year conference.

Calendar

Each school district shall establish a calendar for the appraisal of principals and provide that calendar to principals prior to the pre-evaluation conference.

Appraisal Report

The written summative annual appraisal report shall be placed in the principal's personnel file by the end of the appraisal period.

*Additional
Documentation*

Any documentation collected after the end-of-year conference but before the end of the contract term during one school year may be considered as part of the appraisal of a principal. If the documentation affects the principal's evaluation in any indicator, the attainment of goals, or a measure of student growth or progress, another summative report shall be developed to inform the principal of the changes prior to the end of the contract term.

19 TAC 150.1023(b)–(e)

*Appraiser
Qualifications*

The principal appraisal process requires at least one certified appraiser. Before conducting an appraisal, an appraiser must be certified by having satisfactorily completed the state-approved T-PESS. Periodic recertification and training may be required. *19 TAC 150.1024*

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EVALUATION OF CAMPUS ADMINISTRATORS

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(LEGAL)

Orientation

A district shall ensure that a principal is provided with an orientation of the T-PESS either prior to or in conjunction with the pre-evaluation conference when:

1. The principal is new to the district;
2. The principal has never been appraised under the T-PESS; or
3. District policy regarding principal appraisal has changed since the last time the principal was provided with an orientation to the T-PESS.

The principal orientation shall include all state and local appraisal policies and the local appraisal calendar.

19 TAC 150.1025

Alternatives to
T-PESS

A district that does not choose to use the T-PESS must develop its own principal appraisal system supported by locally adopted policy and procedures; developed in consultation with the district-level and campus-level committees established under Education Code 11.251; and adopted by the board. *Education Code 21.3541; 19 TAC 150.1026*

Note: The standards, indicators, knowledge, and skills to be used to align with the training, appraisal, and professional development of principals are outlined in 19 Administrative Code 149.2001.

**Appraisal of Campus
Administrators Other
Than Principals**

A district shall appraise each campus administrator, other than a principal, annually using either:

1. The commissioner's recommended appraisal process and performance criteria; or
2. An appraisal process and performance criteria developed by the district in consultation with the district- and campus-level committees and adopted by the board.

Education Code 21.354(c)

A district may use the T-PESS to appraise campus administrators other than principals provided the school district makes appropriate modifications to ensure that the T-PESS rubric and components fit the job descriptions of the campus administrators other than principals evaluated with the T-PESS. A district using T-PESS for administrators other than principals shall evaluate administrators on the attainment and progress toward at least one goal, as referenced in 19 Administrative Code 150.1023 (relating to Appraisals, Data Sources, and Conferences). At least one goal shall be focused on

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EVALUATION OF CAMPUS ADMINISTRATORS

DNB
(LEGAL)

the improvement of the administrator's practice, as captured in the T-PESS rubric indicators and descriptors.

Each school district wanting to select or develop a local appraisal system for campus administrators other than principals must use an appraisal process and performance criteria developed in consultation with the district- and campus-level committees established under Education Code 11.251; and adopted by the board.

Education Code 21.354(c)(2); 19 TAC 150.1028, 244.2(c)

Appraisers

A district using T-PESS for administrators other than principals or that locally develops and adopts its own educator appraisal system should have a clearly defined set of procedures for training appraisers. The school district should identify the qualities appraisers must demonstrate and include appropriate proficiency checks to evaluate the performance of all educators performing appraisals under the district's adopted appraisal systems. The school district shall be responsible for documenting that appraisers have met training criteria established by the district. *19 TAC 244.2(c), .3*

School Counselors

The commissioner shall develop and periodically update an evaluation form for use by districts in evaluating school counselors.
Education Code 21.356

Confidentiality

A document evaluating the performance of an administrator is confidential and is not subject to disclosure under the Public Information Act, Government Code 552. [See GBA]

A district may give TEA a document evaluating the performance of an administrator employed by the district for purposes of an investigation conducted by TEA. A document provided to TEA remains confidential unless the document becomes part of the record in a contested case under the Administrative Procedures Act, Government Code, Chapter 2001.

Except as provided by a court order prohibiting disclosure, a document provided to TEA may be used in a disciplinary proceeding against an administrator if the document may be admitted under rules of evidence applicable to a contested case under Government Code 2001.081.

Education Code 21.355

PERSONNEL POSITIONS

DP
(LEGAL)

Principal

Qualifications

A 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 Administrative Code 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 Administrative Code 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)*

A principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the superintendent pursuant to board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]

PERSONNEL POSITIONS

DP
(LEGAL)

10. (For high school principals only) Serve, or appoint someone to serve, as deputy registrar for the county in which the school is located. *Election Code 13.046*

Education Code 11.202(b), .253(c), (h), 31.103(a) [See also DMA]

Principal's Report to
Superintendent

A principal must notify the superintendent not later than the seventh business day after the date:

1. Of an educator's termination of employment or resignation following an alleged incident of misconduct under Education Code 26.001(b); or
2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1).

Education Code 21.006(b-2) [See Required Reports at DHB]

*Sanctions and
Administrative
Penalty*

SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. *Education Code 21.006(f)*

If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than \$500 and not more than \$10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006 (i)*

Criminal Offense

A principal required to notify a superintendent about an educator's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(b-2)*

School Start Date

A district may not begin instruction for students for a school year before the fourth Monday in August unless the district operates a year-round system (see below). A district may not receive a waiver of this requirement.

Exceptions

A district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another state for the grade levels the district does not offer may instead start school on any date permitted under the law of the other state.

A district with a student enrollment of 190,000 or more may begin instruction for students for a school year on or after the first Monday in August at a campus or at not more than 20 percent of the campuses in the district if:

1. The district at the beginning of the school year provides, financed with local funds, days of instruction for students at the campus or at each of the multiple campuses, in addition to the minimum number of days of instruction required under Education Code 25.081;
2. The campus or each of the multiple campuses are undergoing comprehensive reform, as determined by the board; and
3. A majority of the students at the campus or at each of the multiple campuses are educationally disadvantaged.

Education Code 25.0811

Length of School Year

Each school year, a district shall operate for at least 75,600 minutes, including time allocated for instruction, intermissions, and recesses for students.

Exceptions

The commissioner may approve the operation of schools for fewer than the number of minutes specified above when disaster, flood, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of schools.

If the commissioner does not approve reduced instruction time, a district may add additional minutes to the end of the district's normal school hours as necessary to compensate for minutes of instruction lost due to school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity.

Education Code 25.081

Last Day of School

A district may not schedule the last day of school for students for a school year before May 15. However, a district that does not offer each grade level from kindergarten through grade 12 and whose prospective or former students generally attend school in another

state for the grade levels the district does not offer may schedule the last day of school on any date permitted under Texas law or the law of the other state. *Education Code 25.0812*

Optional Flexible
Year Program

To enable a school district to provide additional instructional days for an optional extended year program [see EHBC], the school district may, with the approval of the commissioner, provide a number of days of instruction during the regular school year that is not more than ten days fewer than 180 days. *Education Code 29.0821(b)(1)*

No Instruction on
Memorial Day

A district may not provide student instruction on Memorial Day. If a district would be required to provide student instruction on Memorial Day to compensate for minutes of instruction lost because of school closures caused by disaster, flood, extreme weather conditions, fuel curtailment, or another calamity, the commissioner shall approve the instruction of students for fewer than the required number of minutes. *Education Code 25.081(f)*

**Year-Round
Schools**

A district may operate its schools year-round on a single or a multi-track system. If it adopts a year-round system, it may modify:

1. The number of contract days of employees and the number of days of operation, including any time required for staff development, planning and preparation, and continuing education, otherwise required by law.
2. Testing dates, data reporting, and related matters.
3. The date of the first day of instruction of the school year under Education Code 25.0811 for a school that was operating year-round for the 2000–01 school year.
4. Students' eligibility to participate in extracurricular activities when their calendar track is not in session.

Education Code 25.084

Length and Schedule	<p>A school day shall be at least seven hours each day, including intermissions and recesses. A day of instruction means 420 minutes of instruction.</p>
Pledges of Allegiance	<p>A board shall require students, once during each school day, to recite the pledges of allegiance to the United States and Texas flags.</p> <p>On written request from a student's parent or guardian, a district shall excuse the student from reciting a pledge of allegiance.</p>
Minute of Silence	<p>A board shall provide for the observance of one minute of silence following the recitation of the pledges of allegiance. During the one-minute period, each student may reflect, pray, or meditate, or engage in any other silent activity that is not likely to interfere with or distract another student. Each teacher or other school employee in charge of the students during that period shall ensure that each student remains silent and does not act in a manner that is likely to interfere with or distract another student.</p> <p><i>Education Code 25.082</i></p>
Kindergarten Program	<p>A public school kindergarten may be operated on a half-day or full-day basis as determined by the board. <i>Education Code 29.152</i></p>
Grant Programs	<p>A district may use funds from grants administered by the Commissioner to operate an existing half-day kindergarten on a full-day basis. <i>Education Code 29.155(a)</i></p>
Prekindergarten Grant Programs	<p>A district is eligible for half-day funding for each eligible student participating in a high-quality prekindergarten grant program. <i>Education Code 29.166</i> [See EHBG]</p>
Interruptions	<p>A board shall adopt and strictly enforce a policy limiting interruptions of classes during the school day for nonacademic activities such as announcements and sales promotions. At a minimum, the policy must limit announcements other than emergency announcements to once during the school day.</p>
Loss of Class Time	<p>A board shall adopt and strictly enforce a policy limiting the removal of students from class for remedial tutoring or test preparation. A district may not remove a student from a regularly scheduled class for remedial tutoring or test preparation if, as a result of the removal, the student would miss more than ten percent of the school days on which the class is offered, unless the student's parent or another person standing in parental relation to the student provides to the district written consent for removal from class for such purpose. [See EHBC for provisions on tutorial services.]</p> <p><i>Education Code 25.083</i></p>

INSTRUCTIONAL RESOURCES

EF
(LEGAL)

School Library

A district possesses significant discretion to determine the content of its school libraries. A district must, however, exercise its discretion in a manner consistent with the First Amendment.

Removal of Library
Materials

Students' First Amendment rights are implicated by the removal of books from the shelves of a school library. A district shall not remove materials from a library for the purpose of denying students access to ideas with which the district disagrees. A district may remove materials because they are pervasively vulgar or based solely upon the educational suitability of the books in question.

Bd. of Educ. v. Pico, 457 U.S. 853 (1982)

**Instructional
Materials**

Instructional materials selected for use in the public schools shall be furnished without cost to students attending those schools. Except as provided by Education Code 31.104(d), a district may not charge a student for instructional material or technological equipment purchased by the district with the district's technology and instructional materials allotment [see CMD]. *Education Code 31.001*

Parental Access

A parent is entitled to review all teaching materials, instructional materials, and other teaching aids used in the classroom of the parent's child and to review each test administered to the child after the test is administered. A district shall make teaching materials and tests readily available for parental review and may specify reasonable hours for such review.

A student's parent is entitled to request that a district allow the student to take home any instructional materials used by the student. Subject to the availability of the instructional materials, a district or school shall honor the request. A student who takes home instructional materials must return the instructional materials to school at the beginning of the next school day if requested to do so by the student's teacher.

Education Code 26.006

**Information
Collection and
Access**

U.S. DOE–Funded
Surveys

*Consent
Required*

No student shall be required, as part of any program funded in whole or in part by the U.S. Department of Education (DOE), to submit to a survey, analysis, or evaluation that reveals information concerning the topics listed at Protected Information, below, without the prior consent of the student (if the student is an adult or emancipated minor), or, in the case of an unemancipated minor, without the prior written consent of the parent. *20 U.S.C. 1232h(b)*

*Parental
Inspection*

All instructional materials, including teacher's manuals, films, tapes, or other supplementary material, that will be used in connection with any survey, analysis, or evaluation as part of any program

INSTRUCTIONAL RESOURCES

EF
(LEGAL)

Information
Collection Funded
by Other Sources
Policies

funded in whole or in part by the U.S. DOE shall be available for inspection by the parents or guardians of the children. *20 U.S.C. 1232h(a)*

Except as provided by 20 U.S.C. 1232h(a) or (b) [see U.S. DOE Funded Surveys, above], as a condition of receiving funds for a program funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the following:

1. The parent's right to inspect a survey created by a third party before the survey is administered or distributed by a school to the student and any applicable procedures for granting a request by a parent for reasonable access to such survey within a reasonable period of time after the request is received.
2. A district's arrangements to protect student privacy in the event a survey containing one or more of the items listed under Protected Information, below, is administered or distributed to a student.
3. The parent's right to inspect any instructional material used in the educational curriculum for the student and any applicable procedures for granting a request by a parent for reasonable access to instructional material within a reasonable period of time after the request is received.
4. The administration of physical examinations or screenings that a district may administer to the student.
5. The collection, disclosure, or use of personal information collected from students for the purpose of marketing or selling that information. This provision does not apply to use of personal information collected from students for the exclusive purpose of developing, evaluating, or providing educational products or services for or to students or educational institutions, such as recruiters, book clubs, curriculum and instructional materials used by schools, sale by students of products or services to raise funds for school-related or education-related activities, or student recognition programs.
6. The parent's right to inspect any instrument used in collection of personal information in item 5 above, before the instrument is administered and any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the re-

*Parental
Notification*

quirements of 20 U.S.C. 1232h(c)(1). [See CRD, FFAA, FL, and FNG]

A district shall provide for reasonable notice of the adoption or continued use of such policies directly to the parents of the students enrolled in schools served by the district. At a minimum, a district shall:

1. Provide notice at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies; and
2. Offer an opportunity for the parent to opt the student out of participation in an activity described below.

A district shall directly notify the parent of a student, at least annually at the beginning of the school year, of the specific or approximate dates during the school year when activities, described below, are scheduled or expected to be scheduled. The following activities require notification under this section:

1. Activities involving the collection, disclosure, or use of personal information collected from students for the purpose of marketing or for selling that information.
2. The administration of any survey containing one or more items described at Protected Information, below.
3. Any nonemergency, invasive physical examination or screening that is required as a condition of attendance, administered and scheduled by the school in advance, and not necessary to protect the immediate health and safety of the student or of other students.

20 U.S.C. 1232h(c)(1)–(4) [See FFAA]

*Protected
Information*

Protected information addressed by 20 U.S.C. 1232h includes:

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.

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6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student's parent.
8. Income (other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program).

20 U.S.C. 1232h(b), (c)(1)(B)

“Personal
Information”
Defined

The term “personal information” means individually identifiable information, including a student’s:

1. First and last name;
2. Home or physical address, including street name and city or town;
3. Telephone number; or
4. Social security identification number.

20 U.S.C. 1232h(c)(6)(E)

Note: For provisions regarding inventory and requisition of instructional materials, see CMD.

Definitions

“Instructional material” is defined as content that conveys the essential knowledge and skills of a subject in the public school curriculum through a medium or a combination of media for conveying information to a student. The term includes a book, supplementary materials, a combination of a book, workbook, and supplementary materials, computer software, magnetic media, DVD, CD-ROM, computer courseware, online services, or an electronic medium, or other means of conveying information to the student or otherwise contributing to the learning process through electronic means, including open education resource instructional material. *Education Code 31.002(1)*

“Open education resource instructional material” is teaching, learning, and research resources that reside in the public domain or have been released under an intellectual property license that allows for free use, reuse, modification, and sharing with others, including full courses, course materials, modules, textbooks, streaming videos, tests, software, and any other tools, materials, or techniques used to support access to knowledge. *Education Code 31.002(1-a)*

“Technological equipment” is hardware, a device, or equipment necessary for instructional use in the classroom, including to gain access to or enhance the use of electronic instructional materials; or professional use by a classroom teacher. *Education Code 31.002(4)*

**SBOE Instructional
Materials List**

For each subject and grade level, the State Board of Education (SBOE) shall adopt a list of instructional materials.

The list includes each instructional material that meets applicable physical specifications and contains material covering at least half of the elements of the essential knowledge and skills of the subject and grade level.

Education Code 31.023(a)

A district may requisition instructional materials on the SBOE’s list for grades above the grade level in which the student is enrolled. *19 TAC 66.104(b)*

Open Education
Resource
Instructional
Material

The SBOE shall place open education resource instructional material for a secondary-level course submitted for adoption by an eligible institution on the list if it satisfies the requirements described in Education Code 31.0241. *Education Code 31.0241(b)*

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**Commissioner
Instructional
Materials List**

The commissioner of education, with input from the SBOE, shall adopt a list of:

1. Electronic instructional material; and
2. Material that conveys information to the student or otherwise contributes to the learning process, including tools, models, and investigative materials designed for use as part of the foundation curriculum for science in kindergarten through grade 5 and personal financial literacy in kindergarten through grade 8.

Education Code 31.0231(a)

**Supplemental
Instructional
Materials List**

The SBOE may adopt supplemental instructional materials that are not on the SBOE instructional materials list. Supplemental instructional material adopted by the SBOE:

1. Must contain material covering one or more primary focal points or primary topics of a subject in the required curriculum;
2. Is not designed to serve as the sole instructional material for a full course;
3. Meets applicable physical specifications adopted by the State Board of Education;
4. Is free from factual errors;
5. Is suitable for the subject and grade level; and
6. Is reviewed by academic experts in the subject and grade level.

Education Code 31.035(a)

Local Selection

A board shall select instructional materials in an open meeting as required by the Texas Open Meetings Act, including public notice. *19 TAC 66.104(a)*

Notice to SBOE

Each year, during a period established by the SBOE, a board shall notify the SBOE of instructional materials selected in accordance with Education Code 31.101. *Education Code 31.101(a)*

*Foundation
Curriculum*

For subjects in the foundation curriculum, a board shall notify the SBOE of the instructional materials it selects from the instructional materials list, including the commissioner's instructional materials list. *Education Code 31.101(a)(1)*

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<i>Enrichment Curriculum</i>	For a subject in the enrichment curriculum, a board shall notify the SBOE of instructional material it selects from the instructional materials list, including the commissioner's instructional materials list, or that it selected instructional materials that do not appear on the list. <i>Education Code 31.101(a)(2)</i>
<i>Open Education Resource Instructional Materials</i>	<p>In selecting instructional material each year, a district may consider the use of open education resource instructional materials. <i>Education Code 31.101(b)</i></p> <p>A district may adopt state-developed open education resource instructional material at any time, regardless of the instructional material review and adoption cycle. <i>Education Code 31.073(c)</i></p>
Supplemental Materials	A board may requisition supplemental instructional materials adopted by the SBOE, as set forth at Education Code 31.035 [see CMD]. If a board requisitions supplemental instructional materials, the district shall certify to TEA that the supplemental instructional materials, in combination with any other instructional materials or supplemental instructional materials used by the district, cover the essential knowledge and skills for the course. <i>Education Code 31.035(d), (f)</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(c)</i>
Duration of Selection <i>Listed Materials</i>	<p>A district that selects subscription-based instructional material on the SBOE instructional materials list or electronic instructional material on the commissioner's instructional materials list may cancel the subscription and subscribe to new instructional material on the SBOE list or electronic instructional material on the commissioner's list before the end of the state contract period if:</p> <ol style="list-style-type: none">1. The district has used the instructional material for at least one school year; and2. TEA approves the change based on a written request to TEA by the district that specifies the reasons for changing the instructional material used by the district. <p><i>Education Code 31.101(e)</i></p>
<i>Other Materials</i>	For instructional material that is not on the instructional materials list, a district must use the instructional material for the period of the review and adoption cycle the SBOE has established for the subject and grade level for which the instruction material is used. <i>Education Code 31.101(d)</i>

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INSTRUCTIONAL MATERIALS

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Criminal Offense

A board member, administrator, or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated.

A board member, administrator, or teacher commits an offense if the person 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 instructional material or technological equipment; and
3. Could not be lawfully purchased with state instructional materials funds.

"Gift, favor, or service" does not include:

1. Staff development, in-service, or teacher training; or
2. Ancillary materials, such as maps or worksheets, that convey information to the student or otherwise contribute to the learning process.

Education Code 31.152

**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 a board with the advice of the local school health advisory council. *Education Code 28.004(e)* [See EHAA]

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Purpose

A primary purpose of the public school curriculum is to prepare thoughtful, active citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the basic democratic values of our state and national heritage. A district shall foster the continuation of the tradition of teaching United States and Texas history and the free enterprise system in regular subject matter, in reading courses, and in the adoption of textbooks. *Education Code 28.002(h)*

As a condition of accreditation, a district shall provide instruction in the essential knowledge and skills at appropriate grade levels in the foundation and enrichment curriculum. *Education Code 28.002(c); 19 TAC 74.1(b)*

A district shall ensure that all children in the district participate actively in a balanced curriculum designed to meet individual needs. *Education Code 28.002(g)*

Instruction may be provided in a variety of arrangements and settings, including mixed-age programs designed to permit flexible learning arrangements for developmentally appropriate instruction for all student populations to support student attainment of course and grade-level standards. *19 TAC 74.2*

Required Curriculum

Foundation
Curriculum

A district that offers kindergarten through grade 12 shall offer a foundation curriculum that includes:

1. English language arts and reading;
2. Mathematics;
3. Science; and
4. Social studies, consisting of Texas, United States, and world history; government; geography; and economics with emphasis on the free enterprise system and its benefits.

Education Code 28.002(a)(1); 19 TAC 74.1(a)(1)

Enrichment
Curriculum

A district that offers kindergarten through grade 12 shall offer an enrichment curriculum that includes:

1. Languages other than English, to the extent possible. American Sign Language is a language for these purposes and the district may offer an elective course in the language;
2. Health, with emphasis on the importance of proper nutrition and exercise;
3. Physical education;
4. Fine Arts;

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5. Career and technical education;
6. Technology applications;
7. Religious literature, including the Hebrew Scriptures (Old Testament) and New Testament, and its impact on history and literature; and
8. Personal financial literacy.

Education Code 28.002(a)(2), (e); 19 TAC 74.1(a)(2)

Local Credit

A district may offer courses for local credit, at its discretion, in addition to those in the required curriculum, but it may not delete or omit instruction in the foundation and enrichment curricula specified above. *Education Code 28.002(f); 19 TAC 74.1(b)*

Local Instructional Plan

A district's local instructional plan may draw on state curriculum frameworks and program standards as appropriate. A district is encouraged to exceed minimum requirements of law and State Board rule.

Major Curriculum Initiatives

Before the adoption of a major curriculum initiative, including the use of a curriculum management system, a district must use a process that:

1. Includes teacher input;
2. Provides district employees with the opportunity to express opinions regarding the initiative; and
3. Includes a meeting of the board at which information regarding the initiative is presented, including the cost of the initiative and any alternatives that were considered; and members of the public and district employees are given the opportunity to comment regarding the initiative.

Education Code 28.002(g)

Common Core State Standards

A district may not use common core state standards to comply with the requirement to provide instruction in the essential knowledge and skills at appropriate grade levels. A district may not be required to offer any aspect of a common core state standards curriculum. "Common core state standards" means the national curriculum standards developed by the Common Core State Standards Initiative. *Education Code 28.002(b-1), (b-3), (b-4)*

Coordinated Health Programs

TEA shall make available to a district one or more coordinated health programs or allow the development of district programs designed to prevent obesity, cardiovascular disease, oral disease, and type 2 diabetes in elementary, middle, and junior high school students. Each program must provide for coordinating:

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1. Health education, including oral health education;
2. Physical education and physical activity;
3. Nutrition services; and
4. Parental involvement.

Education Code 38.013; 19 TAC 102.1031(a)

A district shall participate in appropriate training to implement TEA's coordinated health program and shall implement the program in each elementary, middle, and junior high school in the district. *Education Code 38.014*

Coordinated school health programs that are developed by districts and that meet TEA criteria may be approved and made available as approved programs. Districts must use materials that are proven effective, such as TEA-approved textbooks or materials developed by nationally recognized and/or government-approved entities. *19 TAC 102.1031(c)*

Physical Education

Each school district shall establish specific objectives and goals the district intends to accomplish through the physical education curriculum. The physical education curriculum must be sequential, developmentally appropriate, and designed, implemented, and evaluated to enable students to develop the motor, self-management, and other skills, knowledge, attitudes, and confidence necessary to participate in physical activity throughout life.

A physical education course shall:

1. Offer students an opportunity to choose among many types of physical activity in which to participate;
2. Offer students both cooperative and competitive games; and
3. Be an enjoyable experience for students.

On a weekly basis, at least 50 percent of a physical education class shall be used for actual student physical activity and the activity shall be, to the extent practicable, at a moderate or vigorous level.

**Student/Teacher
Ratio**

The objectives and goals shall include, to the extent practicable, student/teacher ratios [see EEB] that are small enough to enable the district to:

1. Carry out the purposes of and requirements for the physical education curriculum; and

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2. Ensure the safety of students participating in physical education.

If a district establishes a student to teacher ratio greater than 45 to 1 in a physical education class, the district shall specifically identify the manner in which the safety of the students will be maintained.

Education Code 25.114, 28.002(d); 19 TAC 74.37

Classification for
Physical Education

A district shall classify students for physical education on the basis of health into one of the following categories:

1. Unrestricted—not limited in activities.
2. Restricted—excludes the more vigorous activities. Restricted classification is of two types:
 - a. Permanent—A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the impairment and the expectations for physical activity for the student.
 - b. Temporary—Students may be restricted from physical activity of the physical education class. A member of the healing arts licensed to practice in Texas shall provide written documentation to the school as to the nature of the temporary impairment and the expected amount of time for recovery. During recovery time, the student shall continue to learn the concepts of the lessons but shall not actively participate in the skill demonstration.
3. Adapted and remedial—specific activities prescribed or prohibited for students as directed by a member of the healing arts licensed to practice in Texas.

19 TAC 74.31

**School Health
Advisory Council**

A board shall establish a local school health advisory council (SHAC) to assist the district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See BDF regarding composition of the SHAC and FFA regarding federal wellness requirements]

Duties

The SHAC's duties include recommending:

1. The number of hours of instruction to be provided in health education;
2. Policies, procedures, strategies, and curriculum appropriate for specific grade levels designed to prevent obesity, cardiovascular disease, type 2 diabetes, and mental health concerns through coordination of:

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- a. Health education,
 - b. Physical education and physical activity,
 - c. Nutrition services,
 - d. Parental involvement,
 - e. Instruction to prevent the use of e-cigarettes, as defined by Health and Safety Code 161.081, and tobacco,
 - f. School health services,
 - g. Counseling and guidance services,
 - h. A safe and healthy school environment, and
 - i. School employee wellness;
3. Appropriate grade levels and methods of instruction for human sexuality instruction;
4. Strategies for integrating the curriculum components specified by item 2, above, with the following elements in a coordinated school health program:
 - a. School health services,
 - b. Counseling and guidance services,
 - c. A safe and healthy school environment, and
 - d. School employee wellness; and
5. If feasible, joint use agreements or strategies for collaboration between the district and community organizations or agencies. Any agreement entered into based on a recommendation of the SHAC must address liability for the district and community organization.

Education Code 28.004(c), (n)

The SHAC shall consider and make policy recommendations to the district concerning the importance of daily recess for elementary school students. The SHAC must consider research regarding unstructured and undirected play, academic and social development, and the health benefits of daily recess in making the recommendations. The SHAC shall ensure that local community values are reflected in any policy recommendation made to the district concerning the importance of daily recess for elementary school students.

Education Code 28.004(l)

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**Content of Human
Sexuality Instruction**

The board shall determine the specific content of a district's instruction in human sexuality. *Education Code 28.004(h)*

The board shall select any instruction relating to human sexuality, sexually transmitted diseases, or human immunodeficiency virus (HIV) or acquired immune deficiency syndrome (AIDS) with the advice of the SHAC. The instruction must:

1. Present abstinence as the preferred choice of behavior for unmarried persons of school age;
2. Devote more attention to abstinence than to any other behavior;
3. Emphasize that abstinence is the only method that is 100 percent effective in preventing pregnancy, sexually transmitted diseases, infection with HIV or AIDS, and the emotional trauma associated with adolescent sexual activity;
4. Direct adolescents to a standard of behavior in which abstinence before marriage is the most effective way to prevent pregnancy, sexually transmitted diseases, and infection with HIV or AIDS; and
5. Teach contraception and condom use in terms of human use reality rates instead of theoretical laboratory rates, if instruction on contraception and condoms is included in the curriculum.

Education Code 28.004(e)

Condoms

A district may not distribute condoms in connection with instruction relating to human sexuality. *Education Code 28.004(f)*

Separate Classes

If a district provides human sexuality instruction, it may separate students according to sex for instructional purposes. *Education Code 28.004(g)* [See FB regarding single-sex classes under Title IX]

Notice to Parents

Before each school year, a district shall provide written notice to a parent of each student enrolled in the district of the board's decision regarding whether the district will provide human sexuality instruction to district students. If instruction will be provided, the notice must include:

1. A summary of the basic content of the district's human sexuality instruction to be provided to the student, including a statement informing the parent of the instructional requirements under state law;
2. A statement of the parent's right to:

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REQUIRED INSTRUCTION (ALL LEVELS)

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- a. Review curriculum materials as provided by Education Code 28.004(j); and
 - b. Remove the student from any part of that instruction without subjecting the student to any disciplinary action, academic penalty, or other sanction imposed by the district or the student's school; and
3. Information describing the opportunities for parental involvement in the development of the curriculum to be used in human sexuality instruction, including information regarding the SHAC.

A parent may use the grievance procedure at FNG concerning a complaint of a violation of notice requirements.

Education Code 28.004(i)–(i-1)

Availability of
Materials

A district shall make all curriculum materials used in human sexuality instruction available for reasonable public inspection. *Education Code 28.004(j)* [See EFA regarding selection of curriculum materials for human sexuality instruction]

**Steroid Notice and
Education**

A district shall, at appropriate grade levels as determined by the State Board of Education, provide to students involved in extracurricular athletic activities information developed by TEA regarding the use of anabolic steroids and the health risks involved with such use. *Education Code 38.0081(b)*

Each school in a district in which there is a grade level of seven or higher shall post in a conspicuous location in the school gymnasium and each other place in a building where physical education classes are conducted a notice regarding steroids, using the text set forth at Education Code 38.008 [see FNCF(LEGAL)]. *Education Code 38.008*

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ELECTIVE INSTRUCTION

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Driver Education

A school district shall consider offering a driver education and traffic safety course during each school year. If the district offers the course, the district may:

1. Conduct the course in accordance with 19 Administrative Code Chapter 75 and charge a fee for the course in the amount determined by TEA to be comparable to the fee charged by a driver education school that holds a license under Education Code Chapter 1001; or
2. Contract with a driver education school that holds a license under Education Code Chapter 1001 to conduct the course.

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 minor and adult driver education program. *Education Code 29.902; 16 TAC 84.700(i)(1)*

Life Skills Programs

A district may provide an integrated program of educational and support services for students who are pregnant or who are parents. If a 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.

A district shall solicit recommendations for obtaining community support for the students and their children in the life skills programs.

**School-Based
Savings Program**

A district may operate a shared services arrangement program to operate a life skills program for student parents.

Education Code 29.085 [See EHBC and FNE]

A district may establish a school-based savings program to facilitate increased awareness of the importance of saving for higher education and facilitate personal financial literacy instruction. A district may offer the program in conjunction with a personal financial literacy course under Education Code 28.0021 [see EHAC].

A school-based savings program may, through partnerships with appropriate institutions, promote:

1. General savings, by offering savings accounts or certificates of deposit through partner financial institutions; or
2. Savings dedicated for higher education, by offering through partner institutions the following accounts or bonds the primary purpose of which must be to pay expenses associated with higher education:
 - a. An account authorized under Section 529, Internal Revenue Code of 1986;
 - b. A Coverdell education savings account established under 26 U.S.C. Section 530;
 - c. A certificate of deposit;
 - d. A savings account; and
 - e. A Series I savings bond.

A district establishing a program:

1. Shall seek to establish partnerships with appropriate institutions that are able to offer an account or bond above; and
2. May seek to establish partnerships with public sector partners, private businesses, nonprofit organizations, and philanthropic organizations in the community.

A partnership established between a district and:

1. An appropriate institution may allow a student in the program or the student and an adult in the student's family jointly to have an opportunity to establish an account or purchase a bond; and
2. An appropriate institution, public sector partner, private business, or nonprofit or philanthropic organization may provide:

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- a. A structure for the management of the program; and
- b. Incentives that encourage contribution to a school-based account or purchase of a bond, including incentives that provide matching funds or seed funding.

Education Code 28.0024

Local Credit Courses

A 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 and approve courses in cybersecurity for credit for high school graduation. *Education Code 28.002(f)* [See EIF]

Dyslexia and Related Disorders

A 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 *Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders*.

Screening, Testing, and Identification

Students enrolling in public schools in Texas shall be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program must include screening at the end of the school year of each student in kindergarten and each student in the first grade.

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, a district shall notify the student's parent or guardian or another person standing in parental relation to the student.

A process for early identification, intervention, and support for students at risk for dyslexia and related disorders must be available, as outlined in the *Dyslexia Handbook*.

Treatment

Each school shall provide each identified student access at his or her campus to instructional programs required at Reading Program, below, and to the services of a teacher trained in dyslexia and related disorders. A district may, with the approval of each student's parents or guardians, offer additional services at a centralized location, but centralized services shall not preclude each student from receiving services at his or her campus.

Reading Program

A district shall purchase a reading program or develop its own reading program that is aligned with the descriptors in the *Dyslexia Handbook*.

Teachers who screen and treat these students must be trained in instructional strategies that utilize individualized, intensive, multi-sensory, phonetic methods and a variety of writing and spelling components described in the *Dyslexia Handbook*. The professional development activities specified by the district- and/or campus-level committees shall include these instructional strategies.

Reassessment

Unless otherwise provided by law, a student determined to have dyslexia during screening or testing or accommodated because of dyslexia may not be rescreened or retested for dyslexia for the purpose of reassessing the student's need for accommodations until the district reevaluates the information obtained from previous screening or testing of the student.

Notice to Parents A 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 A 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

Parental Notice of Assistance for Learning Difficulties Each school year, a district shall notify a parent of each child, other than a child enrolled in a special education program under Education Code Chapter 29, Subchapter A, who receives assistance from the district for learning difficulties, including through the use of intervention strategies that the district provides that assistance to the child. The notice must:

1. Be provided when the child begins to receive the assistance for that school year;
2. Be written in English or, to the extent practicable, the parent's native language;
3. Include:
 - a. A reasonable description of the assistance that may be provided to the child, including any intervention strategies that may be used;
 - b. Information collected regarding any intervention in the base tier of a multi-tiered system of supports that has previously been used with the child;
 - c. An estimate of the duration for which the assistance, including through the use of intervention strategies, will be provided;
 - d. The estimated time frames within which a report on the child's progress with the assistance, including any intervention strategies used, will be provided to the parent; and
 - e. A copy of the explanation provided under Education Code 26.0081(c). [See FB]

This required notice may be provided to a child's parent at a meeting of the team established for the child under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), if applicable.

Education Code 26.0081(d), (e)

"Intervention strategy" means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies. *Education Code 26.004(a)*

SPECIAL EDUCATION
ARD COMMITTEE AND INDIVIDUALIZED EDUCATION PROGRAM

EHBAB
(LEGAL)

**Admission, Review,
and Dismissal
Committee**

A district shall establish an admission, review, and dismissal (ARD) committee for each eligible student with a disability and for each student for whom a full individual and initial evaluation is conducted. The ARD committee shall be the individualized education program (IEP) team defined at 34 C.F.R. 300.321.

Responsibilities of
ARD Committee

The responsibilities of the ARD committee and the district include:

1. Evaluation, reevaluation, and determination of eligibility for special education and related services;
2. Placement of students with disabilities including disciplinary changes in placement;
3. Development of the student's IEP;
4. Development and implementation of service plans for students who have been placed by their parents in private schools and who have been designated to receive special education and related services;
5. Compliance with the least restrictive environment standard;
6. Compliance with state requirements for reading diagnosis and state assessments;
7. Development of junior high or middle school personal graduation plans;
8. Development of accelerated instruction under Education Code 28.0211 and intensive programs of instruction under Education Code 28.0213 [see EHBC];
9. Evaluation, placement, and coordination of services for students who are deaf, hard of hearing, blind, or visually impaired; and
10. Determining eligibility for extracurricular activities, under Education Code 33.081.

19 TAC 89.1050(a); 34 C.F.R. 300.116(a), .321(a)

Committee
Members

A district shall ensure that each ARD committee meeting includes all of the following:

1. The parents of a student with a disability;
2. At least one regular education teacher of the student (if the student is, or may be, participating in the regular education environment);
3. At least one special education teacher or, if appropriate, at least one special education provider of the student;

4. A representative of the district who:
 - a. Is qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of students with disabilities;
 - b. Is knowledgeable about the general education curriculum; and
 - c. Is knowledgeable about the availability of resources of the district;
5. Other individuals who have knowledge or special expertise regarding the student at the discretion of the district or the parent;
6. An individual who can interpret the instructional implications of evaluation results, who may be a member of the ARD committee described in items 2–5;
7. The student, if appropriate;
8. For a student with an auditory impairment, including deaf-blindness, a teacher who is certified in the education of students with auditory impairments;
9. For a student with a visual impairment, including deaf-blindness, a teacher who is certified in the education of students with visual impairments;
10. For a student with limited English proficiency, a member of the language-proficiency assessment committee (LPAC), who may also be a member as described at items 2 or 3;
11. A representative of any participating agency likely to be responsible for providing transition services for a student, as appropriate, and with the consent of the student's parents or a student who has reached the age of majority; and
12. When considering initial or continued placement of a student in a career and technical education program, a representative from career and technical education, preferably the teacher.

20 U.S.C. 1414(d)(1)(B); 34 C.F.R. 300.321; 19 TAC 75.1023(d)(1), 89.1050(c)

A district member of the ARD committee shall not be required to attend an IEP meeting, in whole or in part, if the parent and the district agree in writing that the attendance is not necessary because the member's area of the curriculum or related services is not being modified or discussed during the meeting.

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A district member of the ARD committee may be excused from attending an IEP meeting, in whole or in part, when the meeting involves a modification to or discussion of the member's area of curriculum or related services if the parent, in writing, and the district consent to the excusal and the member submits, in writing, to the parent and the ARD committee, input into the development of the IEP before the meeting.

20 U.S.C. 1414(d)(1)(C); 34 C.F.R. 300.321(e)

*Regular
Education
Teacher*

If an ARD committee is required to include a regular education teacher, the regular education teacher must, to the extent practicable, be a teacher who is responsible for implementing a portion of the child's IEP. *Education Code 29.005(a)*

*Parent
Involvement*

A district shall take steps to ensure that one or both parents of a student with a disability are present at each ARD committee meeting or are afforded an opportunity to participate, including:

1. Notifying the parents of the meeting early enough to ensure that they will have an opportunity to attend (the notice shall include the purpose, time, and location of the meeting, who will be in attendance, that persons with knowledge or special expertise may be invited by either the parent or the district, and that the Part C service coordinator or other representatives of the Part C system may be invited to the initial meeting for a child previously served under a Part C early childhood intervention program); and
2. Scheduling the meeting at a mutually agreed on time and place.

If the purpose of the meeting is to consider transition services, the notice must also indicate this purpose, indicate that the district will invite the student, and identify any other agency that will be invited to send a representative.

34 C.F.R. 300.322(a)–(b); 19 TAC 89.1050(d)

*Alternative
Means of
Meeting
Participation*

If neither parent can attend an ARD meeting, the district must allow other methods of participation, such as through telephone calls or video conferencing. *20 U.S.C. 1414(f); 34 C.F.R. 300.322(c); 19 TAC 89.1050(d)*

An ARD meeting may be conducted without a parent in attendance if a district is unable to convince the parents that they should attend, but the district shall have a record of its attempts to arrange a mutually agreed on time and place, such as detailed records of telephone calls, correspondence, or visits made or attempted and the results of any of those actions. *34 C.F.R. 300.322(d)*

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Meetings	<p>A district shall initiate and conduct ARD committee meetings for the purpose of developing, reviewing, and revising the IEP of a child with a disability. The committee shall review each child's IEP periodically, and, if appropriate, revise the IEP. A meeting must be held for this purpose at least once a year. The ARD committee must also determine the child's placement once a year.</p> <p>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.</p> <p><i>20 U.S.C. 1414(d)(4); 34 C.F.R. 300.116(b)(1), .324(b), (c)(1), .501(b)(3)</i></p>
<i>Meeting at Parent's Request</i>	<p>Upon receipt of a written request for an ARD committee meeting from a parent, the school district must schedule and convene a meeting in accordance with the procedures in 19 Administrative Code 89.1050(d) or within five school days, provide the parent with written notice explaining why the district refuses to convene a meeting. <i>19 TAC 89.1050(e)</i></p>
Written Notice	<p>If a parent is unable to speak English, a district must provide the parent with a written notice regarding the ARD committee meeting required under 19 Administrative Code 89.1050(d) (notice for purposes of scheduling) or (e)(2) (notice explaining why the district refuses to convene a meeting) in the parent's native language, unless it is clearly not feasible to do so. If the parent's native language is not a written language, the school district must take steps to ensure that the notice is translated orally or by other means to the parent in his or her native language or other mode of communication so that the parent understands the content of the notice. <i>19 TAC 89.1050(f)</i></p>
Transfer Students In-State Transfers	<p>When a student transfers to a new district within the state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new school district must meet the requirements of 34 C.F.R. 300.323(e) regarding the provision of special education services. The time line for completing the requirements outlined in 34 C.F.R. 300.323(e)(1) or (2) is 30 school days from the date the student is verified as being a student eligible for special education services.</p>

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Transfers from
Another State

When a student transfers from a district in another state in the same school year and the parents verify that the student was receiving special education services in the previous district or the previous district verifies in writing or by telephone that the student was receiving special education services, the new district must meet the requirements of 34 C.F.R. 300.323(f) regarding the provision of special education services. If the new district determines that an evaluation is necessary, the evaluation is considered a full individual and initial evaluation and must be completed within the time lines established by 19 Administrative Code 89.1011(c) and (e). The time line for completing the requirements in 34 C.F.R. 300.323(f)(2), if appropriate, is 30 calendar days from the date of the completion of the evaluation report. If the school district determines that an evaluation is not necessary, the time line for completing the requirements outlined in 34 C.F.R. 300.323(f)(2) is 30 school days from the date the student is verified as being a student eligible for special education services.

19 TAC 89.1050(j)

Transfer of Records

The district in which the child enrolls shall take reasonable steps to promptly obtain the child's records, including the IEP and supporting documents and any other records relating to the provision of special education or related services to the child, from the previous district.

The previous district shall take reasonable steps to promptly respond to the request from the new district and must furnish the new school district with a copy of the student's records, including the student's special education records, not later than the tenth working day after the date a request for the information is received by the previous school district.

20 U.S.C. 1414(d)(2)(C)(ii); 34 C.F.R. 300.323(g); 19 TAC 89.1050(j)(3)

Military Dependents

A district shall initially provide comparable services to a military student with disabilities based on his or her current IEP. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, C [See FDD]*

**Individualized
Education Program**

A district shall develop, review, and revise an IEP for each child with a disability. *20 U.S.C. 1412(a)(4); 34 C.F.R. 300.320(a)*

At the beginning of each school year, a district shall have in effect, for each child with a disability in its jurisdiction, an IEP. *20 U.S.C. 1414(d)(2)(A); 34 C.F.R. 300.323(a)*

The term “individualized education program” means a written statement for each student with a disability that documents the decisions of the ARD committee with respect to issues discussed at each committee meeting and includes:

1. A statement of the student’s present levels of academic achievement and functional performance;
2. A statement of measurable annual goals, including academic and functional goals;
3. A description of how the student’s progress toward the annual goals will be measured and when periodic reports on the progress of the student will be provided;
4. A statement of the specific special education and related services and supplementary aids and services, based on peer-reviewed research to the extent practicable, to be provided to the student;
5. A statement of the program modifications or supports for school personnel that will be provided for the student;
6. An explanation of the extent, if any, to which the student will not participate with nondisabled students in the regular class and in extracurricular and nonacademic activities;
7. The projected dates for initiation of services and modifications and the anticipated frequency, location, and duration of these services and modifications;
8. A statement of any individual appropriate accommodations that are necessary to measure the academic achievement and functional performance of the student on state or district-wide assessments;
9. If the ARD committee determines that the student must take an alternative assessment instead of a particular regular state or district-wide assessment, a statement of why the student cannot participate in the regular assessment and why the particular assessment selected is appropriate for the student;
10. If the ARD committee determines that a student is in need of extended school year (ESY) services, identification of the goals and objectives that will be addressed during ESY services;
11. Beginning not later than the first IEP to be in effect when the student is 14, or younger if determined appropriate by the ARD committee, and updated annually thereafter, a statement of appropriate, measurable postsecondary goals and transi-

tion services needed to assist the student in reaching those goals [see EHBAD];

12. Beginning not later than one year before the student reaches the age of 17, a statement that the student has been informed of the rights that will transfer to the student upon reaching the age of majority;
13. The date of the meeting;
14. The name, position, and signature of each member participating in the meeting; and
15. An indication of whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the decisions of the ARD committee.

20 U.S.C. 1414(d); 34 C.F.R. 300.320; Education Code 29.005(b-1), .0111; 19 TAC 89.1055

The written statement of a student's IEP may be required to include only information included in the model form developed by TEA under Education Code 29.0051(a) and posted on the TEA website. A district may use the model form to comply with the requirements for an IEP under 20 U.S.C. 1414(d). *Education Code 29.005(f), .0051*

Behavioral
Intervention Plan

The ARD committee may determine that a behavior improvement plan or a behavioral intervention plan (BIP) is appropriate for a student for whom the committee has developed an IEP. If the committee makes that determination, the BIP shall be included as part of the student's IEP and provided to each teacher with responsibility for educating the student. *Education Code 29.005(g); 19 TAC 89.1055(g)*

Translation of IEP
into Native
Language

If the parent is unable to speak English and Spanish is the parent's native language, a district shall provide a written or audiotaped copy of the student's IEP translated into Spanish. If the parent's native language is other than Spanish or English, a district shall make a good faith effort to provide a written or audiotaped copy of the student's IEP translated into the parent's native language. *Education Code 29.005(d)*

A written copy of the student's IEP translated into Spanish or the parent's native language means that all of the text in the student's IEP in English is accurately translated into the target language in written form. The IEP translated into the target language must be a comparable rendition of the IEP in English and not a partial translation or summary of the IEP in English.

An audio recording of the student's IEP translated into Spanish or the parent's native language means that all of the content in the student's IEP in English is orally translated into the target language and recorded with an audio device. A district is not prohibited from providing the parent with an audio recording of an ARD committee meeting at which the parent was assisted by an interpreter as long as the audio recording provided to the parent contains an oral translation into the target language of all of the content in the student's IEP in English.

If a parent's native language is not a written language, the district must take steps to ensure that the student's IEP is translated orally or by other means to the parent in his or her native language or other mode of communication.

Under 34 C.F.R. 300.322(f), a district must give a parent a written copy of the student's IEP at no cost to the parent. A school district meets this requirement by providing a parent with a written copy of the student's IEP in English or by providing a parent with a written translation of the student's IEP in the parent's native language as provided above.

19 TAC 89.1050(i)

Autism/Pervasive
Developmental
Disorder

For students with autism/pervasive developmental disorders, the following strategies shall be considered by the ARD committee, based on peer-reviewed, research-based educational programming practices to the extent practicable and, when needed, addressed in the IEP:

1. Extended educational programming;
2. Daily schedules reflecting minimal unstructured time and active engagement in learning activities;
3. In-home training and community-based training or viable alternatives that assist the student with the acquisition of social/behavioral skills;
4. Positive behavior support strategies based on relevant information;
5. Beginning at any age, futures planning for integrated living, work, community, and educational environments that considers skills necessary to function in current and postsecondary environments;
6. Parent/family training and support, provided by qualified personnel with experience in Autism Spectrum Disorders (ASD);

7. Suitable staff-to-student ratio appropriate to identified activities and as needed to achieve social/behavioral progress based on the student's developmental and learning level (acquisition, fluency, maintenance, generalization) that encourages work towards individual independence;
8. Communication interventions, including language forms and functions that enhance effective communication across settings;
9. Social skills supports and strategies based on social skills assessment/curriculum and provided across settings;
10. Professional educator/staff support; and
11. Teaching strategies based on peer-reviewed, research-based practices for students with ASD.

If the ARD committee determines that services are not needed in one or more of the areas in 1–11 above, the IEP shall include a statement reflecting that decision and the basis upon which the determination was made.

19 TAC 89.1055(e)–(f)

*Visual
Impairment*

If a district provides special education services to students with visual impairments, it shall have written procedures as required in Education Code 30.002(c)(10) (staff access to resources). *19 TAC 89.1075(b)*

*Collaborative
Process*

All members of the ARD committee shall have the opportunity to participate in a collaborative manner in developing the IEP. Decisions of the ARD committee concerning the required elements of the IEP shall be made by mutual agreement, if possible. The ARD committee may agree to an annual IEP or an IEP of shorter duration.

Ten-Day Recess

When mutual agreement about all required elements of the IEP is not achieved, the parent who disagrees must be offered a single opportunity to recess and reconvene the ARD committee meeting. The period of time for reconvening the ARD committee meeting must not exceed ten school days, unless the parties mutually agree otherwise. The ARD committee must schedule the reconvened meeting at a mutually agreed upon time and place. The opportunity to recess and reconvene is not required when:

1. The student's presence on campus represents a danger of physical harm to the student or others;
2. The student has committed an expellable offense; or

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3. The student has committed an offense that may lead to placement in a disciplinary alternative education program.
[See FOF]

These requirements do not prohibit the ARD committee from recessing an ARD committee meeting for reasons other than the failure to reach mutual agreement about all required elements of an IEP.

During the recess, the ARD committee members must consider alternatives, gather additional data, prepare further documentation, and/or obtain additional resource persons who may assist in enabling the ARD committee to reach mutual agreement.

Failure to Reach Agreement

If a recess is implemented and the ARD committee still cannot reach mutual agreement, a district shall implement the IEP it has determined to be appropriate for the student. Each member of the ARD committee who disagrees with the IEP developed by the ARD committee is entitled to include a statement of disagreement in the IEP.

If the IEP is not developed by agreement, the written statement of the program must include the basis of the disagreement. Each member of the ARD committee who disagrees with the IEP developed by the committee is entitled to include a statement of disagreement in the written statement of the program.

Education Code 29.005(c); 19 TAC 89.1050(g)

Modification of Existing IEP

Changes to the IEP may be made either by the entire ARD committee or by amending the IEP by agreement, rather than redrafting the entire IEP.

After the annual IEP meeting for a school year, the parent and district may agree not to convene an IEP meeting for the purposes of making changes to the IEP and instead may develop a written document to amend or modify the child's current IEP.

Upon request, a parent shall be provided with a revised copy of the IEP with amendments incorporated.

To the extent possible, a district shall encourage the consolidation of reevaluation meetings for the child and other ARD meetings for the child.

20 U.S.C. 1414(d)(3)(D)-(F); 34 C.F.R. 300.324(a)(4)-(6)

Teacher Access to IEP

Each district must ensure that each teacher who provides instruction to a student with a disability has access to relevant sections of the student's current IEP, is informed of the teacher's specific responsibilities related to implementation of the IEP, and has an op-

portunity to request assistance regarding implementation of the student's IEP. *19 TAC 89.1075(c)*

Teacher Request to Review IEP

Each district shall develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. To request a review of the student's IEP;
2. To provide input in the development of the student's IEP;
3. That provides for a timely district response to the teacher's request; and
4. That provides for notification to the student's parent or legal guardian of that response.

Education Code 29.001(11); 19 TAC 89.1075(d)

**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 if appropriate, acquisition of daily living skills and functional vocational evaluation.

20 U.S.C. 1401(34); 34 C.F.R. 300.43

**Individual Transition
Planning**

In accordance with Education Code 29.011 and 29.0111, not later than when a student reaches 14 years of age, the admission, review, and dismissal (ARD) committee must consider, and if appropriate, address the following issues in the individualized education program (IEP):

1. Appropriate student involvement in the student's transition to life outside the public school system;
2. If the student is younger than 18 years of age, appropriate involvement in the student's transition by the student's parents and other persons invited to participate by the student's parents or the school district in which the student is enrolled;
3. If the student is at least 18 years of age, involvement in the student's transition and future by the student's parents and other persons, if the parent or other person is invited to participate by the student or the school district in which the student is enrolled or has the student's consent to participate pursuant to a supported decision-making agreement under Estates Code, Chapter 1357;
4. Appropriate postsecondary education options, including preparation for postsecondary-level coursework;
5. An appropriate functional vocational evaluation;
6. Appropriate employment goals and objectives;

7. If the student is at least 18 years of age, the availability of age-appropriate instructional environments, including community settings or environments that prepare the student for postsecondary education or training, competitive integrated employment, or independent living, in coordination with the student's transition goals and objectives;
8. Appropriate independent living goals and objectives;
9. Appropriate circumstances for facilitating a referral of a student or the student's parents to a governmental agency for services or public benefits, including a referral to a governmental agency to place the student on a waiting list for public benefits available to the student, such as a waiver program established under Section 1915(c), Social Security Act [42 U.S.C. Section 1396n(c)]; and
10. The use and availability of appropriate supplementary aids, services, curricula, and other opportunities to assist the student in developing decision-making skills; and supports and services to foster the student's independence and self-determination, including a supported decision-making agreement under Estates Code Chapter 1357.

In accordance with 34 C.F.R. 300.320(b), beginning not later than the first IEP to be in effect when the student turns 16 years of age, or younger if determined appropriate by the ARD committee, and updated annually thereafter, the IEP must include the following:

1. Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and
2. The transition services, including courses of study, needed to assist the student in reaching the postsecondary goals developed under item 1.

A student's ARD committee shall annually review the issues described above and, if necessary, update the portions of the student's IEP that address those issues.

[See EHBAB regarding membership of ARD committee for transition services meetings]

20 U.S.C. 1414(d)(1)(A)(i)(VIII), 1414(d)(6); 34 C.F.R. 300.320(b); Education Code 29.011, .0111; 19 TAC 89.1055(h), (i)

Transition and
Employment Guide

TEA is required to develop a transition and employment guide for students enrolled in special education programs and their parents

to provide information on statewide services and programs that assist in the transition to life outside the public school system. A school district shall:

1. Post the transition and employment guide on the district's website if the district maintains a website;
2. Provide written information and, if necessary, assistance to a student or parent regarding how to access the electronic version of the guide at:
 - a. The first meeting of the student's ARD committee at which transition is discussed; and
 - b. The first committee meeting at which transition is discussed that occurs after the date on which the guide is updated; and
3. On request, provide a printed copy of the guide to a student or parent.

Education Code 29.0112(a), (e)

Graduation

Graduation with a regular high school diploma under 19 Administrative Code 89.1070(b)(1), (b)(2)(D), (g)(1), (g)(2), (g)(3) or (g)(4)(D) terminates a student's eligibility for special education services. For students who receive a diploma according to 19 Administrative Code 89.1070(b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (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.

A 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 FAPE under state law.

A district shall provide the child with a summary of the child's academic achievement and functional performance, which shall include recommendations on how to assist the child in meeting the child's postsecondary goals.

[See EIF]

20 U.S.C. 1414(c)(5); 34 C.F.R. 300.102(a)(3), .305(e)(2); 19 TAC 89.1070(a), (k)

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**Procedural
Safeguards**

A district shall establish and maintain procedures to ensure that children with disabilities and their parents are guaranteed procedural safeguards with respect to the provision of a free appropriate public education (FAPE). *20 U.S.C. 1415(a)–(b)*

These procedures shall include the following:

1. An opportunity for the parents to review all education records and to participate in meetings relating to the identification, evaluation, and educational placement of the child and the provision of FAPE to the child. *34 C.F.R. 300.501*
2. An opportunity for the parents to obtain an independent educational evaluation of the child. *34 C.F.R. 300.502*
3. Protecting the rights of a child when no parent can be identified, a district cannot locate the parents, or the child is a ward of the state, which may include the assignment of an individual to act as a surrogate parent. *34 C.F.R. 300.519*
4. Prior written notice to the parents when a district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. *34 C.F.R. 300.503* [See Prior Notice and Consent, below]
5. Procedures to allow parties to resolve disputes through a mediation process. *34 C.F.R. 300.506*
6. An opportunity for any party to file a due process complaint on any matter relating to the identification, evaluation, or educational placement of the child, or the provision of FAPE to the child. [See Dispute Resolution, below] *34 C.F.R. 300.507*
7. Procedures that require either party, or the attorney representing a party, to provide to the other party a due process complaint (which shall remain confidential). *34 C.F.R. 300.508*

Consent

Consent means that:

1. The parent has been fully informed of all information relevant to the activity for which consent is sought, in his or her native language, or other mode of communication;
2. The parent understands and agrees in writing to the activity for which his or her consent is sought, and the consent describes that activity and lists the records (if any) that will be released and to whom; and

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3. The parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time. A revocation of consent is not retroactive.

If the parent revokes consent in writing for his or her child's receipt of services after the child is initially provided special education and related services, the district is not required to amend the child's education records to remove any references to the child's receipt of services because of the revocation of consent.

34 C.F.R. 300.9

Language of Notices

The procedural safeguards and prior notices described below must be written in language understandable to the general public. The notice must be provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so. *34 C.F.R. 300.503(c), .504(d)*

Electronic Delivery of Notices

A parent may elect to receive the procedural safeguards notice, prior notice, or notice of due process complaint by electronic mail if a district makes that option available. *34 C.F.R. 300.505*

Procedural Safeguards Notice

A district shall provide a copy of the procedural safeguards to parents only one time a year, except that a copy also shall be given to the parents:

1. Upon initial referral or parental request for evaluation;
2. Upon receipt of the first state complaint and upon receipt of the first due process complaint in a school year;
3. On the date of a decision to make a disciplinary removal that is a change in placement; and
4. Upon request by a parent.

A district may place a current copy of the procedural safeguards notice on its website, if it has one.

Contents of Notice

The notice shall include a full explanation of the procedural safeguards relating to:

1. Independent educational evaluations;
2. Prior written notice;
3. Parental consent;
4. Access to educational records;

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5. Opportunity to present and resolve complaints through the due process complaint and state complaint procedures, including:
 - a. The time period in which to file a complaint;
 - b. The opportunity for the district to resolve the complaint; and
 - c. The difference between the due process complaint and the state complaint procedures, including the jurisdiction of each procedure, what issues may be raised, filing and decisional time lines, and relevant procedures.
6. The availability of mediation;
7. The child's placement during pendency of any due process proceedings;
8. Procedures for children who are subject to placement in an interim alternative educational setting;
9. Requirements for unilateral placement by parents of children in private schools at public expense;
10. Hearings on due process complaints, including requirements for disclosure of evaluation results and recommendations;
11. Civil actions, including the time period in which to file such actions; and
12. Attorneys' fees.

20 U.S.C. 1415(a)–(b), (d); 34 C.F.R. 300.504

**Prior Notice and
Consent**

A district shall provide prior written notice to the parents a reasonable time before the district proposes to initiate or change, or refuses to initiate or change, the identification, evaluation, or educational placement of a child or the provision of FAPE to the child. *34 C.F.R. 300.503(a)*

Notice must be provided to the parent in the parent's native language or other mode of communication at least five school days before the school district proposes or refuses the action unless the parent agrees to a shorter time frame. *19 TAC 89.1050(h)*

Contents of Notice

The notice must include:

1. A description of the action proposed or refused by the district;
2. An explanation of why the district proposes or refuses to take the action;

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3. A description of each evaluation procedure, assessment, record, or report the district used as a basis for the proposed or refused action;
4. A statement that the parents have protection under the procedural safeguards and, if this notice is not an initial referral for evaluation, the means by which a copy of the procedural safeguards can be obtained;
5. Sources for parents to contact to obtain assistance in understanding the IDEA rules;
6. A description of other options the ARD committee [see EHBAB] considered and the reasons why those options were rejected; and
7. A description of other factors that are relevant to the district's proposal or refusal.

34 C.F.R. 300.503(b)

Consent to Initial Evaluation	Before a district conducts an initial evaluation, it shall provide prior written notice, including a description of any evaluation the district proposes to conduct, and obtain informed consent for the evaluation from the parents. <i>20 U.S.C. 1414(a)(1)(D), (E); 34 C.F.R. 300.304(a)</i>
Consent to Services	A district shall seek informed consent from the parent before providing special education and related services to a child. [See EHBAA] <i>20 U.S.C. 1414(a)(1)(D)</i>
Consent to Reevaluation	A district shall obtain informed parental consent before conducting any reevaluation of a child with a disability, except that such informed parental consent need not be obtained if the district can demonstrate that it has taken reasonable measures to obtain such consent and the parent has failed to respond. <i>20 U.S.C. 1414(c)(3)</i>
Psychological Examinations and Tests	<p>On request of a child's parent, before obtaining the parent's consent for the administration of any psychological examination or test to the child as part of the evaluation of the child's need for special education, a district shall provide to the child's parent:</p> <ol style="list-style-type: none">1. The name and type of the examination or test; and2. An explanation of how the examination or test will be used to develop an appropriate IEP for the child. <p>If a district determines that an additional examination or test is required for the evaluation of a child's need for special education, the district shall provide the information above to the parent regarding</p>

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the additional examination or test and shall obtain additional consent for the examination of test.

Education Code 29.0041(a), (b)

Dispute Resolution

The possible options for resolving disputes that arise between a parent and a school district relating to the identification, evaluation, or educational placement of or the provision of FAPE to a student with a disability include, but are not limited to:

1. ARD committee meetings, including IEP facilitation if offered by the district, under 19 Administrative Code 89.1196;
2. Meetings or conferences with the student's teachers;
3. Meetings or conferences, subject to the district's policies, with the campus principal, special education director, superintendent, or board;
4. Requesting state IEP facilitation in accordance with 19 Administrative Code 89.1197;
5. Requesting mediation through TEA in accordance with 19 Administrative Code 89.1193;
6. Filing a complaint with TEA in accordance with 19 Administrative Code 89.1195; or
7. Requesting a due process hearing through TEA in accordance with 19 Administrative Code 89.1151–.1191.

19 TAC 89.1150

**Due Process
Complaint**

Whenever a due process complaint has been received by a district, the parent shall have an opportunity for an impartial due process hearing, which shall be conducted by an impartial hearing officer selected by TEA. [For TEA rules on due process hearings, see 19 Administrative Code 89.1151–.1191.]

Timeline

Such due process complaint must set forth an alleged violation that occurred not more than one year before the date the parent knew or should have known about the alleged action that forms the basis of the complaint.

20 U.S.C. 1415(f)(1)(A); 19 TAC 89.1151(c), .1170(a)

Exception

This time line shall not apply if the parent was prevented from requesting a hearing due to:

1. A specific misrepresentation by a district that it had resolved the problem forming the basis of the complaint; or

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2. A district's withholding of information from the parent that the district was required by the IDEA to provide.

20 U.S.C. 1415(f)(3)(D); 34 C.F.R. 300.511(f), 19 TAC 89.1151(d)

"Stay Put"

During the pendency of any proceeding conducted under IDEA part B (except proceedings to challenge a disciplinary change of placement or manifestation determination), the child shall remain in the then-current educational placement unless the district and the parent agree otherwise. If the child is applying for initial admission to a public school, the child shall, with the consent of the parents, be placed in the public school program until all proceedings have been completed. *20 U.S.C. 1415(j); 34 C.F.R. 300.518, .533*

Exception

When a due process hearing has been requested by a parent or district concerning a disciplinary change of placement or manifestation determination, the child shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the child's assignment to the alternative setting, or the 45-day time line, if applicable, whichever occurs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(3)(A), 1415(k)(4)(A); 34 C.F.R. 300.533 [See FOF]*

Resolution Process

Within 15 calendar days of receiving notice of a parent's due process complaint, and before initiating a due process hearing, a district shall convene a meeting with the parent and the relevant member or members of the ARD committee. The purpose of the meeting is for the parent to discuss the due process complaint and the facts that form the basis of the due process complaint, so that the district has the opportunity to resolve the dispute.

The meeting need not be held if the parent and the district agree in writing to waive the meeting, or the parent and the district agree to use the mediation process.

If the district has not resolved the due process complaint to the satisfaction of the parent within 30 calendar days of the receipt of the complaint, the due process hearing may occur. If the district is unable to obtain the participation of the parent in the resolution meeting after reasonable efforts have been made, the district may, at the conclusion of the 30-day period, request that a hearing officer dismiss the parent's request for a hearing.

34 C.F.R. 300.510, 19 TAC 89.1183

Transfer of Rights to Adult Students

Not later than one year before the 18th birthday of a student with a disability, the district at which the student is enrolled shall:

1. Provide to the student and the student's parents:

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- a. Written notice regarding the transfer of rights; and
 - b. Information and resources regarding guardianship, alternatives to guardianship, including a supported decision-making agreement under Estates Code, Chapter 1357, and other supports and services that may enable the student to live independently; and
2. Ensure that the student's individualized education program includes a statement that the district provided the required notice, information, and resources.

When a student reaches the age of 18, a district shall provide written notice to the student and the student's parents of the transfer of parental rights. The notice must include the information required above. This notice is separate and distinct from the requirement that, beginning at least one year before the student reaches the age of 18, the student's IEP include a statement regarding transfer of parental rights.

If a student with a disability or the student's parent requests information regarding guardianship or alternatives to guardianship from the district, the district shall provide to the student or parent information and resources on supported decision-making agreements under Estates Code, Chapter 1357.

A student with a disability who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, shall have the same right to make educational decisions as a student without a disability. All other rights accorded to parents under Chapter 29, Subchapter A of the Education Code or 20 U.S.C. 1415 transfer to the student.

34 C.F.R. 300.520; Education Code 29.017(a), (c), (c-1), (c-2); 19 TAC 89.1049(c)

**Special Education
Decision-Making for
Children in Foster
Care**

A foster parent may act as a parent of a child with a disability, as authorized under 20 U.S.C. Section 1415(b) and its subsequent amendments, if:

1. The Department of Family and Protective Services (DFPS) is appointed as the temporary or permanent managing conservator of the child;
2. The rights and duties of the department to make decisions regarding education provided to the child under Family Code 153.371 have not been limited by court order; and
3. The foster parent agrees to:

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- a. Participate in making special education decisions on the child's behalf; and
- b. Complete a training program that complies with minimum standards established by agency rule.

Training

A foster parent who will act as a parent of a child with a disability must complete a training program before the next scheduled ARD committee meeting for the child but not later than the 90th day after the date the foster parent begins acting as the parent for the purpose of making special education decisions.

A district may not require a foster parent to retake a training program to continue serving as a child's parent or to serve as the surrogate parent for another child if the foster parent has completed a training program to act as a parent of a child with a disability provided by:

1. DFPS;
2. A school district;
3. An education service center; or
4. Any other entity that receives federal funds to provide special education training to parents.

A foster parent who is denied the right to act as a parent by a school district may file a complaint with TEA in accordance with federal law and regulations.

Not later than the fifth day after the date a child with a disability is enrolled in a school, DFPS must inform the appropriate school district if the child's foster parent is unwilling or unable to serve as a parent.

Education Code 29.015

**Appointment of
Surrogate Parent for
Certain Children**

These provisions apply to a child with a disability for whom:

1. DFPS is appointed as the temporary or permanent managing conservator of the child; and
2. The rights and duties of the department to make decisions regarding the child's education under Family Code 153.371 have not been limited by court order.

A school district must appoint an individual to serve as the surrogate parent for a child if the district is unable to identify or locate a parent for a child with a disability or the foster parent of a child is unwilling or unable to serve as a parent for the purposes of this subchapter.

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A surrogate parent appointed by a school district may not be an employee of the state, the school district, or any other agency involved in the education or care of the child; or have any interest that conflicts with the interests of the child.

A surrogate parent appointed by a district must:

1. Be willing to serve in that capacity;
2. Exercise independent judgment in pursuing the child's interests;
3. Ensure that the child's due process rights under applicable state and federal laws are not violated;
4. Complete a training program that complies with minimum standards established by agency rule within the time specified in Education Code 29.015(b);
5. Visit the child and the school where the child is enrolled;
6. Review the child's educational records;
7. Consult with any person involved in the child's education, including the child's:
 - a. Teachers;
 - b. Caseworkers;
 - c. Court-appointed volunteers;
 - d. Guardian ad litem;
 - e. Attorney ad litem;
 - f. Foster parent; and
 - g. Caregiver; and
8. Attend meetings of the child's ARD committee.

The district may appoint a person who has been appointed to serve as a child's guardian ad litem or as a court-certified volunteer advocate, as provided under Section 107.031(c), Family Code, as the child's surrogate parent.

If a court appoints a surrogate parent for a child with a disability under Family Code 263.0025, and the school district determines that the surrogate parent is failing to perform or is not properly performing the duties, the district shall consult with the DFPS and appoint another person to serve as the surrogate parent for the child.

On receiving notice from a school district, the DFPS must promptly notify the court of the failure of the appointed surrogate parent to properly perform the duties required under this section.

Education Code 29.0151

**Parental Consent
Not Required**

An employee of a school district 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 for a purpose related to the promotion of student safety as described by this policy. *Education Code 26.009(b)*

**Video Surveillance
Upon Request to
Promote Student
Safety**

In order to promote student safety, on receipt of an authorized written request, a school district shall provide equipment, including a video camera, to the school in the district specified in the request.

**Classroom or Other
Setting**

A school that receives equipment shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day, provided that:

1. A campus that receives equipment as a result of the request by a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable; and
2. A campus that receives equipment as a result of the request by a board of trustees, principal, or assistant principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings subject to Education Code 29.022

**Administrative
Coordinator**

Each district shall designate an administrator at the primary administrative office of the district with responsibility for coordinating the provision of equipment to schools and campuses.

**Authorized
Requestors**

The following people may request in writing that equipment be provided to a campus at which one or more children receive special education services in a qualifying classroom or setting:

1. A parent of a child who receives special education services for the campus at which the child receives those services;
2. The board of trustees for one or more specified campuses;
3. The principal or assistant principal for their campus; and
4. A staff member assigned to work with one or more children receiving special education services for the campus at which the staff member works.

*Processing the
Request*

A written request must be submitted and acted on as follows:

1. A parent, staff member, or assistant principal must submit a request to the principal or the principal's designee of the campus addressed in the request, and the principal or designee must provide a copy of the request to the district's designated administrator;
2. A principal must submit a request by the principal to the district's designated administrator; and
3. A board of trustees must submit a request to the district's designated administrator, and the administrator must provide a copy of the request to the principal or the principal's designee of the campus addressed in the request.

A school shall operate and maintain the camera in the classroom or setting as long as the classroom or setting continues to satisfy these requirements, for the remainder of the school year in which the campus received the request, unless the requestor withdraws the request in writing.

Video Cameras

The video cameras must be capable of:

1. Covering all areas of the classroom or setting, including a room attached to the classroom or setting used for time-out; and
2. Recording audio from all areas of the classroom or setting, including a room attached to the classroom or setting used for time-out.

The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of the classroom or setting.

Written Notice

Before a school activates a video camera in a classroom or setting, the school shall provide written notice of the placement to all school staff and to the parents of each student attending class or engaging in school activities in the classroom or setting.

If for any reason a campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request. Not later than the tenth school day before the end

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of each school year, the campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

Retention Period

A school district shall retain video recorded from a video camera for at least three months after the date the video was recorded.

If a person requests to view a video recording from a video camera, a school district must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, the district or school shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

Gifts, Grants, and
Donations

A school district may solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or settings.

No Waiver of
Immunity

The requirements described by this policy do not:

1. Waive any immunity from liability of a school district, or of district officers or employees; or
2. Create any liability for a cause of action against a school district or against district officers or employees.

No Monitoring

A school district may not:

1. Allow regular or continual monitoring of video recorded under Education Code 29.022; or
2. Use video for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services.

Confidentiality

A video recording of a student is confidential and may not be released or viewed except as provided below.

Limited Release

A school district shall release a recording for viewing by:

1. An employee who is involved in an alleged incident that is documented by the recording and has been reported to the district, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to the district or school, on request of the parent;

3. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged or suspected abuse or neglect of a child under Family Code 261.406;
4. A peace officer, a school nurse, a district administrator trained in de-escalation and restraint techniques as provided by commissioner's rule, or a human resources staff member designated by the board in response to a report of an alleged incident or an investigation of district personnel or a report of alleged abuse committed by a student; or
5. Appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording does not violate these confidentiality provisions.

Duty to Report

If a person described by item 4 or 5 above who views the video recording believes that the recording documents a possible violation under Family Code, Chapter 261, Subchapter E, the person shall notify DFPS for investigation in accordance with Family Code 261.406.

*Use in
Disciplinary
Actions Against
District Personnel*

If any person described by item 3, 4, or 5 above who views the recording believes that the recording documents a possible violation of district policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of district policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against district personnel and shall be released at the request of the student's parent in a legal proceeding.

FERPA

State law does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act or other law.

District Policy

A school district policy relating to the placement, operation, or maintenance of video cameras under this section must:

1. Include information on how a person may appeal an action by the district or school that the person believes to be in violation of law or a policy adopted in accordance with the law, including the appeals process under Education Code 7.057;
2. Require that the district provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that au-

thorizes the request or states the reason for denying the request;

3. Require that a school begin operation of a video camera in compliance with this section not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized unless the agency grants an extension of time;
4. Permit the parent of a student whose admission, review, and dismissal committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed under this section to make a request for the video camera by the later of:
 - a. The date on which the current school year ends; or
 - b. The tenth school business day after the date of the placement determination by the admission, review, and dismissal committee; and
5. If a request is made by a parent in compliance with item 4, above, unless the agency grants an extension of time, require that a school begin operation of a video camera not later than the later of:
 - a. The tenth school day of the fall semester; or
 - b. The 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

Expedited Review

A school district, parent, staff member, or administrator may request an expedited review by the agency of the district's:

1. Denial of a request;
2. Request for an extension of time to begin operation of a video camera; or
3. Determination to not release a video recording.

If a school district, parent, staff member, or administrator requests an expedited review, the agency shall notify all other interested parties of the request.

If an expedited review has been requested, the agency shall issue a preliminary judgment as to whether the district is likely to prevail on the issue under a full review by the agency. If the agency determines that the district is not likely to prevail, the district must fully comply with this section notwithstanding an appeal of the agency's

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decision. The agency shall notify the requestor and the district, if the district is not the requestor, of the agency's determination.

Governmental
Record

A video recording under this section is a governmental record only for purposes of Penal Code 37.10.

Operation of
Camera

These provisions apply to the placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

A video camera placed under this section is not required to be in operation for the time during which students are not present in the classroom or other special education setting.

Definitions

"Parent" includes a guardian or other person standing in parental relation to a student.

"School business day" means a day that campus or school district administrative offices are open.

"Self-contained classroom" does not include a classroom that is a resource room instructional arrangement under Education Code 42.151.

"Staff member" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

"Time-out" has the meaning assigned by Education Code 37.0021.

Education Code 29.022

Note: Unless otherwise noted, the terms “video recording,” “video surveillance,” and “video monitoring” shall also include any associated audio recordings. In addition, the term “classroom” shall also include other special education settings subject to video and audio recording required by law.

To promote student safety, the District shall comply with requests for video and audio monitoring of certain self-contained special education classrooms as required by law. Regular or continual monitoring of video recordings shall be prohibited. Video recordings shall not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

The Superintendent is responsible for coordinating the provision of equipment to campuses in compliance with the law.

The Superintendent shall ensure that administrative regulations are developed to implement this policy.

Requests

For Following Year

A parent of a student receiving special education services and whose placement for the following school year will be in a self-contained classroom eligible for video surveillance may request that a video camera be placed in the classroom by the end of the current school year or by the tenth business day after the student’s admission, review, and dismissal (ARD) committee determines the student’s placement, whichever is later. If such a request is made, the campus shall begin operation of the camera by the deadlines in law.

For Current Year

Written requests from a parent, assistant principal, principal, staff member, or the Board shall be submitted and processed in accordance with the procedures in law.

Response

As required by law, the District shall provide a response to the requestor not later than the seventh business day after receipt of the request.

Notice

Before a camera is activated, the principal shall provide advance written notice to staff on the campus and to parents of the students assigned to or engaging in school activities in the classroom that video and audio surveillance will be conducted in the classroom.

**Installation and
Operation**

The classroom subject to the request shall begin operation of video surveillance not later than the time frames required in law, except when the District is granted an extension of time.

When the District has installed video cameras in a classroom as required by law, the District shall operate the cameras during the

instructional day at all times when students are in the classroom. For purposes of this policy, the instructional day shall be defined as the portion of a school day during which instruction is taking place in the classroom.

For the school year in which a campus receives a request for video and audio surveillance, the campus shall continue to operate and maintain any video cameras placed in the classroom for as long as the classroom continues to satisfy the requirements in Education Code 29.022(a). However, the campus may discontinue operation of the video camera during the year if the requestor withdraws the request in writing and no request is submitted to continue the surveillance.

Video cameras must be capable of recording video and audio of all areas of the classroom, including a room attached to the classroom used for time out as defined by law. No visual monitoring, other than incidental coverage, shall be conducted of the inside of a bathroom or other area used for toileting or diapering a student or removing or changing a student's clothes.

The District shall post notice at the entrance to a classroom in which video cameras are placed stating that video and audio surveillance is conducted in that classroom.

Retention of Recordings

Video recordings shall be retained for at least three months after the date of the recording but may be retained for a longer period in accordance with the District's records management program, or as required by law. [See CPC]

Confidentiality of Recordings

Video recordings made in accordance with this policy shall be confidential and shall only be accessed or viewed by the individuals and in the limited circumstances permitted by law. The following individuals shall have authority to view video recordings to the extent permitted by the Family Educational Rights and Privacy Act (FERPA):

1. A District employee or a parent of a student who is involved in an alleged incident documented by a recording and reported to the District;
2. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged abuse or neglect of a child;
3. A peace officer, school nurse, District administrator trained in de-escalation and restraint techniques, or human resource staff member in response to a report of an alleged incident or an investigation of an employee or a report of alleged abuse committed by a student; and

4. Appropriate TEA or State Board for Educator Certification personnel or their agents as part of an investigation.

For purposes of this policy, the term “human resource staff member” shall include the Superintendent, a principal, an assistant principal or other campus administrator, and any supervisory position within the District’s human resources office. If an individual listed in items 2 through 4 above believes that a recording shows a violation of District policy or campus procedures, the individual may allow access to the recording by appropriate legal and human resources personnel designated by the District for the purpose of determining whether a policy or procedure has been violated.

Any person who suspects that child abuse or neglect has occurred shall report this suspicion as required by law and District policy.
[See FFG]

Reporting an Incident

A person alleging that an incident, as defined by law, has occurred in a classroom in which video surveillance is conducted shall file a report on the form provided by the District with the principal as soon as possible after the person suspects the alleged incident. If possible, an incident report form shall be filed within 48 hours of the facts giving rise to the allegation. The principal shall promptly view, or direct an authorized individual to view, the video surveillance footage to identify the relevant portion of the recording. No later than ten District business days after the report is filed, the principal or designee shall respond by notifying the person whether the alleged incident was recorded in the District’s video surveillance footage and shall initiate other steps as required by law, District policy, or local procedures.

Complaints

Complaints related to video and audio recordings under this policy shall be filed in accordance with DGBA, FNG, or GF, as applicable. A complainant who is dissatisfied with the outcome of the District’s complaint process may appeal in writing to the commissioner of education in accordance with Education Code 7.057, including requesting an expedited review.

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**Compensatory
Education Allotment**

A district is entitled to an annual compensatory education allotment for each student:

1. Who is educationally disadvantaged; or
2. Who does not have a disability and resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside.

The number of educationally disadvantaged students is determined by averaging the best six months' numbers of students eligible for enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year; or in the manner provided by commissioner rule.

A student receiving a full-time virtual education through the state virtual school network (TXVSN) [see EHDE] may be included in determining the number of educationally disadvantaged students if the school district submits to the commissioner a plan detailing the enhanced services that will be provided to the student and the commissioner approves the plan.

Education Code 42.152(a)–(b-1)

Use

A 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, a district may use the funds, other than an indirect cost allotment established by State Board rule, to meet the costs of providing a compensatory, intensive, or accelerated instruction program under Education Code 29.081, a disciplinary alternative education program (DAEP) under Education Code 37.008, or to support a Title I program, at a campus at which at least 40 percent of the students are educationally disadvantaged.

A district may also use allocated funds for:

1. A mentoring services program under Education Code 29.089;
2. An accelerated reading instruction program under Education Code 28.006(g) for students at risk of dropping out of school as defined by Education Code 29.081(d) and (g);
3. A program for treatment of students who have dyslexia or a related disorder, as required by Education Code 38.003, for students at risk of dropping out of school as defined by Education Code 29.081(d) and (g); and

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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

A district may not use more than 18 percent of its compensatory education allotment for DAEPs.

The commissioner may waive this limitation upon an annual petition, by a district's board and site-based decision making committee, presenting the reason for the need to spend supplemental compensatory education funds on DAEPs.

Education Code 42.152(c)(1)–(2)

Dropout Prevention
Strategies

A district with a high dropout rate, as determined by the commissioner, shall submit a plan to the commissioner describing the manner in which the district intends to use its compensatory education and high school allotments for developing and implementing research-based strategies for dropout prevention.

If a district is required to submit both a dropout prevention strategy plan and a plan to increase college enrollment [see GNC], the district must describe in its dropout prevention strategy plan how the activities identified in both plans will be coordinated. If a district is required to submit both a school improvement plan, due to failure to meet the required performance standard regarding dropout rates or completion rates, as well as a dropout prevention strategy plan, the district may request that its school improvement plan be used to satisfy both requirements.

A district shall submit the plan not later than December 1 of each school year preceding the school year in which the district will receive the compensatory education or high school allotment to which the plan applies. The plan must meet the requirements at 19 Administrative Code 89.1701(e).

A district may not spend or obligate more than 25 percent of the district's compensatory or high school allotment unless the commissioner approves the plan.

A district's plan shall:

1. Design a dropout recovery plan that includes career and technology education courses or technology applications courses that lead to industry or career certification;
2. Integrate into the dropout recovery plan research-based strategies to assist students in becoming able academically to pursue postsecondary education, including:

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- a. High-quality, college readiness instruction with strong academic and social supports;
 - b. Secondary to postsecondary bridging that builds college readiness skills, provides a plan for college completion, and ensures transition counseling; and
 - c. Information concerning appropriate supports available in the first year of postsecondary enrollment to ensure postsecondary persistence and success, to the extent funds are available for the purpose; and
3. Plan to offer advanced academic and transition opportunities, including dual credit courses and college preparatory courses, such as advanced placement courses.

A district may enter into a partnership with a public junior college in accordance with Education Code 29.402 in order to fulfill a plan.

Any program designed to fulfill a plan must comply with the requirements of Education Code 29.081(e) and (f).

Education Code 29.918; 19 TAC 89.1701

Definition of At-Risk Student

“Student at risk of dropping out of school” includes each student who is under 26 years of age and who:

1. Was not advanced from one grade level to the next for one or more school years, unless the student did not advance from prekindergarten or kindergarten to the next grade level only as a result of the request of the student’s parent;
2. If the student is in grades 7–12 did not maintain an average equivalent to 70 on a scale of 100 in two or more subjects in the foundation curriculum during a semester in the preceding or current school year, or is not maintaining such an average in two or more subjects in the foundation curriculum in the current semester;
3. Did not perform satisfactorily on a state assessment instrument and who has not in the previous or current school year subsequently performed on that instrument or another appropriate instrument at a level equal to at least 110 percent of the level of satisfactory performance on that instrument;
4. If the student is in prekindergarten, kindergarten, or grades 1–3, did not perform satisfactorily on a readiness test or assessment instrument administered during the current school year;
5. Is pregnant or is a parent;

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6. Has been placed in a DAEP in accordance with Education Code 37.006 during the preceding or current school year;
7. Has been expelled during the preceding or current school year;
8. Is currently on parole, probation, deferred prosecution, or other conditional release;
9. Was previously reported through the Public Education Information Management System (PEIMS) to have dropped out of school;
10. Is a student of limited English proficiency, as defined by Section 29.052;
11. Is in the custody or care of the Department of Family and Protective Services or has, during the current school year, been referred to the department by a school official, officer of the juvenile court, or law enforcement official;
12. Is homeless, as defined by 42 U.S.C. 11302 and its subsequent amendments [see FD]; or
13. Resided in the preceding school year or resides in the current school year in a residential placement facility in a district, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, cottage home operation, specialized child-care home, or general residential operation.

Education Code 29.081(d)–(d-1)

Local Eligibility
Criteria

In addition to students described above, a student who satisfies local eligibility criteria adopted by a board may receive compensatory education services. The number of students receiving services under local eligibility criteria during a school year may not exceed ten percent of the number of students described above who received services from the district during the preceding school year.
Education Code 29.081(g)

**Compensatory,
Intensive, and
Accelerated
Instruction**

A district shall use student performance data from state basic skills assessment instruments and achievement tests to design and implement appropriate compensatory, intensive, or accelerated instructional services for students in the district's schools that enable the students to perform at grade level at the conclusion of the next regular school term. *Education Code 29.081(a)*

Accelerated
Instruction

A district shall provide accelerated instruction to an enrolled student who has taken an end-of-course assessment instrument and

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has not performed satisfactorily or who is at risk of dropping out of school.

A district shall offer before the next scheduled administration of the assessment instrument, without cost to the student, additional accelerated instruction to each student in any subject in which the student failed to perform satisfactorily on an end-of-course assessment instrument required for graduation.

A district that is required to provide accelerated instruction must separately budget sufficient funds for that purpose. [See CE]

A district shall evaluate the effectiveness of accelerated instruction programs and annually hold a public hearing to consider the results.

Education Code 29.081(b), (b-1), (b-2), (b-3), 39.025(b-1)

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(c), the district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area, using funds appropriated for accelerated instruction under Education Code 28.0211. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.
Education Code 28.0217

Effectiveness

A district shall evaluate and document the effectiveness of the accelerated instruction in reducing any disparity in performance on state assessment instruments or disparity in the rates of high school completion between students at risk of dropping out of school and all other district students. *Education Code 29.081(c)*

**Dropout Recovery
Education Programs**

A district may use a private or public community-based dropout recovery education program to provide alternative education programs for students at risk of dropping out of school. The program may be offered at a campus or through the use of an online program that leads to a high school diploma and prepares the student to enter the workforce. A campus-based dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-1)(1)–(5). An online dropout recovery education program must meet the criteria set forth at Education Code 29.081(e-2)(1)–(8).

Students in attendance at a dropout recovery education program shall be included in a district's average daily attendance for funding purposes.

Education Code 29.081(e)–(f)

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Public Junior College Partnership Program	A school district may agree to partner with a public junior college to provide on the campus of the college a dropout recovery program for students to successfully complete and receive a diploma from a high school of the partnering school district in accordance with Education Code 29.401. [See GNC]
Communities in Schools	An elementary or secondary school receiving funding under Education Code 33.156 shall participate in the Communities in Schools (CIS) program if the number of students enrolled in the school who are at risk of dropping out of school is equal to at least ten percent of the number of students in average daily attendance at the school, as determined by TEA. <i>Education Code 33.157</i>
Optional Extended Year Program	<p>A district may set aside an amount from its compensatory education allotment or may apply to TEA for funding of an extended-year program, for a period not to exceed 30 instructional days for students:</p> <ol style="list-style-type: none">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; or2. In grade 12, who are identified as not likely to graduate from high school before the beginning of the succeeding school year. <p>A student who does not demonstrate proficiency in a subject area as determined by the district is also eligible for services.</p> <p>An optional extended year program (OEYP) may extend the day, the week, or the year to provide additional support and instruction for eligible students. The program shall be conducted beyond the required instructional year, which may include intercessions for year round programs.</p>
Policy	If a 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 Administrative Code 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	A 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.

Education Code 29.082; 19 TAC 105.1001 [See EIE and FDC]

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**Optional Flexible
Year Program**

A district may provide an optional flexible year program (OFYP) for students who did not or are not likely to perform successfully on state assessment instruments or who would not otherwise be promoted to the next grade level.

Program Criteria

An OFYP must meet the requirements set forth at Education Code 29.0821 and 19 Administrative Code 129.1029.

Education Code 29.0821; 19 TAC 129.1029

**Optional Flexible
School Day Program**

Notwithstanding Education Code 25.081 (school year) or 25.082 (school day) [see EB and EC], a district may apply to the commissioner to provide a flexible school day program (OFSDP) for students, in accordance with 19 Administrative Code 129.1027.

Program Criteria

A district that meets application requirements may:

1. Provide flexibility in the number of hours each day a student attends;
2. Provide flexibility in the number of days each week a student attends;
3. Allow a student to enroll in less than or more than a full course load; or
4. Allow a student to enroll in a dropout recovery program in which courses are conducted online.

Except in the case of a course designed for a student who will be denied credit as a result of attendance requirements or enrolled in an online dropout recovery program, a course offered in a program under this section must provide for at least the same number of instructional hours as required for a course offered in a program that meets the required minimum number of minutes of operation under Education Code 25.081.

Student Eligibility

A 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;
2. Attend a campus that is implementing an innovative redesign of the campus or an early college high school under a plan approved by the commissioner; or
3. As a result of attendance requirements under Education Code 25.092, will be denied credit for one or more classes in which the students have been enrolled.

A student who will be denied credit for one or more classes as a result of attendance requirements may enroll in a course in a

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	<p>OFSDP offered during the school year or during the period in which school is recessed for the summer to enable the student to earn class credit that the student would not otherwise be able to receive without retaking the class.</p>
Extracurricular Participation	<p>A student enrolled in an OFSDP may participate in a competition or activity sanctioned by the University Interscholastic League (UIL) only if the student meets all UIL eligibility criteria.</p>
Funding	<p>Funding for an OFSDP shall be based on the number of instructional days in a 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. The commissioner may limit funding for the attendance of a student who will be denied credit as a result of attendance requirements to funding only for the attendance necessary for the student to earn class credit that the student would not otherwise be able to receive without retaking the class.</p> <p>In calculating average daily attendance for students served, the commissioner shall ensure that funding for attendance in a course in an OFSDP is based on the same instructional hour requirements of the regular program rather than a full-time equivalent student basis that requires six hours of student contact time to qualify for a full day of attendance.</p>
Annual Performance Review	<p>Annually, each school district shall review its progress in relation to the performance indicators required by 19 Administrative Code 129.1027(h). Progress should be assessed based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status.</p> <p><i>Education Code 29.0822; 19 TAC 129.1027</i></p>
Tutorial Services	<p>A district may provide tutorial services at district schools. If a district provides tutorial services, it shall require a student whose grade in a subject for a reporting period is lower than the equivalent of 70 on a scale of 100 to attend tutorials. [See EC for provisions on loss of class time.]</p> <p>A district may provide transportation services to accommodate students who are required to attend tutorials and who are eligible for regular transportation.</p> <p><i>Education Code 29.084</i></p>

**Basic Skills
Programs**

A district may apply to the commissioner for funding of basic skills programs for students in grade 9 who are at risk of not earning sufficient credit or who have not earned sufficient credit to advance to grade 10 and who fail to meet minimum skills levels established by the commissioner.

With the consent of a student's parent or guardian, a district may assign a student to the basic skills program.

A basic skills program may not exceed 210 instructional days and must meet the requirements set forth at Education Code 29.086.

Education Code 29.086

**After-School and
Summer Intensive
Mathematics and
Science Programs**

A district may provide an intensive after-school program or an intensive program during the period that school is recessed for the summer to provide mathematics and science instruction to:

1. Students who are not performing at grade level in mathematics or science to assist those students in performing at grade level;
2. Students who are not performing successfully in a mathematics course or science course to assist those students in successfully completing the course; or
3. Other students as determined by the district.

Before providing a program, a board must adopt a policy for:

1. Determining student eligibility for participating in the program that:
 - a. Prescribes the grade level or course a student must be enrolled in to be eligible; and
 - b. Provides for considering teacher recommendations in determining eligibility;
2. Ensuring that parents of or persons standing in parental relation to eligible students are provided notice of the program;
3. Ensuring that eligible students are encouraged to attend the program;
4. Ensuring that the program is offered at one or more locations in the district that are easily accessible to eligible students; and
5. Measuring student progress on completion of the program.

Education Code 29.088, .090; 19 TAC 102.1041

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**Mentoring Services
Program**

A district may provide a mentoring services program to students at risk of dropping out of school. A board may arrange for any public or nonprofit community-based organization to come to the district's schools and implement the program.

A board shall obtain the consent of a student's parent or guardian before allowing the student to participate in the program.

Education Code 29.089

**Accelerated Reading
Instruction Program**

A district shall implement an accelerated reading instruction program that provides reading instruction that addresses reading deficiencies to each student in kindergarten, first grade, or second grade who is determined, on the basis of reading instrument results [see EKC], to be at risk for dyslexia or other reading difficulties. The district shall determine the form, content, and timing of the program.

A district shall provide additional reading instruction and intervention to each student given the seventh grade reading assessment [see EKC], as appropriate to improve the student's reading skills in the relevant areas identified through the assessment instrument.

Limitation

A district may implement an accelerated reading instruction program only if the commissioner certifies that funds have been appropriated during a school year for administering the program.

Education Code 28.006(f), (g), (g-1), (k)

**Intensive Program of
Instruction**

State Assessments

A district shall offer an intensive program of instruction to a student who does not perform satisfactorily on a state assessment instrument or is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade 9, as determined by the district.

The program shall be designed to:

1. Enable the student to:
 - a. To the extent practicable, perform at the student's grade level at the conclusion of the next regular school term; or
 - b. Attain a standard of annual growth specified by a district and reported by the district to TEA; and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Students Receiving
Special Education
Services

For a student in a special education program who does not perform satisfactorily on an assessment instrument administered under Education Code 39.023(a), (b), or (c), the student's admission, review, and dismissal committee shall design the program to:

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1. Enable the student to attain a standard of annual growth on the basis of the student's individualized education program (IEP); and
2. If applicable, carry out the purposes of Education Code 28.0211. [See EIE]

Graduation
Requirements

A district shall use funds appropriated by the legislature for an intensive program of instruction to plan and implement intensive instruction and other activities aimed at helping a student satisfy state and local high school graduation requirements.

No Cause of Action

A district's determination of the appropriateness of an intensive program of instruction for a student is final and does not create a cause of action.

Education Code 28.0213

**Maximum Allowable
Indirect Cost**

A district may expend no more than the following percentages of the district's Foundation School Program (FSP) special allotments under Education Code Chapter 42, Subchapter C, for indirect costs related to the following programs:

1. No more than 48 percent for indirect costs related to:
 - a. Compensatory education,
 - b. Bilingual education and special language programs, and
 - c. Special education.
2. No more than 45 percent for indirect costs related to gifted and talented education programs.
3. No more than 42 percent for indirect costs related to career and technical education programs.

Beginning with the 2012–13 school year, a district may choose to use a greater indirect cost allotment under Education Code 42.151, .153, .154, and .156, to the extent the district receives less funding per weighted student in state and local maintenance and operations revenue than in the 2011–12 school year. The commissioner shall develop a methodology for a school district to make this determination and may require any information necessary to implement this rule.

19 TAC 105.11

**College Preparatory
Courses**

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

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1. For students at the twelfth grade level whose performance on:
 - a. An end-of-course assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
 - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334 [Texas Success Initiative (TSI) assessment] indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through an institution of higher education with which the district partners.

Faculty

Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Notice

Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

Credit Earned

A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

Dual Credit

A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

Instructional
Materials

Each district, in consultation with each institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

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To the extent applicable, a district shall draw from curricula and instructional materials developed under Education Code 28.008 in developing a course and related instructional materials. A course and the related instructional materials shall be made available to students not later than the 2014–15 school year.

Education Code 28.014

End-of-Course
Exam

A student enrolled in a college preparatory mathematics or English language arts course under Education Code 28.014 who satisfies the TSI college readiness benchmarks on an assessment instrument administered at the end of the course satisfies the requirements concerning and is exempt from the administration of the Algebra I or the English I and English II end-of-course assessment instruments, as applicable, as prescribed by Education Code 39.023(c), even if the student did not perform satisfactorily on a previous administration of the applicable end-of-course assessment instrument. A student who fails to perform satisfactorily on the assessment instrument may retake that assessment instrument or may take the appropriate end-of-course assessment instrument.

Education Code 39.025(a-1)

Note: Only districts that identify 15 or more eligible students are required to provide prekindergarten programs.

Tuition-Free

A district shall offer prekindergarten classes if it identifies 15 or more eligible students who are at least four years of age. A district may offer prekindergarten if it identifies 15 or more eligible children who are at least three years of age.

A district may not charge tuition for a prekindergarten program offered under these provisions.

Exemption

A district may apply to the commissioner of education ("commissioner") for an exemption from the requirement that it provide a free prekindergarten program if the district would be required to construct classroom facilities in order to provide the program.

Definitions

In this section:

1. "Child" includes a stepchild.
2. "Parent" includes a stepparent.

Eligibility

A child is eligible for enrollment in free prekindergarten if the child is at least three years of age and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is homeless, as defined by federal law [see FD(LEGAL)], regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty;
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing under Family Code 262.201; or
7. Is the child of a person eligible for the Star of Texas Award as:
 - a. A peace officer under Government Code 3106.002;

- b. A firefighter under Government Code 3106.003; or
- c. An emergency medical first responder under Government Code 3106.004.

A child who is eligible for enrollment 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

A district shall develop a system to notify the population in the district with children who are eligible for enrollment in a free prekindergarten program of the availability of the program. The system must include public notices issued in English and Spanish.

Half-Day Basis

A free prekindergarten class shall be operated on a half-day basis.

Transportation

A district is not required to provide transportation for a prekindergarten class. If transportation is provided, it is included for funding purposes as part of the regular transportation system.

Education Code 29.153

**Tuition-Supported
Or District-Financed**

A district may offer on a tuition basis or use district funds to provide:

- 1. An additional half-day of prekindergarten classes to children eligible for free prekindergarten; and
- 2. Half-day and full-day prekindergarten classes to children not eligible for free prekindergarten.

A district may not adopt a tuition rate that is higher than necessary to cover the added costs of the program, including any costs associated with collecting, reporting, and analyzing data under Education Code 29.1532(c) (regarding PEIMS data for prekindergarten programs). A district must submit its proposed tuition rate to the commissioner for approval.

Education Code 29.1531

Program Design

A district's prekindergarten program shall be designed to develop skills necessary for success in the regular public school curriculum, including language, mathematics, and social skills. *Education Code 29.1532(a)*

**Daily Physical
Activity**

A district shall require students in full-day prekindergarten to participate in moderate or vigorous daily physical activity for at least 30 minutes throughout the school year, as part of the district's physical education program or through structured activity during a campus's daily recess.

To the extent practicable, a district shall require a student enrolled in prekindergarten on less than a full-day basis to participate in the same type and amount of physical activity as a student enrolled in full-day prekindergarten.

If a district determines, for any particular grade level, that requiring moderate or vigorous daily physical activity is impractical due to scheduling concerns or other factors, the district may as an alternative require a student in that grade level to participate in moderate or vigorous physical activity for at least 135 minutes during each school week.

A district must provide an exemption for a student who is unable to participate in the required physical activity because of illness or disability.

Education Code 28.002(l)

**High-Quality
Prekindergarten
Grant Program**

From funds appropriated for that purpose, the commissioner shall establish a grant funding program under which funds are awarded to districts to implement a prekindergarten grant program under Education Code Chapter 29, Subchapter E-1 and 19 Administrative Code 102.1003.

A district may participate in and receive funding under the program if the district meets all program standards required under Subchapter E-1. A program is subject to any other requirements imposed by law that apply to a prekindergarten program.

Education Code 29.165

A district that receives funding under this grant shall maintain locally and provide at TEA's request the necessary documentation to ensure fidelity of high-quality prekindergarten program implementation. *19 TAC 102.1003(k)*

**Eligibility for
Funding**

All eligible districts may receive grant funding for each qualifying student in average daily attendance in a high-quality prekindergarten program in the district. A school district that receives the funding may use the funding only to improve the quality of the district's prekindergarten programs. Funding for each qualifying student in attendance for the entire instructional period on a school day shall not exceed \$1,500. *Education Code 29.166; 19 TAC 102.1003(a), (j)*

To be eligible to receive grant funding under the program, a district shall:

1. Implement a curriculum for a high-quality prekindergarten grant program that addresses all of the Texas Prekindergarten

Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c).

2. Measure the progress of each student in meeting the recommended end of prekindergarten year outcomes identified in the Texas Prekindergarten Guidelines, and the preparation of each student for kindergarten using a kindergarten readiness instrument for reading as described in Education Code 28.006.
3. Develop, implement, and make available on the district or campus website a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education. [See Family Engagement Plan, below]

19 TAC 102.1003(c), (d), (f)

Qualifying Students

A district receiving funds under the program must provide educational services to qualifying students. A student qualifies for additional funding if the student is four years of age on September 1 of the year the student begins the program and:

1. Is unable to speak and comprehend the English language;
2. Is educationally disadvantaged;
3. Is a homeless child, as defined by 42 U.S.C. § 11434a, regardless of the residence of the child, of either parent of the child, or of the child's guardian or other person having lawful control of the child;
4. Is the child of an active duty member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who is ordered to active duty by proper authority;
5. Is the child of a member of the armed forces of the United States, including the state military forces or a reserve component of the armed forces, who was injured or killed while serving on active duty; or
6. Is or ever has been in the conservatorship of the Department of Family and Protective Services following an adversary hearing held as provided by Family Code 262.201.

Education Code 29.153(b); 19 TAC 102.1003(b)

Curriculum
Requirements

A district shall select and implement a curriculum for a prekindergarten grant program that:

1. Includes the prekindergarten guidelines established by TEA;

2. Measures the progress of students in meeting the recommended learning outcomes; and
3. Does not use national curriculum standards developed by the Common Core State Standards Initiative.

The curriculum must address all of the Texas Prekindergarten Guidelines (updated 2015) in the domains identified in 19 Administrative Code 102.1003(c).

In a format prescribed by TEA, a district that receives funding under this grant shall report:

1. The curriculum used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(c);
2. A description and the results of each prekindergarten instrument used in the high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d);
3. A description of each kindergarten readiness instrument used in the district to measure the effectiveness of the district's high-quality prekindergarten program classes as required by 19 Administrative Code 102.1003(d); and
4. The results for at least 95 percent of the district's kindergarten students on the kindergarten readiness instrument.

Education Code 29.167(a); 19 TAC 102.1003(c), (g)

Teacher
Requirements

Each teacher for a prekindergarten program class must be certified under Education Code Chapter 21, Subchapter B and have one of the following additional qualifications:

1. A Child Development Associate (CDA) credential or another early childhood education credential approved by TEA;
2. Certification offered through a training center accredited by Association Montessori Internationale or through the Montessori Accreditation Council for Teacher Education;
3. At least eight years' experience of teaching in a nationally accredited child care program;
4. A graduate or undergraduate degree in early childhood education or early childhood special education;
5. Documented completion of the Texas School Ready Training Program; or

6. Be employed as a prekindergarten teacher in a district that has ensured that:
 - a. Prior to assignment in a prekindergarten class, teachers who provide prekindergarten instruction have completed at least 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines that were approved prior to 2015 in addition to other relevant topics related to high-quality prekindergarten over a consecutive five-year period;
 - b. Teachers who have not completed training required above prior to assignment in a prekindergarten class complete:
 - (1) The first 30 hours of 150 cumulative hours of documented professional development addressing all ten domains in the Texas Prekindergarten Guidelines (updated 2015) in addition to other relevant topics related to high-quality prekindergarten before the end of the 2016–17 school year; and
 - (2) Complete the additional hours in the subsequent four years in order to continue providing instruction in a high-quality prekindergarten classroom; and
 - c. At least half of the hours required above shall include experiential learning, practical application, and direct interaction with specialists in early childhood education or instructional coaches.

A district may allow a teacher employed by the district to receive the training required to be awarded a CDA credential from a regional education service center. Training may not include national curriculum standards developed by the Common Core State Standards Initiative.

A school district must attempt to maintain an average ratio in any prekindergarten program class of not less than one certified teacher or teacher's aide for each 11 students.

Education Code 29.167; 19 TAC 102.1003(e), (i)

Family Engagement
Plan

A district shall develop and implement a family engagement plan to assist the district in achieving and maintaining high levels of family involvement and positive family attitudes toward education.

An effective family engagement plan creates a foundation for the collaboration of mutual partners, embraces the individuality and

uniqueness of families, and promotes a culture of learning that is child centered, age appropriate, and family driven.

The family engagement plan must be based on family engagement strategies established by TEA as set out in 19 Administrative Code 102.1003(f).

Education Code 29.168; 19 TAC 102.1003(f)

Program Evaluation

A school district shall:

1. Select and implement appropriate methods for evaluating the district's program classes by measuring student progress; and
2. Make data from the results of program evaluations available to parents.

A district may administer diagnostic assessments to students in a program class to evaluate student progress but may not administer a state standardized assessment instrument.

An assessment instrument administered to a prekindergarten program class must be selected from a list of appropriate prekindergarten assessment instruments identified by the commissioner.

Education Code 29.169; 19 TAC 102.1003(h)

Eligible Private
Providers

A district participating in the grant program may enter into a contract with an eligible private provider to provide services or equipment for the program.

To be eligible to contract with a district to provide a program or part of a program, a private provider must be licensed by and in good standing with the Department of Family and Protective Services. A private provider is in good standing with the Department of Family and Protective Services if the department has not taken an action against the provider's license during the 24-month period preceding the date of a contract with a school district. The private provider must also:

1. Be accredited by a research-based, nationally recognized, and universally accessible accreditation system approved by the commissioner;
2. Be a Texas Rising Star Program provider with a three-star certification or higher;
3. Be a Texas School Ready! participant;
4. Have an existing partnership with a district to provide a pre-kindergarten program not provided under Subchapter E-1; or

5. Be accredited by an organization that is recognized by the Texas Private School Accreditation Commission.

A prekindergarten program provided by a private provider under Education Code 29.171 is subject to the requirements of Education Code Chapter 29, Subchapter E-1.

Education Code 29.171

**Prekindergarten
Expansion Grant**

A district may use funds from grants administered by the commissioner to expand an existing half-day prekindergarten program to a full-day basis or to implement a prekindergarten program on a campus that does not have a prekindergarten program.

A district may use funds received under this program to employ teachers and other personnel for a prekindergarten program or to acquire curriculum materials or equipment, including computers, for use in prekindergarten programs.

A district may use funds granted under this program in contracting with another entity, including a private entity.

Education Code 29.155(a), (b), (i)

Ready to Read Grant

A district that operates a prekindergarten program is eligible to apply for a Ready to Read grant if at least 75 percent of the children enrolled in the program are low-income students, as determined by commissioner rule.

Grants shall be used to provide scientific, research-based pre-reading instruction for the purpose of directly improving pre-reading skills and for identifying cost-effective models for pre-reading intervention. Grants funds shall be used for:

1. Professional staff development in pre-reading instruction;
2. Pre-reading curriculum and materials;
3. Pre-reading skills assessment materials; and
4. Employment of pre-reading instructors.

Education Code 29.157(b), (c)

**Statewide
Information Referral
Network**

A district shall provide the Texas Information and Referral Network with information regarding eligibility for and availability of child-care and education services for inclusion in the statewide information referral network. A district shall provide the information in a form determined by the executive commissioner of the Texas Health and Human Services Commission. *Gov't Code 531.0312*

“Child care and education services” includes child-care and education services provided by a school district through a prekindergarten or after-school program. *Gov’t Code 531.03131(a)*

Staff of the Texas Information and Referral Network shall send an electronic mail message to each appropriate entity containing the name of and contact information for each applicant and a description of the services for which the applicant is applying.

On receipt of such an electronic mail message, a district shall contact the applicant to verify information regarding the applicant’s eligibility for available child-care and education services. On certifying eligibility, a district shall match the applicant with entities providing those services in the applicant’s community, including local work-force development boards, local child-care providers, or a Head Start or Early Head Start program provider.

A district shall cooperate with the Texas Information and Referral Network as necessary in the administration of this project.

Gov’t Code 531.0312(c)–(e)

Shared Site

Before establishing a new prekindergarten program, a district shall consider the possibility of sharing use of an existing Head Start or other child-care program site as a prekindergarten site. *Education Code 29.1533*

**Prekindergarten
Licensing Standards**

If a district contracts with a private entity to operate a prekindergarten program, the program shall comply at a minimum with the applicable child-care licensing standards adopted by the Texas Department of Family and Protective Services under Human Resources Code 42.042. *Education Code 29.1532(b)*

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EHBK
(LEGAL)

**Mandatory
Recognition Dates**

A district shall regularly observe the following recognition days, weeks, and months by appropriate programs, celebrations, and activities:

Women's
Independence Day

August 26: Women's Independence Day, to commemorate the ratification in 1920 of the Nineteenth Amendment to the United States Constitution, which guaranteed women the right to vote. Women's Independence Day shall be regularly observed by appropriate programs in the public schools to inspire a greater appreciation of the importance of women's suffrage. *Gov't Code 662.051*

Hydrocephalus
Awareness Month

September: Hydrocephalus Awareness Month, to:

1. Increase public awareness of hydrocephalus, a serious neurological condition characterized by the abnormal buildup of cerebrospinal fluids in the ventricles of the brain; and
2. Encourage the development of partnerships between the federal government, health-care professionals, and patient advocacy groups to advance the public's understanding of the condition, improve the diagnosis and treatment of the condition, and support research for a cure.

Hydrocephalus Awareness Month shall be regularly observed by appropriate activities in public schools to increase awareness of hydrocephalus.

Gov't Code 662.106

Texas First
Responders Day

September 11: Texas First Responders Day, in honor of the bravery, courage, and determination of Texas men and women who assist others in emergencies. Texas First Responders Day shall be regularly observed by appropriate ceremonies in the public schools to honor Texas first responders. A district may determine the appropriate ceremonies by which Texas observes Texas First Responders Day. *Gov't Code 662.050*

September 11

September 11: To commemorate the events of September 11, 2001, in each year that date falls on a regular school day, each public elementary and secondary school shall provide for the observance of one minute of silence at the beginning of the first class period of that day. Immediately before the required period of observance, the class instructor shall make a statement of reference to the memory of individuals who died on September 11, 2001. The required period of observance may be held in conjunction with the minute of silence required by Education Code 25.082. [See EC] *Education Code 25.0821*

Constitution Day

September 17: A district that receives federal funds for a fiscal year shall hold an educational program on the United States

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	Constitution for the students served by the district. <i>Pub. L. 108-447 (2004)</i>
Celebrate Freedom Week	Week of September 17: Celebrate Freedom Week, to educate students about the sacrifices made for freedom in the founding of this country and the values on which this country was founded. <i>Education Code 29.907</i>
<i>Appropriate Instruction</i>	<p>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.</p> <p>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.</p>
<i>Recitation</i>	<p><i>19 TAC 74.33(a)</i></p> <p>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."</p>
Exception	<p>Each district shall excuse from recitation a student:</p> <ol style="list-style-type: none">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; or3. Who is the child of a representative of a foreign government to whom the United States government extends diplomatic immunity.
American Indian Heritage Day	<p><i>19 TAC 74.33(b), .36</i></p> <p>The last Friday in September is in recognition of the historic, cultural, and social contributions American Indian communities and leaders have made to Texas. American Indian Heritage Day shall</p>

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be regularly observed by appropriate ceremonies, activities, and programs in public schools to honor American Indians in Texas and to celebrate the rich traditional and contemporary American Indian culture. *Gov't Code 662.057*

Father of Texas
Day

November 3: Father of Texas Day, in memory of Stephen F. Austin, the great pioneer patriot and the real and true Father of Texas. Father of Texas Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the birthday of Stephen F. Austin and to inspire a greater love for this beloved state. *Gov't Code 662.045*

Sam Rayburn Day

January 6: Sam Rayburn Day, in memory of that great Texas and American statesman, Sam Rayburn. Sam Rayburn Day shall be regularly observed by appropriate programs in the public schools to commemorate the birthday of Sam Rayburn. *Gov't Code 662.041*

State of Texas
Anniversary
Remembrance Day

February 19: State of Texas Anniversary Remembrance Day (STAR Day), in honor of Texas joining the Union and the day that James Pinckney Henderson became the first governor of the state of Texas in 1846. STAR Day shall be regularly observed by appropriate and patriotic programs in the public schools to properly commemorate the annexation of this state and to inspire a greater appreciation for the history of this state. *Gov't Code 662.047*

Texas History
Month

March: Texas History Month, in honor of those Texans who helped shape the history of the state of Texas and in recognition of events throughout Texas's history. Texas History Month shall be regularly observed by appropriate celebrations and activities in public schools to promote interest in and knowledge of Texas history. *Gov't Code 662.102*

Public School
Paraprofessional
Day

The second Wednesday in May: Public School Paraprofessional Day, in recognition of education paraprofessionals including teacher assistants, instructional aides, educational trainers, library attendants, bilingual assistants, special education associates, mentors, and tutors. Public School Paraprofessional Day shall be regularly observed by appropriate ceremonies and activities in the public schools to properly recognize the paraprofessionals who have made tremendous contributions to the educational process. *Gov't Code 662.049*

Texas Military
Heroes Day

To educate students about the sacrifices made by brave Texans who have served in the armed forces of the United States, the governor shall designate a day to be known as Texas Military Heroes Day in public schools.

Texas Military Heroes Day shall include appropriate instruction, as determined by each district. Instruction may include:

1. Information about persons who have served in the armed forces of the United States and are from the community or the geographic area in which the district is located; and
2. Participation, in person or using technology, in age-appropriate learning projects at battlefields and gravesites associated with a person who has served in the armed forces.

Education Code 29.9071.

**Generation Texas
Week**

Each district offering middle school, junior high school, or high school grade levels shall designate one week during the school year as Generation Texas Week. During the designated week, each middle school, junior high school, and high school shall provide students with comprehensive grade-appropriate information about the pursuit of higher education, including:

1. Higher education options;
2. Standard admission requirements for institutions of higher education, including:
 - a. Overall high school grade point average;
 - b. Required curriculum;
 - c. College readiness standards and expectations as determined under Education Code 28.008; and
 - d. Scores necessary on generally recognized tests or assessment instruments used in admissions determinations, including the Scholastic Assessment Test and the American College Test;
3. Automatic admission of certain students to general academic teaching institutions under Education Code 51.803 [see EIC]; and
4. Financial aid availability and requirements, including the financial aid information provided by counselors under Education Code 33.007(b) [see EJ].

In addition, each middle school, junior high school, and high school shall provide to students at least one public speaker to promote the importance of higher education.

Education Code 29.911

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**Optional Recognition
Dates**

In addition, a district may observe the following recognition days, weeks, or months, by appropriate celebrations and activities:

Dr. Hector P. Garcia
Day

Third Wednesday of September: Dr. Hector P. Garcia Day, in memory of the significant contributions to the Mexican American civil rights movement of Dr. Hector P. Garcia, a distinguished physician and a recipient of the Presidential Medal of Freedom and the founder of the American GI Forum, which promotes civil rights protection of Hispanic veterans and all Americans. Dr. Garcia, a World War II hero, was awarded a Bronze Star Medal with six battle stars in recognition of his meritorious service to the United States. Dr. Hector P. Garcia Day may be regularly observed by appropriate ceremonies and activities in the public schools to properly commemorate the importance of the contributions made by Dr. Garcia. *Gov't Code 662.055*

Persons with
Disabilities History
and Awareness
Month

October: Persons with Disabilities History and Awareness Month, to increase public awareness of the many achievements of people with disabilities; encourage public understanding of the disability rights movement; and reaffirm the local, state, and federal commitment to providing equality and inclusion for people with disabilities. A district may elect to observe Persons with Disabilities History and Awareness Month and determine the appropriate activities by which the school observes Persons with Disabilities History and Awareness Month. *Gov't Code 662.109*

Texas Native Plant
Week

Third week in October: Texas Native Plant Week, to celebrate the native plants of Texas. Texas Native Plant Week may be regularly observed in public schools with programs to appreciate, explore, and study Texas native plants. *Gov't Code 662.154*

Lung Cancer
Awareness Month

November: Lung Cancer Awareness Month, to increase awareness of lung cancer and encourage funding of research and more effective treatments. Lung Cancer Awareness Month may be regularly observed by appropriate activities in public schools to increase the awareness of lung cancer and support for lung cancer research. *Gov't Code 662.104*

Human Trafficking
Prevention Month

January is Human Trafficking Prevention Month to increase awareness of human trafficking in an effort to encourage people to alert authorities to any suspected incidents involving human trafficking. Human Trafficking Prevention Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of human trafficking. *Gov't Code 662.107*

Law Enforcement
Appreciation Day

January 9: Law Enforcement Appreciation Day may be regularly observed in public schools and other places through appropriate activities. *Gov't Code 662.065*

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Iwo Jima Day	February 19: Iwo Jima Day, in memory of the heroism and courage of the men and women of the armed forces of the United States who participated in the successful capture of the island of Iwo Jima beginning February 19, 1945. Iwo Jima Day may be regularly observed through appropriate activities in public schools and other places. <i>Gov't Code 662.062</i>
Child Safety Month	April: Child Safety Month, in recognition of the children of this state as this state's most precious resource. Child Safety Month is meant to ensure that the children of this state grow up in a safe and supportive environment by promoting their protection and care through increased public awareness of ways to reduce accidental injury and death through the use of bicycle helmets, seat belts, safety and booster seats, and smoke alarms, and the dangers presented to children by unattended and unlocked vehicles and by being left in closed vehicles during hot or sunny weather. Child Safety Month may be regularly observed by appropriate celebrations and activities in public schools to promote the protection and care of children in this state. <i>Gov't Code 662.105</i>
Sexual Assault Awareness Month	April: Sexual Assault Awareness Month, to increase awareness and prevention of sexual assault. Sexual Assault Awareness Month may be regularly observed through appropriate activities in public schools and other places to increase awareness and prevention of sexual assault. <i>Government Code 662.111</i>
Character Education	<p>A district may provide a character education program, which must:</p> <ol style="list-style-type: none">1. Stress positive character traits, such as:<ol style="list-style-type: none">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; andi. School pride;

2. Use integrated teaching strategies; and
3. Be age appropriate.

In developing or selecting a character education program under this section, a school district shall consult with a committee selected by the district that consists of parents of district students, educators, and other members of the community, including community leaders.

The provisions above do not require or authorize proselytizing or indoctrinating concerning any specific religious or political belief.

Education Code 29.906

**Student
Elections**

An election for the participation of students in kindergarten through grade 12 may be held in conjunction with a general, special, or primary election. The student election may be ordered by:

1. The commissioners court, for a student election held in conjunction with an election ordered by the governor or a county authority;
2. The governing body of a political subdivision, for a student election held in conjunction with an election of the political subdivision; or
3. The county executive committee, for a student election held in conjunction with a primary election.

A student election may be held only on election day or the day before election day.

The authority ordering a student election shall specify in the order each grade that may participate in the election. A student in a specified grade may enter a precinct polling place for the purpose of casting an unofficial ballot in the student election on the same offices and measures that appear on the official ballot.

The election officers serving in the official election may not serve in the student election. The authority ordering a student election shall appoint a separate set of election officers to conduct the student election, supervise the participating students, and tabulate and report the results of that election. The authority ordering a student election shall make the results of that election available to the public but only after the polling places are closed on election day.

Expenses incurred in the conduct of a student election, including any personnel expenses, may be paid only from private grant funds or donations.

Election Code 276.007

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EHDD
(LEGAL)

Notice to Parents

Each school year, a district shall notify the parent of each student enrolled in grade 9 or above of the availability of programs under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs. The notice must include the name and contact information of any public or private entity offering such a program in the district.

A district may provide the notice on the district's Internet website.

Education Code 28.010

Note: For information on dual credit courses available through the [Texas Virtual School Network](#)¹ (TXVSN), see EHDE.

College Credit Program

A district shall implement a program under which students may earn the equivalent of at least 12 semester credit hours of college credit in high school. If requested by the district, a public institution of higher education in this state shall assist the district in developing and implementing the program. The college credit may be earned through:

1. International baccalaureate, advanced placement, or dual credit courses;
2. Articulated postsecondary courses provided for local credit or articulated postsecondary advanced technical credit courses provided for state credit; or
3. Any combination of the courses in items 1 and 2.

Annually, a district shall report to TEA:

1. The number of students, including career and technical students, who have participated in the program and earned college credit; and
2. The cumulative number of courses in which participating students have enrolled and college credit hours the students have earned.

The program may provide a student the opportunity to earn credit for a course or activity, including an apprenticeship or training hours:

1. That satisfies a requirement necessary to obtain an industry-recognized credential or certificate or an associate degree, and is approved by the Texas Higher Education Coordinating Board; and

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2. For which a student may earn credit concurrently toward both the student's high school diploma and postsecondary academic requirements.

A dual credit course must be:

1. In the core curriculum of the public institution of higher education providing college credit;
2. A career and technical education course; or
3. A foreign language course.

The requirements above do not apply to a dual credit course offered as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

A district is not required to pay a student's tuition or other associated costs for taking a course under this section.

Any agreement, including a memorandum of understanding or articulation agreement, between a school district and public institution of higher education to provide a dual credit program must:

1. Include specific program goals aligned with statewide goals developed jointly by TEA and the Texas Higher Education Coordinating Board;
2. Establish, or provide a procedure for establishing, the course credits that may be earned under the agreement, including by developing a course equivalency crosswalk or other method for equating high school courses with college courses and identifying the number of credits that may be earned for each course completed through the program;
3. Describe the academic supports and, if applicable, guidance that will be provided to students participating in the program;
4. Establish the district's and the institution's respective roles and responsibilities in providing the program and ensuring the quality and instructional rigor of the program;
5. State the sources of funding for courses offered under the program, including, at a minimum, the sources of funding for tuition, transportation, and any required fees or textbooks for students participating in the program; and
6. Be posted each year on the district's and the institution's respective websites.

Education Code 28.009

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**College-Level
Courses**

A board may adopt a policy that allows a student to be awarded credit toward high school graduation for completing a college-level course. The course must be provided only by an institution of higher education that is accredited by any of the following regional accrediting associations:

1. Southern Association of Colleges and Schools
2. Middle States Association of Colleges and Schools
3. New England Association of Colleges and Schools
4. North Central Association of Colleges and Schools
5. Western Association of Colleges and Schools
6. Northwest Association of Colleges and Schools

To be eligible to enroll and be awarded credit toward state graduation requirements, a student shall have the approval of the high school principal or other school official designated by a district. The course(s) for which credit is awarded shall provide advanced academic instruction beyond or in greater depth than the essential knowledge and skills for the equivalent high school course.

19 TAC 74.25

**Dual Credit
Programs**

Definitions

For purposes of the following provisions, “college” means 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(2), (4)

Partnership
Agreements with
Public Colleges

A district may enter into an agreement with a public college to form a dual credit partnership in accordance with 19 Administrative Code Chapter 4, Subchapter D. *Education Code 130.008; 19 TAC Ch. 4, Subch. D*

*Community
College
Jurisdiction*

A school district that operates a high school may enter into an agreement with a community college district, regardless of whether the high school is located within the service area of the community college district, to offer a course as provided by Education Code 130.008.

A course offered for joint high school and junior college credit must be:

1. In the core curriculum of the public junior college;

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2. A career and technical education course; or
3. A foreign language course.

These requirements do not apply to a course offered for joint high school and junior college credit to a student as part of the early college education program established under Education Code 29.908 or any other early college program that assists a student in earning a certificate or an associate degree while in high school.

Education Code 130.008(a-1), (a-2), (d)

Student Eligibility

A high school student is eligible to enroll in academic dual credit courses and workforce education dual credit courses as permitted by 19 Administrative Code 4.85(b).

To be eligible for enrollment in a dual credit course offered by a public college, students must meet all the college's regular prerequisite requirements designated for that course (e.g., minimum score on a specified placement test, minimum grade in a specified previous course, etc.).

An institution may impose additional requirements for enrollment in courses for dual credit that do not conflict with this section.

An institution is not required, under the provisions of this section, to offer dual credit courses for high school students.

19 TAC 4.85(b)

Qualified Instructor

A course offered for joint high school and junior college credit must be taught by a qualified instructor approved or selected by the public junior college. An instructor is qualified if the instructor holds:

1. A doctoral or master's degree in the discipline that is the subject of the course;
2. A master's degree in another discipline with a concentration that required completion of a minimum of 18 graduate semester hours in the discipline that is the subject of the course; or
3. For a course that is offered in an associate degree program and that is not designed for transfer to a baccalaureate degree program:
 - a. A degree described above;
 - b. A baccalaureate degree in the discipline that is the subject of the course; or
 - c. An associate degree and demonstrated competencies in the discipline that is the subject of the course, as deter-

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mined by the Texas Higher Education Coordinating Board.

Not later than the 60th day after receipt, a public junior college shall approve or reject an application for approval to teach a course at a high school that is submitted by an instructor employed by the district with which the junior college entered into an agreement to offer the course.

Education Code 130.008(g), (h)

Attendance
Accounting

The time during which a student attends a dual credit course, including a course provided under the college credit program, shall be counted as part of the minimum instructional hours required for a student to be considered a full-time student in average daily attendance. [See FEB] *Education Code 42.005*

The commissioner of education may approve instructional programs provided off campus by an entity other than a district as a program in which participation by a student may be counted for purposes of determining average daily attendance. *Education Code 42.0052(a)*

*Reporting Off-
Campus
Programs*

A district may adopt a policy that allows a student to participate in an off-campus instructional program. The program must be provided only by an institution of higher education that is accredited by one of the regional accrediting associations specified in 19 Administrative Code 74.25 (relating to High School Credit for College Courses).

To be eligible, a student must:

1. Be in grade 11 or 12;
2. Have demonstrated college readiness as outlined in the requirements for participation in dual credit programs in the Student Attendance Accounting Handbook;
3. Meet any eligibility requirements adopted by the institution of higher education; and
4. Have the approval of the high school principal or other school official designated by the district.

The off-campus program must comply with rules adopted by the Texas Higher Education Coordinating Board in the Texas Administrative Code, Title 19, Part 1, with respect to teacher qualifications.

19 TAC 129.1031

Time that a student participates in an off-campus instructional program approved by the commissioner under Education Code

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42.0052(a) shall be counted as part of the minimum number of instructional hours required for a student to be considered a full-time student in average daily attendance. *Education Code 42.005(h)*

Partnership
Agreement

The board of a district and the governing board of a college must approve any dual credit partnership between the schools before offering such courses.

The partnership 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-.85

**Instructional
Partnerships with
Community College
Districts**

Types of instructional partnerships between a district and a community college district include:

1. Award of High School Credit Only (see High School Credit-Only Courses, below).
2. Award of Dual Credit (see Dual Credit Programs, above).
3. Tech-Prep Programs (see Tech-Prep Programs, below).
4. Remedial or Developmental Instruction for High School Graduates (see Remedial Programs, below).
5. College Preparatory Courses for High School Students (see College Preparatory Courses, below)

19 TAC 9.143

Agreement

For any educational partnership between a district and a community college district, an agreement must be approved by the board or designee of both the district and the college district. The partnership agreement must address the following:

1. Student eligibility requirements.

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2. Faculty qualifications.
3. Location and student composition of classes.
4. Provision of student learning and support services.
5. Eligible courses.
6. Grading criteria.
7. Transcribing of credit.
8. Funding provisions.

19 TAC 9.144

High School Credit-
Only Courses

A district may contract with a community college district for the college district to provide coursework necessary for students to complete high school as described in 19 Administrative Code 9.125. The district and college district shall negotiate an agreed cost for instruction. *19 TAC 9.125, .143(a)*

Tech-Prep
Programs

A district may partner with a college district to allow for the articulation of high school technical courses taught by the high school to high school students for immediate high school credit and later college credit, to be awarded upon enrollment of the students in the college district in an associate degree or certificate program. *19 TAC 9.143(c)*

Remedial Programs

A board may contract, as outlined in 19 Administrative Code 9.125, with the board of the community college district in which a district is located for the college district to provide remedial programs for students enrolled in a district's secondary schools in preparation for graduation from secondary school and entrance into college.

Community colleges may provide instruction to high school students for either remedial course work to prepare students to pass the required State of Texas Assessments of Academic Readiness End-of-Course (STAAR EOC) assessments or developmental course work to prepare the students to pass an assessment instrument approved by the board under 19 Administrative Code 4.56 (relating to Assessment Instruments).

High school students who have passed all of the STAAR EOC assessments with the high school graduation standard may be permitted to enroll in state-funded developmental courses offered by a community college at the college's discretion if a need for such course work is indicated by student performance on an assessment instrument approved by the board under 19 Administrative Code 4.56 (relating to Assessment Instruments).

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The district and college district shall negotiate an agreed cost for instruction. Remedial and developmental courses may not be offered for dual credit.

Education Code 130.090; 19 TAC 9.125, .143(d), .146

College Preparatory
Courses

College Preparatory Courses are locally developed through a memorandum of understanding created between school districts and community colleges. *19 TAC 9.147*

Certain Academies

A district shall grant a student a maximum of two years' credit toward the academic course requirements for high school graduation for courses successfully completed at the Texas Academy of Leadership in the Humanities (at Lamar University—Beaumont), the Texas Academy of Mathematics and Science (at the University of Texas—Brownsville or University of North Texas—Denton), or the Texas Academy of International Studies (at Texas A&M University—Laredo). *Education Code 28.024*

¹ Texas Virtual School Network: <http://www.txvsn.org/>

ALTERNATIVE METHODS FOR EARNING CREDIT
DISTANCE LEARNING

EHDE
(LEGAL)

**Distance
Learning and
Correspondence
Courses**

Credit toward state graduation requirements may be granted for distance learning and correspondence courses only as follows:

1. The institution offering the correspondence 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. Students may earn course credit through distance learning technologies such as satellite, Internet, two-way videoconferencing, online courses, the Texas Virtual School Network (TXVSN), and instructional television.
3. The distance learning and correspondence courses must include the state-required essential knowledge and skills for such a course.

19 TAC 74.23

**Texas Virtual School
Network**

The TXVSN is a state-led initiative for online learning authorized by Education Code Chapter 30A. The TXVSN is a partnership network administered by TEA in coordination with regional education service centers (ESCs), Texas public school districts and charter schools, institutions of higher education, and other eligible entities.

The TXVSN is comprised of two components—the online school (OLS) program and the statewide course catalog.

19 TAC 70.1001(4)

**“Online School
(OLS) Program”**

“Online School (OLS) program” is a full-time, virtual instructional program that is made available through an approved course provider and is designed to serve students in grades 3–12 who are not physically present at school. *19 TAC 70.1001(7)*

A TXVSN OLS may serve students in grades 3–12 but may not serve students in kindergarten–grade 2.

A school district that operates a TXVSN OLS that serves students in full-time virtual instruction shall, prior to the start of each academic year, notify TEA of grade levels to be served and the total number of students to be served during that academic year. A school district may not add grade levels after the start of the school year.

A TXVSN OLS or a school district wishing to add additional grade levels to its online program shall certify that the OLS has courses sufficient to comprise a full instructional program for each additional grade level to be served by the OLS prior to serving that grade level.

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School districts approved to serve as TXVSN OLSs shall follow the TEA procedures related to obtaining a campus number for the virtual campus through which they serve their TXVSN OLS students.

School districts serving as TXVSN OLSs must follow all requirements in 19 Administrative Code 70.1011.

19 TAC 70.1011

"Statewide Course Catalog"

"Statewide course catalog" is a supplemental online high school instructional program available through approved providers. *19 TAC 70.1001(10)*

Course Providers

A TXVSN course provider is an entity that provides an electronic course through the TXVSN. Course providers include TXVSN OLSs and providers in the statewide course catalog. *19 TAC 70.1001(8)*

Electronic Course

"Electronic course" means an educational course in which:

1. Instruction and content are delivered primarily over the Internet;
2. A student and teacher are in different locations for a majority of the student's instructional period;
3. Most instructional activities take place in an online environment;
4. The online instructional activities are integral to the academic program;
5. Extensive communication between a student and a teacher and among students is emphasized; and
6. A student is not required to be located on the physical premises of a school district or open-enrollment charter school.

An electronic course is the equivalent of what would typically be taught in one semester. For example: English IA is treated as a single electronic course and English IB is treated as a single electronic course.

Education Code 30A.001(4); 19 TAC 70.1001(1)

OLS Eligibility

To be eligible to serve as a TXVSN OLS, a school district shall:

1. Have a current accreditation status of Accredited under 19 Administrative Code 97.1055 (relating to Accreditation Status);
2. Be rated acceptable under Education Code 39.054;

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3. Be rated at the Standard Achievement level or higher under the state financial accountability rating system under 19 Administrative Code 109.1001 (relating to Types of Financial Accountability Ratings);
4. Have met statutory requirements for timely submission of annual audit and compliance reports, Public Education Information Management System (PEIMS) reports, and timely deposits with the Teacher Retirement System, with all records and reports reflecting satisfactory performance;
5. Be in good standing with other programs, grants, and projects administered through TEA; and
6. Have been approved to operate a TXVSN OLS as of January 1, 2013.

19 TAC 70.1009(a)

*Statewide Course
Catalog Provider
Eligibility*

To be eligible to serve as a course provider in the TXVSN statewide course catalog, a district must be rated acceptable under Education Code 39.054. A Texas school district may provide an electronic course through the TXVSN to a student enrolled in that district or school, a student enrolled in another school district or school in the state, or a student who resides in Texas who is enrolled in a school other than a public school district or charter school. *19 TAC 70.1007(a)*

*General
Requirements*

TXVSN course providers shall:

1. Provide the TXVSN receiver district in which each TXVSN student is enrolled with written notice of a student's performance in the course at least once every 12 weeks;
2. Provide the TXVSN receiver district in which each TXVSN student is enrolled with written notice of a student's performance at least once every three weeks if the student's performance in the course is consistently unsatisfactory, as determined by the TXVSN course provider;
3. Notify students in writing upon enrollment to participate in the TXVSN course with specific dates and details regarding enrollment;
4. Meet all federal and state requirements for educating students with disabilities;
5. Provide a contingency plan for the continuation of instructional services to all TXVSN students allowing them to complete their TXVSN courses in the event that the contract or agreement through which the electronic courses are provided are

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terminated or the TXVSN courses become unavailable to students;

6. Ensure a maximum class size limit of 40 students in a single section of a course and ensure that the class size does not exceed the maximum allowed by law, as applicable, whichever is less; and
7. Meet all reporting requirements established by TXVSN central operations, including timely submission of student performance reports, course completion results, catalog data, data required to verify instructor qualifications, and all data necessary for the TXVSN Informed Choice Report required under 19 Administrative Code 70.1031 (relating to Informed Choice Reports).

19 TAC 70.1007(c)

*Receiver District
Requirements*

A district is eligible to serve as a receiver district in the TXVSN statewide course catalog. Each TXVSN receiver district shall:

1. Register as a receiver district with TXVSN central operations;
2. Assign a qualified staff member to serve as the TXVSN coordinator;
3. Enroll a student who resides in Texas and who is enrolled in a school other than a public school district or charter school upon request by the student and/or parent or guardian; and
4. In accordance with 19 Administrative Code 74.26 (relating to Award of Credit), award credit to a student enrolled in the district who has successfully completed all state and local requirements and received a grade that is the equivalent of 70 on a scale of 100, based upon the essential knowledge and skills for a course offered through the TXVSN statewide course catalog.

19 TAC 70.1008

Courses

All electronic courses to be made available through the TXVSN shall be reviewed and approved prior to being offered in accordance with the course requirements at 19 Administrative Code 70.1005. *19 TAC 70.1005(a)*

An electronic course or program that was offered or could have been offered during the 2008–09 school year under former Education Code 29.909, as that section existed on January 1, 2009, may be offered during a subsequent school year through the TXVSN. *Education Code 30A.006*

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Student Eligibility <i>Generally</i>	<p>A student is eligible to enroll in a TXVSN course only if the student:</p> <ol style="list-style-type: none">1. On September 1 of the school year is younger than 21 years of age or is younger than 26 years of age and entitled to the benefits of the Foundation School Program under Education Code 42.003;2. Has not graduated from high school; and3. Is otherwise eligible to enroll in a public school in this state. <p>A student is eligible to enroll full-time in courses provided through the TXVSN only if:</p> <ol style="list-style-type: none">1. The student was enrolled in a public school in this state in the preceding school year;2. The student is a dependent of a member of the United States military who has been deployed or transferred to this state and was enrolled in a publicly funded school outside of this state in the preceding school year; or3. The student has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.
Exception for Military Dependents	<p>A student is eligible to enroll in one or more TXVSN courses or enroll full-time in courses provided through the network if the student:</p> <ol style="list-style-type: none">1. Is a dependent of a member of the United States military;2. Was previously enrolled in high school in this state; and3. No longer resides in this state as a result of a military deployment or transfer.
Provisional Enrollment	<p>If a student has not provided required evidence of eligibility to enroll, a TXVSN OLS may enroll a student provisionally for ten school days and withdraw the student from the OLS if the student does not provide the required evidence of eligibility within ten school days of the provisional enrollment.</p> <p>Upon enrolling a student provisionally, the TXVSN OLS shall notify the student and the student's parents or guardians that the student will be withdrawn if documentation is not provided within the required timeframe.</p> <p><i>Education Code 30A.002; 19 TAC 70.1013</i></p>
<i>Enrolled Students</i>	<p>A student who is enrolled in the district as a full-time student may take one or more electronic courses through the TXVSN. <i>Education Code 30A.107(b)</i></p>

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*Unenrolled
Students*

A student who resides in this state but who is not enrolled in a school district or open-enrollment charter school in this state as a full-time student may, subject to Education Code 30A.155, enroll in electronic courses through the TXVSN. The student:

1. May not in any semester enroll in more than two electronic courses offered through the TXVSN;
2. Is not considered to be a public school student;
3. Must obtain access to a course provided through the network through the school district or open-enrollment charter school attendance zone in which the student resides;
4. Is not entitled to enroll in a course offered by a school district or open-enrollment charter school other than an electronic course provided through the network; and
5. Is not entitled to any right, privilege, activities, or services available to a student enrolled in a public school, other than the right to receive the appropriate unit of credit for completing an electronic course.

Education Code 30A.107(c)

*Enrollment,
Advancement,
and Withdrawal*

A student taking a course through the TXVSN statewide course catalog or a TXVSN OLS program is considered to:

1. Be enrolled in a TXVSN course when he or she begins receiving instruction and actively engages in instructional activities in a TXVSN subject area or course;
2. Have successfully completed a course if the student demonstrates academic proficiency and earns credit for the course, as determined by the TXVSN teacher; and
3. Be, and must be reported as, withdrawn from the TXVSN when the student is no longer actively participating in the TXVSN course or program.

A student taking a course through the TXVSN statewide course catalog:

1. Shall enroll in each TXVSN course through the TXVSN online registration system;
2. Shall be assigned a grade by the TXVSN teacher after the drop period established by TXVSN central operations;
3. May withdraw from a course taken through the TXVSN after the instructional start date without academic or financial pen-

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alty within the drop period established by TXVSN central operations; and

4. Shall have the grade assigned by the TXVSN teacher added to the student's transcript by the student's home district.

A student enrolled full time in grades 3–8 must demonstrate academic proficiency sufficient to earn promotion to the next grade, as determined by the TXVSN teacher for the educational program.

19 TAC 70.1015

*Compulsory
Attendance*

Texas public school students are not required to be in physical attendance while participating in courses through a TXVSN OLS or the TXVSN course catalog.

Based upon successful completion of a TXVSN course for students in grades 9–12 or a TXVSN OLS instructional program for students in grades 3–8, students are considered to have met attendance requirements for that course or program. A student who has successfully completed the grade level or course is eligible to receive any weighted funding for which the student is eligible.

For audit purposes, TXVSN course providers and TXVSN receiver districts shall maintain documentation to support the students' successful completion and to support verification of compulsory attendance.

"TXVSN receiver district" means a Texas public school district that has students enrolled in the school district who take one or more online courses through the TXVSN statewide course catalog.

19 TAC 70.1001(9), .1017

Local Policy

A district shall adopt a written policy that provides students enrolled in the district with the opportunity to enroll in electronic courses provided through the TXVSN statewide course catalog. The policy must be consistent with the requirements regarding notice, enrollment requests, and students with disabilities as described below.

A district shall, at least once per school year, send to a parent of each district student enrolled at the middle or high school level a copy of the policy. A district may send the policy with any other information that the district sends to a parent.

Education Code 30A.007; 19 TAC 70.1033

Notice

At the time and in the manner that a district informs students and parents about courses that are offered in the district's traditional classroom setting, the district shall notify parents and students of

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the option to enroll in an electronic course offered through the TXVSN.

*Requests to
Enroll*

Except as provided below, a district may not deny the request of a parent of a full-time student to enroll the student in an electronic course offered through the TXVSN.

A district may deny a request to enroll a student in an electronic course if:

1. A student attempts to enroll in a course load that is inconsistent with the student's high school graduation plan or requirements for college admission or earning an industry certification;
2. The student requests permission to enroll in an electronic course at a time that is not consistent with the enrollment period established by the district providing the course; or
3. The district offers a substantially similar course.

The course provider shall make all reasonable efforts to accommodate the enrollment of a student in the course under special circumstances.

If a parent of a student requests permission to enroll the student in a TXVSN course, a district has discretion to select a course provider approved by TEA for the course in which the student will enroll based on factors including the informed choice report required by Education Code 30A.108(b).

Appeals

A parent may appeal to the commissioner a district's decision to deny a request to enroll a student in an electronic course offered through the TXVSN. The commissioner's decision under this subsection is final and may not be appealed.

Education Code 26.0031; 19 TAC 70.1008, .1035

*Students with
Disabilities*

For purposes of the policy, the determination of whether or not an electronic course will meet the needs of a student with a disability shall be made by the student's admission, review, and dismissal (ARD) committee in a manner consistent with state and federal law, including the Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794. *Education Code 30A.007(b)*

*Required
Enrollment
Prohibited*

A school district or open-enrollment charter school may not require a student to enroll in an electronic course. *Education Code 30A.107(d)*

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Inducements for Enrollment Prohibited	<p>A course provider may not promise or provide equipment or any other thing of value to a student or a student's parent as an inducement for the student to enroll in an electronic course offered through the TXVSN. The commissioner shall revoke approval of electronic courses offered by a course provider that violates this prohibition. The commissioner's action under this section is final and may not be appealed. <i>Education Code 30A.1052</i></p>
Course Portability	<p>A student who transfers from one educational setting to another after beginning enrollment in an electronic course is entitled to continue enrollment in the course. <i>Education Code 30A.1051; 19 TAC 70.1015(d)</i></p>
Student Assessment	<p>All Texas public school students enrolled in the TXVSN are required to take the statewide assessments as required in Education Code 39.023 [see EKB]. The administration of the assessment instrument to the student enrolled in the electronic course must be supervised by a proctor.</p> <p>A district shall report to the commissioner through the Public Education Information Management System (PEIMS) the results of assessment instruments administered to students enrolled in an electronic course offered through the TXVSN separately from the results of assessment instruments administered to other students.</p> <p>All districts participating in the TXVSN OLS program are included in the state's academic accountability system.</p> <p><i>Education Code 30A.110; 19 TAC 70.1023</i></p>
Funding	<p>A district in which a student is enrolled is entitled to funding under Education Code Chapter 42 for the student's enrollment in a TXVSN course in the same manner that the district is entitled to funding for the student's enrollment in courses provided in a traditional classroom setting, provided that the student successfully completes the electronic course.</p> <p>Funding is limited to a student's enrollment in not more than three electronic courses during any school year, unless the student is enrolled in a full-time online program that was operating on January 1, 2013.</p> <p><i>Education Code 30A.153</i></p> <p>A district may decline to pay the cost for a student of more than three yearlong electronic courses, or the equivalent, during any school year unless the student is enrolled in a full-time online program that was operating on January 1, 2013. If the district declines to pay the cost, a student is able to enroll in additional electronic courses at the student's cost. <i>Education Code 26.0031(c-1)</i></p>

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Course Cost

A district may charge the course cost for enrollment in a TXVSN course to a student who resides in this state and:

1. Is enrolled in the district as a full-time student with a course load greater than that normally taken by students in the equivalent grade level in other school districts; or
2. Elects to enroll in a TXVSN course for which the district in which the student is enrolled as a full-time student declines to pay the cost as authorized by Education Code 26.0031(c-1).

A district may charge the course cost for enrollment in a TXVSN course during the summer.

A district shall charge the course cost for enrollment in a TXVSN course to a student who resides in this state and is not enrolled in a school district or open-enrollment charter school as a full-time student.

A TXVSN course cost may not exceed the lesser of the cost of providing the course or \$400.

A district may decline to pay the course costs for a student who chooses to enroll in more than three year-long electronic courses, or the equivalent, during any school year. This does not limit the ability of the student to enroll in additional electronic courses offered through the TXVSN at the student's expense.

A district that is not the course provider may charge a student enrolled in the district a nominal fee, not to exceed \$50, if the student enrolls in a TXVSN course that exceeds the course load normally taken by students in the equivalent grade level.

A course provider in the TXVSN statewide course catalog shall receive:

1. No more than 70 percent of the catalog course cost prior to a student successfully completing the course; and
2. The remaining 30 percent of the catalog course cost when the student successfully completes the course.

Education Code 30A.155(a)–(c-1); 19 TAC 70.1025

Educators of
Electronic Courses

Each instructor of an electronic course, including a dual credit course, offered through the TXVSN by a course provider must be certified under Education Code Chapter 21, Subchapter B, to teach that course and grade level or meet the credentialing requirements of the institution of higher education with which they are affiliated and that is serving as a course provider.

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In addition, each instructor must successfully complete one continuing professional development course specific to online learning every three years, and:

1. Successfully complete a professional development course or program approved by TXVSN central operations before teaching an electronic course offered through the TXVSN; or
2. Have a graduate degree in online or distance learning and have demonstrated mastery of the International Association for K–12 Learning (iNACOL) National Standards for Quality Online Teaching; or
3. Have two or more years of documented experience teaching online courses for students in grades 3–12 and have demonstrated mastery of the iNACOL National Standards for Quality Online Teaching.

Each instructor of an electronic course, including a dual credit course, offered through the TXVSN by a course provider must meet highly qualified teacher requirements under the Elementary and Secondary Education Act, as applicable.

TXVSN course providers shall affirm the preparedness of teachers of TXVSN electronic courses to teach public school-age students in a highly interactive online classroom and shall:

1. Maintain records documenting:
 - a. Valid Texas educator certification credentials appropriate for the instructor's TXVSN assignment;
 - b. Successful initial completion of TXVSN-approved professional development, evidence of prior online teaching, or a graduate degree in online or distance learning; and
 - c. Instructors' demonstrated mastery of the iNACOL National Standards for Quality Online Teaching prior to teaching through the TXVSN;
2. Conduct and maintain records for background checks;
3. Maintain records of successful completion of continuing professional development;
4. Maintain records documenting successful completion of TXVSN-approved professional development before the end of the school year for any instructor who is hired after the school year has begun; and

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5. Make the records specified in this subsection available to TEA and TXVSN central operations upon request.

19 TAC 70.1027

Revocation

The commissioner may revoke the right to participation in the TXVSN based on any of the following factors:

1. Noncompliance with relevant state or federal laws;
2. Noncompliance with requirements and assurances outlined in the contractual agreements with TXVSN central operations and/or these provisions and Education Code Chapter 30A; or
3. Consistently poor student performance rates as evidenced by results on statewide student assessments, student withdrawal rates, student completion rates, successful completion rates, or campus accountability ratings.

19 TAC 70.1029

Applicability

Unless a district chooses to participate in providing an electronic course or an electronic diagnostic assessment under Education Code Chapter 30A to a student who is located on the physical premises of a school district or open-enrollment charter school, Chapter 30A does not affect the provision of a course to such a student.

Requirements imposed by or under Education Code Chapter 30A do not apply to a virtual course provided by a district only to district students if the course is not provided as part of the TXVSN.

Education Code 30A.004

**Student
Advancement**

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. [See EI]

In determining promotion, a district shall consider:

1. The recommendation of the student's teacher;
2. The student's grade in each subject or course;
3. The student's score on an assessment instrument administered under Education Code 39.023(a), (b), or (l), to the extent applicable; and
4. Any other necessary academic information, as determined by the district.

Education Code 28.021(a), (c)

**Grade Advancement
(Grades 5 and 8)**

In addition to Board policy relating to student advancement, students in grades 5 and 8 must demonstrate proficiency in reading and mathematics, as required by Education Code 28.0211(a), in order to advance to the next grade.

A student demonstrates proficiency by meeting the passing standard on the appropriate assessment instrument specified by 19 Administrative Code 101.2003(a) [see Grade Advancement Testing, below] or on a state-approved alternate assessment authorized by 19 Administrative Code 101.2011 [see Alternate Assessment, below].

A student who does not demonstrate proficiency may advance to the next grade only if:

1. The student has completed the required accelerated instruction under 19 Administrative Code 101.2006 [see Accelerated Instruction, below];
2. 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. In accordance with Education Code 28.021, to determine grade promotion, a district is required to consider:
 - a. The recommendation of the student's teacher;
 - b. The student's grades;
 - c. The student's assessment scores; and

d. Any other necessary academic information; and

3. In accordance with Education Code 28.0211(n), the district will ensure that the student who is promoted by the GPC under 19 Administrative Code 101.2007 shall be assigned to a teacher who meets all state and federal qualifications to teach the subject and grade in each subject in which the student failed to perform satisfactorily on an assessment instrument specified under Education Code 28.0211(a).

Education Code 28.0211(a); 19 TAC 101.2001(b)

**Advancement
Requirements**

By the start of the school year, a district shall make public the requirements for student advancement under Education Code 28.021. *Education Code 28.021(d)*

The superintendent shall also notify parents of the grade advancement requirements under Education Code 28.0211 at the beginning of the school year. A district shall implement grade advancement requirements in accordance with 19 Administrative Code Chapter 101, Subchapter BB and the TEA procedures outlined in the official Student Success Initiative (SSI) manual, published annually by TEA. *19 TAC 101.2001(a), .2009(a)*

Retention

A 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**

A 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 automatic retention, if the student is enrolled in a district on any day between January 1 and the date of the first administration of the grade advancement assessments.

An eligible student who does not meet the criteria specified above but enrolls in a district at any time after the date of the first administration of the grade advancement assessments is not subject to the grade advancement requirements.

A district must provide the student the opportunity to test and access to accelerated instruction.

19 TAC 101.2003(b)–(c)

ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

EIE
(LEGAL)

Required
Assessment

A student may not be promoted to:

1. 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
2. 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.

Education Code 28.0211(a); 19 TAC 101.2003

Exception

Education Code 28.0211 does not require the administration of a fifth or eighth grade assessment instrument in a subject under Education Code 39.023(a) to a student enrolled in the fifth or eighth grade, as applicable, if the student:

1. Is enrolled in a course in the subject intended for students above the student's grade level and will be administered an assessment instrument adopted or developed under Education Code 39.023(a) [see EKB] that aligns with the curriculum for the course in which the student is enrolled; or
2. Is enrolled in a course in the subject for which the student will receive high school academic credit and will be administered an end-of-course assessment instrument [see EKB] for the course.

Notwithstanding any other provision of Education Code 28.0211, the student may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument not required to be administered to the student, nor may a student in grade 5 or grade 8 be denied promotion to the next grade on the basis of failure to perform satisfactorily on a reading or mathematics assessment instrument intended for use above the student's grade level.

Education Code 28.0211(o)–(p); 19 TAC 101.2001(d)

Test Schedule

TEA shall provide three opportunities per year for the tests required for grade advancement. A 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(b)–(c)

A 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

A 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 a 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 101.3012(b)

**Unsatisfactory
Performance on
Grade Advancement
Tests**

A 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, a district shall provide the student with accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. Accelerated instruction shall be based on, but not limited to, guidelines on research-based best practices and effective strategies as outlined in the SSI manual, which districts may use for developing accelerated instruction.

*Before the Next
School Year*

A student who fails to perform satisfactorily on a grade advancement test shall be provided accelerated instruction before the next administration of the applicable assessment. 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.

Education Code 28.0211(c); 19 TAC 101.2006(e)(1)

*During the Next
School Year*

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. A 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. A 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)*

Transportation

A 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. *Education Code 28.0211(j); 19 TAC 101.2006(b)*

Notice to Parents of
Performance and
Accelerated
Instruction

In addition to providing the accelerated instruction, a 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 a 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

A 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 assessment required for grade advancement the next year. A superintendent shall establish the instruments/procedures to be used to make this determination. This no-

tice shall include accelerated instruction participation requirements as stipulated by 19 Administrative Code 101.2006 and be provided before the end of the school year preceding the grade advancement requirements. *19 TAC 101.2009(b)*

After First Testing
Opportunity

Notice

A district shall establish procedures to notify the parent or guardian of a student who has failed to demonstrate proficiency on the first administration of a grade advancement assessment. This notification should be made within five working days of a district's receipt of student assessment results from this administration. This notice shall include the student's assessment results, a description of the district's grade advancement policy, the required 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 a district's receipt of student assessment results for the second administration of the assessment required for grade advancement, the district shall notify the campus principal of student assessment 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 assessment 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. The superintendent of each district shall establish procedures for convening the GPC.

In accordance with 19 Administrative Code 101.2006(d), decisions by the GPC shall be made on an individual student basis, address required participation of the student in accelerated instruction, and ensure the most effective instruction 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 assessment 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. A district may accept a parent's or guardian's written designation of another person to serve on the GPC for all purposes. A 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, a district may use other methods to ensure parent participation, including individual or conference telephone calls. A 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. The district shall make a good faith effort to notify a parent or guardian to attend the GPC. If the parent or guardian is unavailable, the remaining members of the GPC must convene as required by law and take all necessary actions required.

Education Code 28.0211(c); 19 TAC 101.2007(a)–(b)

*Alternate
Assessment*

For the third testing opportunity, a board may choose to use a state-approved alternate assessment instead of the statewide assessment instrument. If a 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

A 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*

ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

EIE
(LEGAL)

After Third Testing
Opportunity

Notice

The GPC must convene again if a student fails to demonstrate proficiency on the third administration of an assessment required for grade advancement and is thereby automatically retained at the same grade level. Within five working days of receipt of student assessment results for this administration, a district shall notify the campus principal of the assessment results for each eligible 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. A 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)*

*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 and the student has completed all required accelerated instruction.

The review and decision of the GPC must be appropriately documented as meeting the standards adopted by the board and made in conformance with procedures specified in the SSI manual and as required by 19 Administrative Code 101.2001(b). These standards must include consideration of the following:

1. The recommendation of the student's teacher;
2. The student's grades;
3. The student's assessment scores; and
4. Any other necessary academic information as determined by the district.

19 TAC 101.2007(f)

ACADEMIC ACHIEVEMENT
RETENTION AND PROMOTION

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(LEGAL)

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)*

*Accelerated
Instruction*

A student who fails to perform satisfactorily on a grade advancement test after three attempts and who is promoted to the next grade level must complete all required accelerated instruction before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted. *Education Code 28.0211(a-2); 19 TAC 101.2006(e)(2)*

In each subject in which the student failed to perform satisfactorily on the grade advancement test, a student who is promoted by the GPC must be assigned to a teacher who meets all state and federal qualifications to teach that subject and grade. *Education Code 28.0211(n)*

Transfer Students

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 a district's ability to appropriately place such a student. *19 TAC 101.2007(h)*

**English Language
Learners (ELLs)**

The language proficiency assessment committee (LPAC) shall determine appropriate assessment and accelerated instruction for an English language learner (ELL) who is administered a grade advancement test in English or Spanish, except as provided by 19 Administrative Code 101.1005. The GPC for an ELL shall make its decisions in consultation with a member of the student's LPAC. *19 TAC 101.2003(e)* [See EKBA]

**Students Receiving
Special Education
Services**

A student who is receiving special education services, including an ELL, who is enrolled in grade 5 or 8, and who is receiving instruction in the essential knowledge and skills in reading or mathematics is eligible for grade advancement testing as outlined in the official SSI manual. The student's admission, review, and dismissal (ARD) committee shall determine appropriate assessment and accelerated instruction for the student. Decisions regarding assessments for ELLs who receive special education services shall be made by the ARD committee in conjunction with the LPAC.

The ARD committee of a student who does not perform satisfactorily on an assessment instrument in grade 5 or 8 must meet before the student is administered the assessment

instrument for the second time. The committee shall determine the manner in which the student will participate in an accelerated instruction program and whether the student will be promoted in accordance with provisions below or retained.

At a meeting of the ARD committee, the committee may promote the student to the next grade level if the committee concludes that the student has made sufficient progress in the measurable academic goals contained in the student's IEP. A school district that promotes a student is not required to provide an additional opportunity for the student to perform satisfactorily on the assessment instrument.

Not later than September 1 of each school year, a district must notify the parent or person standing in parental relation to a student enrolled in the district's special education program, of the options of the ARD committee if the student does not perform satisfactorily on an assessment instrument.

Education Code 28.0211(i), (i-1), (i-2); 19 TAC 101.2003(d), (f)

**Students with
Dyslexia**

In measuring the academic achievement or proficiency of a student who has dyslexia, the student's potential for achievement or proficiency in the area must be considered. *Education Code 28.021(b); 19 TAC 101.2003(g)* [See policies at EHB, EKB, and FB]

**Age-Appropriate
Assignment**

A 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, a 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. *19 TAC 101.2019(b)*

**Optional Extended-
Year Program**

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. *19 TAC 105.1001(c)*

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 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 school counselor, as soon as practicable after receiving such a request. During

the meeting, the principal, teacher, or school 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 a 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]

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High School Diploma A student may graduate and receive a diploma only if the student successfully completes:

1. The curriculum requirements identified by the State Board of Education (SBOE) [see State Graduation Requirements, below] and has performed satisfactorily on applicable state assessments [see EKB]; or
2. An individualized education program (IEP) developed under Education Code 29.005. [See EHBAB]

Education Code 28.025(c)

Note: Education Code 28.0258 related to individual graduation committees expires September 1, 2019.

Individual
Graduation
Committee

Without complying with the requirements above, a student may receive a diploma if the person is eligible for a diploma as determined by an individual graduation committee (IGC) established under Education Code 28.0258. *Education Code 28.025(c-6)*

For each 11th or 12th grade student who has failed to comply with the end-of-course (EOC) assessment instrument performance requirements under Education Code 39.025 for not more than two courses, the district shall establish an IGC at the end of or after the student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate before the student's 12th grade year.

The IGC shall be composed of:

1. The principal or principal's designee;
2. For each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
3. The department chair or lead teacher supervising the teacher(s) above; and
4. As applicable:
 - a. The student's parent or person standing in parental relation to the student;
 - b. A designated advocate if the parent is unable to serve; or
 - c. The student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.

The superintendent shall establish procedures for convening the committee.

The district shall provide an appropriate translator, if available, for a parent, advocate, or student who is unable to speak English.

Education Code 28.0258(a), (c), (c-2)

Notice

A district shall ensure a good faith effort is made to timely notify the appropriate person described under item 4 above of the time and place for convening the IGC and the purpose of the committee. The notice must be provided in person or by regular mail or e-mail; clear and easy to understand; and written in English, in Spanish, or, to the extent practicable, in the native language of the appropriate person. *Education Code 28.0258(d)*

*Curriculum
Requirements*

To be eligible to graduate and receive a high school diploma from the IGC, a student must successfully complete the curriculum requirements required for high school graduation. [See State Graduation Requirements, below] *Education Code 28.0258(e)*

*Additional
Requirements to
Graduate*

A student's IGC shall recommend additional requirements by which the student may qualify to graduate, including additional remediation; and for each EOC assessment instrument on which the student failed to perform satisfactorily:

1. The completion of a project related to the subject area of the course that demonstrates proficiency in the subject area; or
2. The preparation of a portfolio of work samples in the subject area of the course, including work samples from the course that demonstrate proficiency in the subject area.

A student may submit to the IGC coursework previously completed to satisfy a recommended additional requirement.

Education Code 28.0258(f), (g)

In determining whether a student is qualified to graduate, the committee shall consider the criteria at Education Code 28.0258(h) and any other academic information designated for consideration by the board. After considering the criteria, the committee may determine that the student is qualified to graduate. A student may graduate and receive a high school diploma on the basis of the committee's decision only if the student successfully completes all additional requirements recommended by the committee, the student meets applicable curriculum requirements, and the committee's vote is unanimous. The decision of a committee is final and may not be appealed. *Education Code 28.0258(i)*

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<i>English Language Learners</i>	For provisions related to an IGC and English language learners (ELL), see EKB(LEGAL).
Special Education	A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation. [See Graduation of Students Receiving Special Education Services, below, and EKB] <i>19 TAC 101.3023(a)</i>
Posthumous Diploma	Beginning with students enrolled in grade 12 during the 2005–06 school year, and on request of the student's parent, a district shall issue a high school diploma posthumously to a student who died while enrolled in the district at grade level 12, provided that the student was academically on track at the time of death to receive a diploma at the end of the school year in which the student died. "School year" includes any summer session following the spring semester.
<i>Exception</i>	A district is not required to issue a posthumous diploma if the student was convicted of a felony offense under Title 5 or 6, Penal Code, or adjudicated as having engaged in conduct constituting a felony offense under Title 5 or 6, Penal Code. <i>Education Code 28.0254</i>
Diplomas for Veterans	Notwithstanding any other provision of this policy, a district may issue a high school diploma to a person who is an honorably discharged member of the armed forces of the United States; was scheduled to graduate from high school after 1940 and before 1975 or after 1989; and left school after completing the sixth or a higher grade, before graduating from high school, to serve in: <ol style="list-style-type: none">1. World War II, the Korean War, the Vietnam War, the Persian Gulf War, the Iraq War, or the war in Afghanistan; or2. Any other war formally declared by the United States, military engagement authorized by the United States Congress, military engagement authorized by a United Nations Security Council resolution and funded by the United States Congress, or conflict authorized by the president of the United States under the War Powers Resolution of 1973, 50 U.S.C. 1541, et seq. <i>Education Code 28.0251</i>

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**Personal Graduation
Plan**

Junior High or
Middle School PGP

A principal of a junior high or middle school shall designate a school counselor, teacher, or other appropriate individual to develop and administer a personal graduation plan (PGP) for each student enrolled in the junior high or middle school who:

1. Does not perform satisfactorily on a state assessment instrument; or
2. Is not likely to receive a high school diploma before the fifth school year following the student's enrollment in grade level 9, as determined by a district.

A PGP must:

1. Identify educational goals for the student;
2. Include diagnostic information, appropriate monitoring and intervention, and other evaluation strategies;
3. Include an intensive instruction program described in Education Code 28.0213 [see EHBC];
4. Address participation of the student's parent or guardian, including consideration of the parent's or guardian's educational expectations for the student; and
5. Provide innovative methods to promote the student's advancement, including flexible scheduling, alternative learning environments, online instruction, and other interventions that are proven to accelerate the learning process and have been scientifically validated to improve learning and cognitive ability.

Education Code 28.0212

*Students
Receiving
Special
Education
Services*

For a student receiving special education services, the student's ARD committee and the district are responsible for developing the student's PGP.

A student's IEP developed under Education Code 29.005 may be used as the student's PGP.

Education Code 28.0212(c); 19 TAC 89.1050(a) [See EHBAB]

High School PGP

A principal of a high school shall designate a school counselor or school administrator to review PGP options with each student entering grade 9 together with that student's parent or guardian. The PGP options reviewed must include the distinguished level of achievement and endorsements.

Before the conclusion of the school year, the student and the student's parent or guardian must confirm and sign a PGP for the student that identifies a course of study that:

1. Promotes college and workforce readiness and career placement and advancement; and
2. Facilitates the student's transition from secondary to postsecondary education.

A district may not prevent a student and the student's parent or guardian from confirming a PGP that includes pursuit of a distinguished level of achievement or an endorsement.

A student may amend the student's PGP after the initial confirmation of the plan. If a student amends the student's PGP, the school must send written notice to the student's parents regarding the change.

TEA must make available to a district information that explains the advantages of the distinguished level of achievement described by Education Code 28.025(b-15) and each endorsement described by Education Code 28.025(c-1). A district, in turn, shall publish the information from TEA on the Internet website of the district and ensure that the information is available to students in grades nine and above and the parents or legal guardians of those students in the language in which the parents or legal guardians are most proficient.

A district is required to provide this information in the language in which the parents or legal guardians are most proficient only if at least 20 students in a grade level primarily speak that language.

Education Code 28.02121

Early Graduation

A parent is entitled to request, with the expectation that the request will not be unreasonably denied, that the parent's child be permitted to graduate from high school earlier than the child would normally graduate, if the child completes each course required for graduation. The decision of a board concerning the request is final and may not be appealed. *Education Code 26.003(a)(3)(C), 26.003(b)* [See FMH, FNG]

State Graduation Requirements

Note: For current state graduation requirements, including those for students who entered grade 9 before the 2007–08 school year but that are not otherwise referenced in this policy, see Education Code 28.025 and 19 Administrative Code Chapter 74.

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Students Entering
Grade 9 in the
2014–15 School
Year

To receive a high school diploma, a student entering grade 9 in the 2014–15 school year and thereafter must complete:

1. Requirements of the foundation high school program under 19 Administrative Code 74.12 [see Foundation High School Program, below];
2. Testing requirements for graduation under 19 Administrative Code Chapter 101 [see EKB]; and
3. Demonstrated proficiency, as determined by the district, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.

A student shall enroll in the courses necessary to complete the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement.

Education Code 28.025(c); 19 TAC 74.11(a), (c)

*Foundation High
School Program*

A student must earn at least 22 credits to complete the foundation high school program and must demonstrate proficiency in the following core courses:

1. English language arts—4 credits;
2. Mathematics—3 credits;
3. Science—3 credits;
4. Social Studies—3 credits;
5. Languages other than English—2 credits;
6. Physical Education—1 credit;
7. Fine Arts—1 credit; and
8. Elective courses—5 credits.

19 TAC 74.12

Endorsements

A student shall specify in writing an endorsement the student intends to earn upon entering grade 9. A student may earn any of the following endorsements:

1. Science, technology, engineering, and mathematics (STEM);
2. Business and industry;

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3. Public services;
4. Arts and humanities; and
5. Multidisciplinary studies.

A district must make at least one endorsement available to students. A district that offers only one endorsement curriculum must offer multidisciplinary studies.

To earn an endorsement a student must demonstrate proficiency in the curriculum requirements for the foundation high school program and, in accordance with 19 Administrative Code 74.13(e), earn:

1. A fourth credit in mathematics;
2. An additional credit in science; and
3. Two additional elective credits.

A course completed as part of the four courses needed to satisfy an endorsement requirement may also satisfy a requirement under the foundation high school program, including an elective requirement. The same course may count as part of the set of four courses for more than one endorsement.

A district shall permit a student to enroll in courses under more than one endorsement before the student's junior year and to choose, at any time, to earn an endorsement other than the endorsement the student previously indicated.

A student must earn at least 26 credits to earn an endorsement, but a student is not entitled to remain enrolled to earn more than 26 credits.

A district may define advanced courses and determine a coherent sequence of courses for an endorsement area, provided that prerequisites in 19 Administrative Code Chapters 110–118, 126, 127, and 130 are followed.

Education Code 28.025; 19 TAC 74.13

Exception

A student may graduate under the foundation high school program without earning an endorsement if, after the student's sophomore year:

1. The student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and

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2. The student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by TEA, allowing the student to graduate under the foundation high school program without earning an endorsement.

19 TAC 74.11(d)

*Distinguished
Level of
Achievement*

A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the foundation high school program and the curriculum requirements for at least one endorsement, including four credits in science and four credits in mathematics, including Algebra II. *19 TAC 74.11(e)*

Prerequisites

A student may not be enrolled in a course that has a required prerequisite unless:

1. The student has completed the prerequisite course(s);
2. The student has demonstrated equivalent knowledge as determined by the district; or
3. The student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.

A district may award credit for a course a student completed without having met the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.

19 TAC 74.11(j), (k)

College Courses

Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements. *19 TAC 74.11(i)*

*Physical
Education
Substitutions*

*Other Physical
Activity*

In accordance with local district policy, the required physical education credit may be earned through completion of any TEKS-based course that is not being used to satisfy another specific graduation requirement. [See Restrictions, below]

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

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1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner of education for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
 - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions	All substitution activities permitted by local district policy must include at least 100 minutes of moderate to vigorous physical activity per five-day school week.
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No more than four substitution credits may be earned through any combination of substitutions listed above.

Student with Disability or Illness	A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, social studies or a course that is offered for credit as provided by Education Code
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28.002(g-1) for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.12(b)(6)

*Community-
Based Fine Arts
Programs*

In accordance with local district policy, the required fine arts credit may be earned through participation in a community-based fine arts program not provided by the school district in which the student is enrolled.

In accordance with local policy, credit may be earned through participation in the community-based fine arts program only if the program meets each of the following requirements:

1. The district must apply to the commissioner for approval of the community-based fine arts program;
2. The board must certify that the program provides instruction in the essential knowledge and skills for fine arts as defined by 19 Administrative Code, Chapter 117, Subchapter C;
3. The district must document student completion of the approved activity;
4. The program must be organized and monitored by appropriately trained instructors;
5. The fine arts program may be provided on or off a school campus and outside the regular school day; and

6. Students may not be dismissed from any part of the regular school day to participate in the community-based fine arts program.

The district shall require that instructors of the community-based fine arts program provide the district, at its request, the information necessary to obtain the criminal history record information required for school personnel in accordance with 19 Administrative Code, Chapter 153, Subchapter DD, if the community-based program is offered on campus.

Education Code 28.025(b-9); 19 TAC 74.12(b)(7)(B), .1030

*Performance
Acknowledgments*

In accordance with the requirements of 19 Administrative Code 74.14, a student may earn a performance acknowledgment on the student's transcript for:

1. Outstanding performance:
 - a. In a dual credit course;
 - b. In bilingualism and biliteracy;
 - c. On a College Board advanced placement test or international baccalaureate examination;
 - d. On an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument used to measure a student's progress toward readiness for college and the workplace;
 - e. On an established, valid, reliable, and nationally norm-referenced assessment instrument used by colleges and universities as part of their undergraduate admissions process; or
2. Earning a state-recognized or nationally or internationally recognized business or industry certification or license.

Education Code 28.025(c-5); 19 TAC 74.14

*Transition to
Foundation High
School Program*

A district shall allow a student who entered grade 9 prior to the 2014–15 school year to complete the curriculum requirements for high school graduation:

1. By satisfying the requirements in place when the student entered grade 9 for the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program [see 19 Administrative Code Chapter 74] if the student was participating in the program before the 2014–15 school year; or

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2. Under the foundation high school program by satisfying the requirements adopted by the SBOE, if the student chooses during the 2014–15 school year to take courses under the program.

A student who entered grade 9 prior to the 2014–15 school year may, at any time prior to graduation and upon request, choose to complete the curriculum requirements required for high school graduation under a different program than that selected by the student during the 2014–15 school year.

19 TAC 74.1021

Students Who
Entered Grade 9
Before the 2014–15
School Year

*Minimum High
School Program*

All credit for graduation must be earned no later than grade 12. *19 TAC 74.61(b), .71(b)*

A student entering grade 9 prior to the 2014–15 school year who does not choose to complete the curriculum requirements for high school graduation under the foundation high school program must enroll in the courses necessary to complete the curriculum requirements for the Recommended High School Program or the Advanced/Distinguished Achievement High School Program, unless the student, the student's parent or other person standing in parental relation to the student, and a school counselor or school administrator agree in writing signed by each party that the student should be permitted to take courses under the Minimum High School Program, and the student:

1. Is at least 16 years of age;
2. Has completed two credits required for graduation in each subject of the foundation curriculum under Education Code 28.002(a)(1); or
3. Has failed to be promoted to the tenth grade one or more times as determined by the school district.

Students with
Disabilities

If an ARD committee makes decisions that place a student with a disability on a modified curriculum in a subject area, the student will be automatically placed in the Minimum High School Program.

Applicability

A student who was permitted to take courses under the Minimum High School Program prior to the 2009–10 school year may remain in the Minimum High School Program.

19 TAC 74.61(c), (d), .71(c), (d)

Requirements

A student must earn at least 22 credits to complete the Minimum High School Program. A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must

demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.62.

A student who entered grade 9 in the 2012–13 or 2013–14 school year must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.72.

Education Code 28.025; 19 TAC 74.62, .72

*Recommended
High School
Program*

A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.63.

A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Recommended High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.73.

Education Code 28.025; 19 TAC 74.63, .73

*Advanced /
Distinguished
Achievement
High School
Program*

A student who entered grade 9 in the 2007–08, 2008–09, 2009–10, 2010–11, or 2011–12 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.64.

A student who entered grade 9 in the 2012–13 or 2013–14 school year must earn at least 26 credits to complete the Advanced/Distinguished Achievement High School Program. A student must demonstrate proficiency in the program requirements listed at 19 Administrative Code 74.74.

Education Code 28.025; 19 TAC 74.64, .74

Substitutions

No substitutions are allowed for high school graduation requirements in the Recommended and Advanced/Distinguished Achievement High School Programs, except as provided by State Board rule. 19 TAC 74.63(d), .64(e), .73(d), .74(e)

AP or IB Courses

College Board advanced placement and international baccalaureate courses may be substituted for required courses in appropriate areas. These courses may be used as electives in all three high school graduation programs. 19 TAC 74.61(k), .71(i)

Reading

A district may offer a maximum of 3 credits of reading for state graduation elective credit for identified students if the district:

1. Adopts policies to identify students in need of additional reading instruction;

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2. Has procedures that include assessment of individual student needs and ongoing evaluation of each student's progress; and
3. Monitors instructional activities to ensure that student needs are addressed.

Reading credits may be selected from Reading I, II, or III.

19 TAC 74.61(h), .71(f)

College Courses

A student may comply with the curriculum requirements under the Minimum, Recommended, or Advanced/Distinguished Achievement High School Program for each subject of the foundation curriculum and for languages other than English by successfully completing appropriate courses in the core curriculum of an institution of higher education. *Education Code 28.002(b-7); 19 TAC 74.61(l), .71(j)*

*Physical
Education
Substitutions*

In accordance with local district policy, credit for any physical education course may be earned through participation in the following activities:

*Other Physical
Activity*

1. Athletics;
2. JROTC; and
3. Appropriate private or commercially sponsored physical activity programs conducted on or off campus. A district must apply to the commissioner for approval of such programs, which may be substituted for state graduation credit in physical education. Such approval may be granted under the following conditions:
 - a. Olympic-level participation and/or competition includes a minimum of 15 hours per week of highly intensive, professional, supervised training. The training facility, instructors, and the activities involved in the program must be certified by the superintendent to be of exceptional quality. Students qualifying and participating at this level may be dismissed from school one hour per day. Students dismissed may not miss any class other than physical education.
 - b. Private or commercially sponsored physical activities include those certified by the superintendent to be of high quality and well supervised by appropriately trained instructors. Student participation of at least five hours per week must be required. Students certified to participate

at this level may not be dismissed from any part of the regular school day.

In accordance with local district policy, up to one credit for any one of the physical education courses listed in 19 Administrative Code Chapter 74 [see EHAC] may be earned through participation in any of the following activities:

1. Drill team;
2. Marching band; and
3. Cheerleading.

Restrictions All substitution activities must include at least 100 minutes per five-day school week of moderate to vigorous physical activity.

No more than four substitution credits may be earned through any combination of substitutions listed above.

*Student with
Disability or
Illness*

A student who is unable to participate in physical activity due to disability or illness may substitute an academic elective credit in English language arts, mathematics, science, or social studies for the required physical education credit. A credit allowed to be substituted may not also be used by the student to satisfy a graduation requirement other than completion of the physical education credit. The determination regarding a student's ability to participate in physical activity must be made by:

1. The student's ARD committee if the student receives special education services under Education Code Chapter 29, Subchapter A;
2. The committee established for the student under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794) if the student does not receive special education services under Education Code Chapter 29, Subchapter A but is covered by the Rehabilitation Act of 1973; or
3. A committee, established by the district, of persons with appropriate knowledge regarding the student if each of the committees described above is inapplicable. This committee must follow the same procedures required of an ARD or a Section 504 committee.

*Student with
Physical
Limitations*

If a student entering grade 9 during the 2007–08 school year or thereafter is unable to comply with all of the requirements for a physical education course due to a physical limitation certified by a licensed medical practitioner, a modification to a physical education course does not prohibit the student from earning a Recommended or Advanced/Distinguished High School Program diploma. A stu-

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dent with a physical limitation must still demonstrate proficiency in the relevant knowledge and skills in a physical education course that do not require physical activity.

Education Code 28.025(b-10)–(b-11); 19 TAC 74.62(b)(7), .63(b)(7), .64(b)(7), .72(b)(6), .73(b)(6), .74(b)(6)

Transfers from Out-of-State or Nonpublic Schools

Out-of-state or out-of-country transfer students (including foreign exchange students) and transfer students from Texas nonpublic schools are eligible to receive Texas diplomas but shall complete all applicable high school graduation requirements. Any course credits required for graduation that are not completed before enrollment may be satisfied through credit by examination, correspondence courses, distance learning, or completing the course, according to the provisions of 19 Administrative Code 74.26. 19 TAC 74.11(f) [See EHDB, EHDC, EHDE, and EI]

Graduation of Students Receiving Special Education Services

Modified Curriculum and Content

Modified curriculum and modified content refer to any reduction of the amount or complexity of the required knowledge and skills in 19 Administrative Code Chapters 110–118, 126–128, and 130. Substitutions that are specifically authorized in statute or rule must not be considered modified curriculum or modified content.

Employability and Self-Help Skills

Employability and self-help skills are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

Summary of Academic Achievement and Evaluation

All students graduating must be provided with a summary of academic achievement and functional performance as described in 34 C.F.R. 300.305(e)(3). This summary must consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 C.F.R. 300.305(e)(1) (evaluation to determine that the child is no longer a child with a disability), must be included as part of the summary for a student graduating under 19 Administrative Code 89.1070 (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C). Students who participate in graduation ceremonies but who are not graduating under subsections (b)(2)(A), (B), or (C) or (g)(4)(A), (B), or (C) and who will remain in school to complete their education do not have to be evaluated.

Students Entering Grade 9 in or After the 2014–15 School Year

A student entering grade 9 in the 2014–15 school year and thereafter who receives special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative

Code Chapters 110-118, 126-128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program applicable to students in general education as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation.

2. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the foundation high school program through courses, one or more of which contain modified curriculum that is aligned to the standards applicable to students in general education, as well as satisfactory performance on the required state assessments, unless the student's ARD committee has determined that satisfactory performance on the required state assessments is not necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:
 - a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district.
 - b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district.
 - c. The student has access to services that are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
 - d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 2(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

Endorsements

A student receiving special education services may earn an endorsement if the student:

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1. Satisfactorily completes the requirements for graduation under the foundation high school program as well as the additional credit requirements in mathematics, science, and elective courses with or without modified curriculum;
2. Satisfactorily completes the courses required for the endorsement without any modified curriculum; and
3. Performs satisfactorily on the required state assessments.

A student in grade 11 or 12 receiving special education services during the 2014–15, 2015–16, or 2016–17 school year who has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments is eligible to receive an endorsement if the student has met the requirements of items 1 and 2 above.

In order for a student receiving special education services to use a course to satisfy both a requirement under the foundation high school program and a requirement for an endorsement, the student must satisfactorily complete the course without any modified curriculum.

*Students
Entering Grade 9
Before the 2014–
15 School Year*

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a high school diploma under the foundation high school program if the student's ARD committee determines that the student should take courses under that program and the student satisfies the requirements of that program. A student transitioning to the Foundation High School Program may earn an endorsement as set out above [see Endorsements, above].

A student receiving special education services in 11th or 12th grade during the 2014–15, 2015–16, or 2016–17 school year who has taken each of the required state assessments but failed to achieve satisfactory performance on no more than two of the assessments may graduate if the student has satisfied all other applicable graduation requirements. [See Special Education, above, and EKB]

A student receiving special education services who entered grade 9 before the 2014–15 school year may graduate and be awarded a regular high school diploma if the student meets one of the following conditions:

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1. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements for graduation under the Recommend or Advanced/Distinguished Achievement Programs, including satisfactory performance on the required state assessments.
2. The student is in grade 11 or 12 during the 2014–15, 2015–16, or 2016–17 school year and has taken each of the state assessments required by 19 Administrative Code Chapter 101, Subchapter CC (relating to Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program) or Subchapter DD (relating to Commissioner's Rules Concerning Substitute Assessments for Graduation) but failed to achieve satisfactory performance on no more than two of the assessments and has met all other applicable graduation requirements in item 1 above.
3. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 and satisfactorily completed credit requirements under the Minimum High School Program, including participation in state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation.
4. The student has demonstrated mastery of the required state standards (or district standards if greater) in 19 Administrative Code Chapters 110–118, 126–128, and 130 through courses, one or more of which contain modified content that is aligned to the standards required under the Minimum High School Program as well as the satisfactorily completed credit requirements under the Minimum High School Program, including participation in required state assessments. The student's ARD committee shall determine whether satisfactory performance on the required state assessments is necessary for graduation. The student must also successfully complete the student's IEP and meet one of the following conditions:
 - a. Consistent with the IEP, the student has obtained full-time employment, based on the student's abilities and local employment opportunities, in addition to mastering sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;

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- b. Consistent with the IEP, the student has demonstrated mastery of specific employability skills and self-help skills that do not require direct ongoing educational support of the local school district;
- c. The student has access to services that are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program; or
- d. The student no longer meets age eligibility requirements.

When a student receives a diploma under item 3(a), (b), or (c), above, the ARD committee must determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.

19 TAC 89.1070(b)–(l)

**Graduation of
Military Dependents**

Course Waiver

District officials shall waive specific courses required for graduation if similar coursework has been satisfactorily completed by a military student in another district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.

Transfers During
Senior Year

Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the district after all alternatives have been considered, the sending and receiving districts shall ensure the receipt of a diploma from the sending district, if the student meets the graduation requirements of the sending district. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

Substitute Passing
Standard

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for completing a specific course otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Education Code 162.002 art. VII, A, C [See FDD]

**Graduation of
Student Who Is
Homeless or in
Conservatorship of
DFPS**

If an 11th or 12th grade student who is homeless or in the conservatorship of the Department of Family and Protective Services transfers to a different school district and the student is ineligible to graduate from the district to which the student transfers, the district from which the student transferred shall award a diploma at the student's request, if the student meets the graduation requirements of the district from which the student transferred. "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a. *Education Code 28.025(i)*

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**Higher Education
Counseling**

Each school counselor at an elementary, middle, or junior high school shall advise students and their parents or guardians regarding the importance of postsecondary education, coursework designed to prepare students for postsecondary education, and financial aid availability and requirements.

During the first school year a student is enrolled in high school, and again during each year of a student's enrollment in high school, a school counselor shall provide information about higher education to the student and the student's parent or guardian. The information must cover:

1. The importance of postsecondary education;
2. The advantages of earning an endorsement and a performance acknowledgment and completing the distinguished level of achievement under the foundation high school program;
3. The disadvantages of taking courses to prepare for a high school equivalency examination relative to the benefits of taking courses leading to a high school diploma;
4. Financial aid eligibility;
5. Instruction on how to apply for federal financial aid;
6. The center for financial aid information established under Education Code 61.0776;
7. The automatic admission of certain students to general academic teaching institutions as provided by Education Code 51.803;
8. The eligibility and academic performance requirements for the TEXAS Grant;
9. The availability of programs in a district under which a student may earn college credit, including advanced placement programs, dual credit programs, joint high school and college credit programs, and international baccalaureate programs; and
10. The availability of education and training vouchers and tuition and fee waivers to attend an institution of higher education as provided by Education Code 54.366 for a student who is or was previously in the conservatorship of the Department of Family and Protective Services.

When providing information under item 10, above, the school counselor must report to the student and the student's parent or

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guardian the number of times the counselor has provided the information to the student.

Automatic Admission

At the beginning of grades 10 and 11, a certified school counselor shall explain the requirements of automatic admission to a general academic teaching institution to each student who has a grade point average in the top 25 percent of the student's high school class. [See EIC]

Education Code 33.007; 19 TAC 61.1071

Notice of Grant Programs

In a manner that assists the district in implementing the district improvement plan, a district shall notify students in middle school, junior high school, and high school and those students' teachers, school counselors, and parents of:

1. The TEXAS Grant and the Teach for Texas Grant programs;
2. The eligibility requirements of each program;
3. The need for students to make informed curriculum choices to be prepared for success beyond high school; and
4. Sources of information on higher education admissions and financial aid.

Notation on Transcript or Diploma

A district shall ensure that each student's official transcript or diploma indicates whether the student has completed or is on schedule to complete:

1. The recommended or advanced high school curriculum; or
2. For a district that is covered by Education Code 56.304(f)(1) (unavailability of courses), the required portion of the recommended or advanced high school curriculum offered at the district's high school.

The district must include this information on the student's transcript not later than the end of the student's junior year.

Education Code 56.308

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**Local Achievement
Testing**

In addition to the state-administered assessment instruments, a district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A locally adopted norm-referenced assessment instrument must be economical, nationally recognized, and state-approved.

For purposes of this provision, “assessment instrument” means a district-commissioned achievement test, either nationally normed or criterion-referenced, that is group administered and reported publicly (such as to a board) in the aggregate.

A company or organization scoring an assessment instrument shall send test results to a district for verification. A district shall have 90 days to verify the accuracy of test data and report the results to the board.

A district shall follow procedures for test security and confidentiality set forth in 19 Administrative Code Chapter 101, Subchapter C.
[See EKB]

Education Code 39.026, 39.032; 19 TAC 101.101

In any subject area for which a state assessment is administered, a district may not administer locally required assessments designed to prepare students for state assessments to any student on more than ten percent of the instructional days in any school year. A campus-level planning and decision-making committee may limit the administration of locally required assessments to ten percent or a lower percentage of the instructional days in any school year. This prohibition does not apply to the administration of college preparation assessments, advanced placement tests, international baccalaureate examinations, or state assessments. *Education Code 39.0262*

**Benchmark
Assessment
Instruments**

“Benchmark assessment instrument” means a district-required assessment instrument designed to prepare students for a corresponding state-administered assessment instrument.

A district may not administer to any student more than two benchmark assessment instruments to prepare the student for a corresponding state-administered assessment instrument.

This prohibition does not apply to the administration of a college preparation assessment instrument, including the PSAT, the ACT-Plan, the SAT, or the ACT, an advanced placement test, an international baccalaureate examination, or an independent classroom examination designed or adopted and administered by a classroom teacher.

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A parent of or person standing in parental relation to a student who has special needs, as determined in accordance with Commissioner rule, may request administration to the student of additional benchmark assessment instruments.

Education Code 39.0263

College Preparation Assessments

The following provisions apply only if the legislature appropriates funds for these purposes.

Each school year, and at state cost, a district may administer an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument:

1. To students in the spring of the eighth grade, for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school; and
2. To students in the tenth grade, for the purpose of measuring a student's progress toward readiness for college and the workplace.

High school students, in the spring of the eleventh grade or during the twelfth grade, may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes. A high school student is not prohibited from taking a test more than once, at the student's own expense.

TEA shall:

1. Select and approve vendors of the specific assessment instruments administered under this section; and
2. Provide reimbursement to a district for all fees associated with the administration of the assessment instrument, from funds appropriated for that purpose.

TEA shall ensure that a school district is not reimbursed for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered.

Education Code 39.0261

Homeschooled Students

The following provisions apply to a homeschooled student entitled under Education Code 25.001 to attend school in a district.

A district shall permit a homeschooled student to participate in an administration of the PSAT/NMSQT or a college advanced placement test offered by the district.

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“Homeschooled student” means a student who predominantly receives instruction in a general elementary or secondary education program that is provided by the parent, or a person standing in parental authority, in or through the child’s home.

Fees A district shall require a homeschooled student to pay the same fee to participate in such a test that a student enrolled in the district is required to pay.

Notice A district shall post on an Internet website maintained by the district the date the PSAT/NMSQT will be administered and the date any college advanced placement tests will be administered. The notice must state that the PSAT/NMSQT or the advanced placement test is available for homeschooled students eligible to attend school in the district and describe the procedures for a homeschooled student to register for the test.

A district that does not maintain an Internet website must publish the notice in a newspaper in the district. If a newspaper is not published in the district, the district shall provide for the publication of notice in at least one newspaper in the county in which the district’s central administrative office is located.

The required notice must be posted or published at the same time and with the same frequency with which the information is provided to a student who attends a district school.

Education Code 29.916

**Armed Services
Vocational Aptitude
Battery Test**

Each school year each school district shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery (ASVAB) test and consult with a military recruiter.

The test must be scheduled:

1. During normal school hours; and
2. To optimize student participation, at a time that limits conflicts with extracurricular activities.

Each school district shall provide each student in grades 10 through 12 and the student’s parent or person standing in parental relation to the student a notice of the date, time, and location of the scheduled administration of the ASVAB test.

A school district may elect not to provide the ASVAB test only if the district or school provides an alternative test that:

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1. Assesses a student's aptitude for success in a career field other than a career field that requires postsecondary education;
2. Is free to administer;
3. Requires minimal training and support of district or school faculty and staff to administer the test; and
4. Provides the student with a professional interpretation of the test results that allows the student to:
 - a. Explore occupations that are consistent with the student's interests and skills; and
 - b. Develop strategies to attain the student's career goals.

A school district or high school that, before September 1, 2017, entered into a contract under which a vocational aptitude test that does not comply with the requirements for an alternative test is provided to students in grades 10 through 12, may elect not to provide the ASVAB test for the term of the contract. On the expiration of the contract term, this exemption is not applicable.

Education Code 29.9015

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**State Assessment of
Academic Skills**

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see Testing in Grades 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see End-of-Course Assessments, below]. *Education Code 39.025(a); 19 TAC 101.4001*

Limited English
Proficient Students

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with commissioner's rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

Special Education

TEA shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal (ARD) committee, including assessment instruments approved by the commissioner of education that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's ARD committee.

The student's ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.023(b)–(c), .025(a-4)

Military Dependents

If the student is a military dependent, the district shall accept:

1. Exit or EOC exams required for graduation from the sending state;

2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a military dependent transferring in his or her senior year, then a commissioner's substitute passing standard shall apply.

*Substitute
Passing Standard*

The commissioner shall adopt a passing standard on one or more national norm-referenced achievement tests for purposes of permitting a qualified military dependent to meet that standard as a substitute for achieving a score on an assessment instrument otherwise required for graduation. The passing standard is available only for a student who enrolls in a public school in this state for the first time after completing the ninth grade or who reenrolls in a public school in this state at or above the tenth grade level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard. *Education Code 162.002 art. VII, §§ B–C* [See FDD]

Administration

A district shall follow the test administration procedures established by TEA in the applicable test administration materials. A superintendent shall be responsible for administering tests. *19 TAC 101.25, .27*

Schedule

The commissioner shall specify the schedule for testing that is in compliance with Education Code 39.023(c-3)(1) and (2), and supports reliable and valid assessments. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs.

The commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 TAC 101.25

*Alternate Test
Dates*

The commissioner shall consider requests from districts or campuses for alternate test dates on a case-by-case basis. Alternate test dates will only be allowed if the campus or district is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect a district's or cam-

pus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

**Notice to Parents
and Students**

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.
2. The testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 TAC 101.3012

**Testing in
Grades 3–8**

Except as provided below, all students, other than students who are assessed under Education Code 39.023(b) (alternative assessment instrument) or 39.023(l) (LEP students) or exempted under Education Code 39.027, shall be assessed in:

1. Mathematics, annually in grades 3–7 without the aid of technology and in grade 8 with the aid of technology on any assessment instrument that includes algebra;
2. Reading, annually in grades 3–8;
3. Writing, including spelling and grammar, in grades 4 and 7;
4. Social studies in grade 8;
5. Science in grades 5 and 8; and
6. Any other subject and grade required by federal law.

Education Code 39.023(a)

Exception

Except as required for purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Education Code 28.0211(p), 39.023(a-2); 19 TAC 101.3011

Accommodations

Testing accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction. Permissible testing accommodations shall be described in the appropriate test administration materials.

The committee established by a board to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student.

A student's ARD committee shall determine the allowable accommodations and shall document them in the student's individualized education program (IEP). [See Special Education, above]

19 TAC 101.3013; Education Code 39.023(a)–(c), (n); 34 C.F.R. 300.320(a)(6)

**End-of-Course
Assessments**

Beginning with students first enrolled in grade 9 in the 2011–12 school year, a student enrolled in a course for which an EOC assessment exists as required by Education 39.023(c) shall take the appropriate assessment. *19 TAC 101.3021(a)*

Students Enrolled
Below High School
Level

Beginning in the 2011–12 school year, a student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 Administrative Code 101.3022. *19 TAC 101.3021(d)*

Assessment
Requirements for
Graduation

A student must meet satisfactory performance on an EOC assessment listed in Education Code 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

Exceptions

English I or
English II

A student who was administered separate reading and writing EOC assessments under Education Code 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to English language learners who meet the criteria in 19 Administrative Code 101.1007. [See EKBA]

TESTING PROGRAMS
STATE ASSESSMENT

EKB
(LEGAL)

Credits Earned
Prior to
Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022

Substitute
Assessments

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student's assessment graduation requirements in accordance with the commissioner's chart at 19 Administrative Code 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student:

1. Was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. Received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a Texas Success Initiative (TSI) assessment also meets the following criteria:
 - a. A student must have been enrolled in a college preparatory course for English language arts or mathematics and, in accordance with Education Code 39.025(a-1), have been administered an appropriate TSI assessment at the end of that course.
 - (1) A student under this provision who meets all TSI English language arts score requirements provided in the chart at 19 Administrative Code 101.4002(b) satisfies both the English I and English II EOC assessment graduation requirements.
 - (2) A student under this provision may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.
 - b. In accordance with Education Code 39.025(a-3), a student who did not meet satisfactory performance on the Algebra I or English II EOC assessment after retaking

the assessment may use the corresponding TSI assessment in place of that EOC assessment.

- (1) For a student under this provision who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in 19 Administrative Code 101.3022(b) (relating to Assessment Requirements for Graduation), the separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 Administrative Code 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject.

*Verification of
Results*

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the commissioner.

19 TAC 101.4002, .4005

Satisfactory
Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

Individual
Graduation
Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF] *Education Code 28.0258, 39.025(a-2)*

Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (relating to Graduation Require-

ments) and 19 Administrative Code 101.3023 (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to re-take and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Education Code 28.0258 and is subject to the IGC provisions above. [See Individual Graduation Committee, above]

19 TAC 101.3022(f)

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

Beginning with the 2011–12 school year, all grades 9–12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Administrative Code 101.3011(b)(2).

A student who is receiving special education services and who is first enrolled in grade 9 or below in the 2011–12 school year shall be administered an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP.

19 TAC 101.3023

Credit by
Examination

An EOC assessment administered under Education Code 39.023(c) cannot be used for purposes of credit by examination

	under 19 Administrative Code 74.24. [See EHDB, EHDC] 19 TAC 101.3021(c)
Additional State Assessments	TEA may adopt EOC assessment instruments for courses not listed in statute, as described above. A student's performance on these EOC assessment instruments is not subject to the performance requirements established for the statutory assessments. <i>Education Code 39.023(c-2)</i>
Retakes	<p>Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See Satisfactory Performance, above]</p> <p>A student is not required to retake a course as a condition of retaking an EOC assessment instrument.</p> <p>If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.</p> <p><i>Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)</i></p>
Reporting Results	
To the Public	Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. <i>Education Code 39.030(b)</i>
To the Board	A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.
To Parents, Students, and Teachers	<p>A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at Confidentiality, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, a district shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. [See BQ series, FD, and FL]</p> <p><i>19 TAC 101.3014</i></p> <p>TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are</p>

likely to succeed in an advanced high school course. A district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

**Parents Right-to-
Know Under ESEA**

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*

Parental Access

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, .006(a)(2)*

**Out-of-State
Transfers**

A district shall accurately report to TEA whether that student transferred into the district from out of state during the current school year.

Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. A district shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to districts from the results of the district's other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014

**Accelerated
Instruction**

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0211(a-1)*

A district shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction

in the subject assessed by the assessment instrument. *Education Code 39.025(b-1)* [See EHBC]

College Readiness Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the twelfth grade level whose performance on:
 - a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
 - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334(a) indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course provided through the institution of higher education with which the district partners.

Faculty Appropriate faculty of each high school offering courses and appropriate faculty of each institution of higher education with which the district partners shall meet regularly as necessary to ensure that each course is aligned with college readiness expectations.

Notice Each district shall provide a notice to each eligible student and the student's parent or guardian regarding the benefits of enrolling in a course.

Credit Earned A student who successfully completes an English language arts course may use the credit earned toward satisfying the advanced English language arts curriculum requirement for the foundation high school program under Education Code 28.025(b-1)(1). A student who successfully completes a mathematics course may use the credit earned in the course toward satisfying an advanced mathematics curriculum requirement under Education Code 28.025 after completion of the mathematics curriculum requirements for the foundation high school program under Education Code 28.025(b-1)(2).

Dual Credit A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.

*Instructional
Materials*

Each district, in consultation with the institution of higher education with which the district partners, shall develop or purchase instructional materials for a course consistent with Education Code Chapter 31. The instructional materials must include technology resources that enhance the effectiveness of the course and draw on established best practices.

Education Code 28.014

Security

To ensure that each assessment instrument is reliable and valid and meets applicable federal requirements for measurement of student progress, districts must comply with all of the applicable requirements specified in the test administration materials, which include general testing program information, requirements for ensuring test security and confidentiality described in the annual Test Security Supplement, procedures for test administration, responsibilities of personnel involved in test administration, and procedures for materials control.

Test coordinators and administrators must receive all applicable training as required in the test administration materials and districts must maintain records related to the security of assessment instruments for a minimum of five years.

19 TAC 101.3031

Confidentiality

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. *Education Code 39.030(b)* [See FL and GBA]

Penalties

Violation of security or confidentiality of any test is prohibited. A person who engages in conduct prohibited by the Test Security Supplement may be subject to sanction of credentials.

Procedures for maintaining the security and confidentiality of state assessments are specified in the Test Security Supplement and in the appropriate test administration materials. Conduct that violates the security and confidentiality of a test is defined as any departure from the test administration procedures established in the Test Security Supplement and other test administration materials. Conduct of this nature may include the following acts and omissions:

1. Viewing a test before, during, or after an assessment unless specifically authorized to do so;
2. Duplicating secure examination materials;
3. Disclosing the contents of any portion of a secure test;

4. Providing, suggesting, or indicating to an examinee a response or answer to a secure test item or prompt;
5. Changing or altering a response or answer of an examinee to a secure test item or prompt;
6. Aiding or assisting an examinee with a response or answer to a secure test item or prompt;
7. Encouraging or assisting an individual to engage in the conduct described in the items listed above; or
8. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in the items listed above.

Any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidentiality, as well as any person who fails to report such a violation is 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 either for a set term or permanently.

Release or disclosure of confidential test content could result in criminal prosecution under Education Code 39.0303, Government Code 552.352, and Penal Code 37.10. The State Board for Educator Certification may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.

Any irregularities in test security or confidentiality may also result in the invalidation of student results.

The superintendent and campus principal must develop procedures to ensure the security and confidentiality of the tests, and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of a test. Failure to report can subject the person responsible to the applicable penalties.

19 TAC 101.3031(b)(2), 249.15

Minimize
Disruptions

In implementing the commissioner's procedures for the administration of assessment instruments adopted or developed under Edu-

cation Code 39.023, including procedures designed to ensure the security of the assessment, a district shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*

CAMPUS CHARTERS

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), .052(b), .053(b)</i></p>
Policy	<p>A district shall adopt a campus charter and program charter policy, which shall specify the:</p> <ol style="list-style-type: none">1. Process for approval of a campus charter or program charter;2. Statutory requirements with which a campus charter or program charter must comply; and3. Items that must be included in a charter application. <p><i>Education Code 12.058</i></p>
Campus or Program Charter	<p>A board may grant a charter to parents and teachers for a campus or a program on a campus.</p> <p>A board shall grant or deny the charter, through a public vote, if the board is presented with a petition signed by:</p> <ol style="list-style-type: none">1. The parents of a majority of the students at that campus; and2. A majority of the classroom teachers at that campus. <p>A board may not arbitrarily deny a charter.</p> <p><i>Education Code 12.052</i></p>
New Campus or Contract Charter	<p>A board may grant a charter for:</p> <ol style="list-style-type: none">1. A new district campus; or2. A program that is operated:<ol style="list-style-type: none">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; andb. At a facility located in the boundaries of the district.
Voluntary Enrollment	<p>A student’s parent or guardian may choose to enroll the student at a campus or in a program charter. A district may not assign a student to the campus or program unless the student’s parent or guardian has voluntarily enrolled the student.</p>
Parental 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>

CAMPUS CHARTERS

EL
(LEGAL)

Teacher Assignment	<p>A district may not assign to the campus or program a teacher who has signed a written statement that the teacher does not agree to that assignment.</p> <p><i>Education Code 12.0521</i></p>
District Charter	<p>A board may grant a district charter to a campus.</p>
Enrollment Limit	<p>A district charter may be granted only to one or more campuses serving in total a percentage of the district's student enrollment equal to not more than 15 percent of the district's student enrollment for the preceding school year.</p>
<i>Exception</i>	<p>The percentage limit may not prevent a district from granting a district charter to at least one feeder pattern of schools, including an elementary, middle or junior high, and high school.</p> <p>A district charter may be granted to any campus that has received the lowest performance rating under Subchapter C, Chapter 39, Education Code.</p>
Open-Enrollment Charter School	<p>Subchapter D, Chapter 39, Education Code (related to open-enrollment charter schools) applies to a campus granted a district charter as though the campus were granted a charter under that subchapter, and the campus is considered an open-enrollment charter school.</p> <p>A district charter is not considered for purposes of the limit on the number of charters for open-enrollment charter schools imposed by Education Code 12.101.</p> <p><i>Education Code 12.0522</i></p>
Cooperative Campus Charter	<p>A board may grant a charter to parents and teachers at two or more campuses in the district for a cooperative charter program if the board is presented with a petition signed by:</p> <ol style="list-style-type: none">1. The parents of a majority of the students at each school; and2. A majority of the classroom teachers at each school. <p><i>Education Code 12.053</i></p>
Performance Contract	<p>A board that grants a charter shall enter into a performance contract with the principal or equivalent chief operating officer of the campus or program. The performance contract must specify enhanced authority granted to the principal or equivalent officer in order to achieve the academic goals that must be met by campus or program students.</p>

CAMPUS CHARTERS

EL
(LEGAL)

Duration of Charter A charter granted by the board expires ten years from the date the charter is granted unless the specified goals are substantially met, as determined by the board.

Education Code 12.0531

Neighborhood School A board may determine that a campus granted a charter will be a neighborhood school.

The principal or equivalent chief operating officer of a neighborhood school shall manage the funding provided for the school under the Education Code and any other funding provided for the school in the manner the principal or other officer determines best meets the needs of the school's students. The district in which the school is located may retain that portion of funding that the district generally withholds from a campus for costs associated with the salary of the superintendent or other district governance.

The principal or equivalent chief operating officer of a neighborhood school may use school funding to purchase from the school district in which the school is located services for the school, including bus service, facilities maintenance services, and other services generally provided by a school district to district campuses. The school shall pay for each service an amount that reflects the actual cost to the district of providing the service for the number of the school's students for which the service is provided.

Education Code 12.0532

Student Eligibility Eligibility criteria for admission of students to the charter campus or program must give priority on the basis of geographic and residency considerations. After priority is given on those bases, secondary consideration may be given to a student's age, grade level, or academic credentials, in general or in a specific area, as necessary for the type of program offered.

The campus or program may require an applicant to submit an application not later than a reasonable deadline the campus or program establishes.

Education Code 12.065

Exemption A campus or program for which a charter is granted is exempt from the instructional and academic rules and policies of the board from which the campus or program is specifically exempted in the charter and retains the authority to operate under the charter only if students at the campus or in the program perform satisfactorily as provided by the charter. *Education Code 12.054*

Charter Contract

A charter shall be in the form and substance of a written contract signed by a board president and the chief operating officer of the campus or program for which the charter is granted. *Education Code 12.060*

Each charter shall:

1. Satisfy the requirements governing charter campuses and programs; and
2. Include all information required to be in the content of the charter consistent with the information provided in the application and any modification a board requires.

Education Code 12.061

Content of Charter

Each charter granted must:

1. Describe the educational program to be offered, which may be a general or specialized program;
2. Provide that continuation of the charter is contingent on satisfactory student performance on state-required assessment instruments, satisfactory financial performance under state financial accountability provisions, and on compliance with other applicable accountability provisions;
3. Specify any basis, in addition to a basis specified in Education Code Chapter 12, Subchapter C, on which the charter may be revoked;
4. Prohibit discrimination in admission on the basis of national origin, ethnicity, race, religion, or disability;
5. Describe the governing structure of the campus or program;
6. Specify any procedure or requirement, in addition to those under Education Code Chapter 38, that the campus or program will follow to ensure the health and safety of students and employees; and
7. Describe the manner in which an annual audit of financial and programmatic operations of the campus or program is to be conducted, including the manner in which the campus or program will provide information necessary for the district in which it is located to participate in PEIMS.

Education Code 12.059

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(a)*

Education Code

A charter campus or program has the powers granted to schools under the Education Code.

A charter campus or program is subject to:

1. Provisions of the Education Code establishing criminal offenses;
2. Prohibitions, restrictions, or requirements of the Education Code, or a rule adopted under the Education Code, relating to:
 - a. PEIMS, to the extent necessary to monitor compliance, as determined by the commissioner;
 - b. Criminal history records under Subchapter C, Chapter 22;
 - c. High school graduation under Section 28.025;
 - d. Special education programs under Subchapter A, Chapter 29;
 - e. Bilingual education under Subchapter B, Chapter 29;
 - f. Prekindergarten programs under Subchapter E, Chapter 29;
 - g. Extracurricular activities under Section 33.081 (i.e., “no pass-no play”);
 - h. Health and safety under Chapter 38 (including immunizations, dyslexia and related disorders, child abuse reporting, protective eye devices, tobacco and alcohol use,

steroid use, access to medical records, and referrals to outside counselors); and

- i. Public school accountability under Subchapter B, C, D, F, and J, Chapter 39, and Chapter 39A.

Education Code 12.056

Open Meetings and
Public Information
Acts

With respect to the operation of a campus or program charter, the governing body of the charter campus or program is considered a governmental body for purposes of Government Code Chapters 551 (Open Meetings Act) and 552 (Public Information Act). *Education Code 12.057(a)*

Teacher Retirement
System

A district may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas (TRS) if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder. *Education Code 12.055(b)*

An employee of an independent school district who is employed on a charter campus or program who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

An employee of a charter holder who is employed on a campus or in a program granted a charter and who qualifies for membership in TRS shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program.

Education Code 12.057(b), (b-1)

Liability

A charter campus or program, and its employees and volunteers, are immune from liability to the same extent as a district, its employees, and volunteers, respectively. *Education Code 12.057(c)*

**Placement on
Probation or
Revocation**

A board may place on probation or revoke a charter it grants if the board determines that the campus or program:

1. Committed a material violation of the charter;
2. Failed to satisfy generally accepted accounting standards of fiscal management; or

3. Failed to comply with law governing a charter campus or program, another law, or a state agency rule.

The action a board takes under any item above shall be based on the best interest of campus or program students, the severity of the violation, and any previous violation the campus or program has committed.

Education Code 12.063

Procedure

Each board that grants a charter shall adopt a procedure to be used for placing on probation or revoking a charter it grants.

This procedure must provide an opportunity for a hearing to the campus or program for which the charter is granted and to parents and guardians of students at the campus or in the program. A hearing must be held on the campus or on one of the campuses in the case of a cooperative charter program.

Education Code 12.064

**Contract Regarding
Operation of District
Campus**

A board may contract to operate a campus by partnering with an open-enrollment charter school or, on approval by the commissioner, a campus or program charter granted by the district [see Campus or Program Charter, above]. The contract must include a provision addressing student eligibility for enrollment. *Education Code 11.174(a), (h)*

A campus operated under a contract qualifies for an exemption from intervention as provided below [see Exemption from Intervention] and qualifies for funding as provided by Education Code 42.2511 [see Funding for Certain Students, below].

The board may enter into a contract only if:

1. The charter of the open-enrollment charter school has not been previously revoked;
2. For the three school years preceding the school year of the proposed operation of the campus, the open-enrollment charter school has received:
 - a. An overall performance rating of acceptable or higher; and
 - b. A financial accountability rating indicating financial performance of satisfactory or higher; or
3. The entity considered for a district-authorized charter has not previously operated an open-enrollment charter school in which the charter expired or was revoked or surrendered.

Education Code 11.174(b)

CAMPUS CHARTERS

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Exemption from Intervention	<p>For a campus under a contract that received an overall performance rating of unacceptable under Education Code Chapter 39, Subchapter C for the school year before operation under the contract began, the commissioner may not impose a sanction or take action against the campus under Education Code 39A for failure to satisfy academic performance standards during the first two school years of operation of a campus under the contract. [See AIA, AIC]</p> <p>The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years.</p> <p><i>Education Code 11.174(f)</i></p> <p>A campus that receives an exemption from a sanction or other action may receive another exemption while operating under a subsequent contract only if the campus receives approval for the exemption from the commissioner. <i>Education Code 11.174(g)</i></p>
Funding for Certain Students	<p>A district that enters into a contract is entitled to receive for each student in average daily attendance at the campus an amount equivalent to the difference, if the difference results in increased funding, between the amount described by Education Code 12.106 and the amount to which the district would be entitled under this Education Code Chapter 42. <i>Education Code 42.2511</i></p>
Consultation with Campus Personnel	<p>Before entering into a contract, the district must consult with campus personnel regarding the provisions to be included in the contract between the district and the open-enrollment charter school. All rights and protections afforded by current employment contracts or agreements may not be affected by the contract entered into between a district and an open-enrollment charter school. <i>Education Code 11.174(c)</i></p>
Notice to Commissioner	<p>A district proposing to enter into a contract with a campus or program charter shall notify the commissioner of the district's intent to enter into the contract according to commissioner rules. The commissioner shall notify the district whether the proposed contract is approved not later than the 60th day after the date the commissioner receives notice of the proposed contract and all information required by the commissioner to be submitted. If the commissioner fails to notify the district that the proposed contract has been approved or denied within the period prescribed by this subsection, the proposed contract is considered approved.</p>
Enrollment Eligibility	<p>The contract must include a provision addressing student eligibility for enrollment.</p>

The contract must provide that any student residing in the attendance zone of the campus as the attendance zone existed before operation of the campus under the contract shall be admitted for enrollment at the campus. The contract must establish enrollment preference for students who do not reside in the attendance zone as follows:

1. Other students residing in the school district in which the campus is located; and
2. Students who reside outside the school district.

Education Code 11.174(h), (i)

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Nondiscrimination	<p>A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. <i>Education Code 1.002(a)</i></p> <p>No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. <i>Civ. Prac. & Rem. Code 106.001</i></p> <p>A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. <i>Education Code 1.002(b)</i></p>
Federal Funding Recipients	<p>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:</p> <ol style="list-style-type: none">1. Sex.2. Race, color, or national origin.3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]4. Age. <p><i>20 U.S.C. 1681 (Title IX); 42 U.S.C. 2000d (Title VI); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA]); 42 U.S.C. 6101 (Age Discrimination Act of 1975)</i></p>
Sexual Harassment	<p>Sexual harassment of students is discrimination on the basis of sex under Title IX. <u><i>Franklin v. Gwinnett County Schools</i></u>, 503 U.S. 60 (1992) [See also DIA and FFH]</p>
Human Rights Coordinator	<p>A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The district shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.</p>
Grievance Procedures	<p>A district shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]</p> <p><i>34 C.F.R. 106.8 (Title IX), 104.7 (Section 504)</i></p>
Retaliation	<p>A 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. <i>34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)</i></p>

**Students with
Learning Difficulties**

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). Each school year, a district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081(c)*

**Disability
Discrimination**

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by the district. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

Definitions

*"Student with a
Disability"*

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

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

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory im-

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pairment is one with an actual or expected duration of 6 months or less.

29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)

“Qualified Individual with a Disability”

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. *42 U.S.C. 12131(2)*

“Major Life Activities”

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2)*

Reasonable Modification

A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7)*

Direct Threat

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 C.F.R. 35.104*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and

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3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

28 C.F.R. 35.139

Free Appropriate
Public Education
(FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *20 U.S.C. 1412(b); 34 C.F.R. 104.3(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

34 C.F.R. 104.33(b)

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 C.F.R. 104.33(b)(2)*

Note: See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

Educational Setting

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 C.F.R. 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

Evaluation and
Placement

A district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial

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placement of the person in regular or special education and any subsequent significant change in placement.

*Evaluation
Procedures*

A district shall establish standards and procedures for the evaluation and placement which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

*Placement
Procedures*

In interpreting evaluation data and in making placement decisions, a district shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with 34 C.F.R. 104.34.

Reevaluation

A district shall establish procedures for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act [now IDEA] is one means of meeting this requirement.

34 C.F.R. 104.35

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*Military
Dependents*

In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]

Procedural
Safeguards

A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 C.F.R. 104.36*

Homeless Children

A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]

Liaison

A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC]

42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)

Religious Freedom

A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]

**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)*

A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocation-

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	al, technical, home economics, music, and adult education courses. <i>34 C.F.R. 106.34</i>
Separate Facilities	A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. <i>34 C.F.R. 106.33</i>
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.
Vocal Music Activities	A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. <i>34 C.F.R. 106.34</i>
Single-Sex Programs	A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district unless the district otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. <i>34 C.F.R. 106.35</i>
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. <i>34 C.F.R. 106.40</i> [See FND]
Physical Education Classes	A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
<i>Skills Assessment</i>	Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.
<i>Contact Sports</i>	A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. <i>34 C.F.R. 106.34</i>
Athletic Programs	A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.
<i>Single-Sex Teams</i>	A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competi-

tive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

*Equal Athletic
Opportunities*

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

34 C.F.R. 106.41

EQUAL EDUCATIONAL OPPORTUNITY
SERVICE ANIMALS

FBA
(LEGAL)

Note: The following provisions are from federal law.

Service Animal

Service Dogs

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

28 C.F.R. 35.104

Policies, Practices,
or Procedures

A district shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.
28 C.F.R. 35.130(b)(7), .136(a) [See FB]

Access

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a district’s facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 C.F.R. 35.136(g)*

Exceptions

A district may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or
2. The animal is not housebroken.

28 C.F.R. 35.136(b)

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SERVICE ANIMALS

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The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139* [See FB]

If a district properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c)*

Animal Under
Handler's
Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). *28 C.F.R. 35.136(d)*

Inquiries

A district shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A district may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A district shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a district may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

28 C.F.R. 35.136(f)

Care or Supervision
of Animal

A district is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*

Surcharges

A district shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

If a district normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

28 C.F.R. 35.136(h)

EQUAL EDUCATIONAL OPPORTUNITY
SERVICE ANIMALS

FBA
(LEGAL)

Miniature Horses

Reasonable
Modifications

A district shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

Assessment
Factors

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a district shall consider:

1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
2. Whether the handler has sufficient control of the miniature horse;
3. Whether the miniature horse is housebroken; and
4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Other Requirements

Provisions at 28 C.F.R. 35.136(c) through (h) shall also apply to miniature horses.

28 C.F.R. 35.136(i)

Note: The following provisions are from state law.

Assistance Animals

"Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. *Human Resources Code 121.002(1)*

Assistance Animal
Access

No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.

Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.

A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.

Human Resources Code 121.003(c), (e), (i)

EQUAL EDUCATIONAL OPPORTUNITY
SERVICE ANIMALS

FBA
(LEGAL)

Harassment and
Harm Prohibited

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

“Harass” means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal’s performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person’s disability is not readily apparent, a staff member or manager of the facility may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform.

Human Resources Code 121.002, .003(j)–(l)

Transportation

No public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person’s disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*

Responsibilities of
Persons with
Disabilities

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

Human Resources Code 121.005

Penalties

A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Human Resources Code 121.003:

1. Commits a misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service to be performed for a governmental entity or nonprofit organization that

primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year; and

2. Is deemed to have deprived a person with a disability of his or her civil liberties. Subject to Human Resources Code 121.0041 (pertaining to notice of claim and opportunity for cure), if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

Human Resources Code 121.004

General Eligibility

A board or its designee shall admit into the public schools of a district free of tuition all persons who are over five and younger than 21 years of age on September 1 of any school year in which admission is sought, and may admit a person who is at least 21 and under 26 for the purpose of completing the requirements for a high school diploma, if any of the following conditions exist:

- | | |
|--|---|
| Student and Parent | 1. The person and either parent reside in the district. |
| Conservator | 2. The person does not reside in the district, but one of the parents resides in the district and that parent is a joint managing conservator or the sole managing conservator or possessory conservator of the person. |
| Guardian or Person Having Lawful Control | 3. The person and his or her guardian or other person having lawful control under an order of a court reside in the district. |
| Students Living Separate and Apart | 4. The person is under the age of 18 and has established a separate residence in the district apart from his or her parent, guardian, or other person having lawful control under an order of a court and has established that the person's presence in the district is not for the primary purpose of participation in extracurricular activities. A board is not required to admit such person, however, if the person has: <ul style="list-style-type: none">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; orc. Been convicted of a criminal offense and is on probation or other conditional release. |

Education Code 25.001(a)–(b), (d)

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| Homeless Students | 5. The person is homeless. [See also FDC] <ul style="list-style-type: none">a. "Homeless children" under the McKinney-Vento Homeless Assistance Act, means children or youths who lack a fixed, regular, and adequate nighttime residence; and includes:<ul style="list-style-type: none">(1) Children who are sharing the housing of other persons due to loss of housing, economic hardship, or a similar reason; are living in motels, hotels, trailer parks, or camping grounds due to the lack of alternative adequate accommodations; are living in |
|-------------------|---|

emergency or transitional shelters; or are abandoned in hospitals;

- (2) Children who have a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings;
- (3) Children who are living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations, or similar settings; and
- (4) Migratory children living in circumstances described above.

“Migratory child” means a child who made a qualifying move in the preceding 36 months:

- (a) As a migratory agricultural worker or a migratory fisher; or
- (b) With, or to join, a parent or spouse who is a migratory agricultural worker or a migratory fisher. [See EEB]

- b. A person is homeless, for purposes of Education Code 25.001(b)(5), regardless of the residence of the person, of either parent, or of the person’s guardian or other person having lawful control, if:

- (1) The person lacks a fixed, regular, and adequate nighttime residence; or
- (2) The person has a primary nighttime residence that is a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings, including a car, park, abandoned building, bus or train station, airport, or camping ground;
- (3) The person lives in a supervised publicly or privately operated shelter designated to provide temporary living accommodations (including hotels and motels paid for by government programs for low-income individuals or by charitable organizations, congregate shelters, and transitional housing);
- (4) The person resided in a shelter or place not meant for human habitation and is exiting an institution where he or she temporarily resided;

- (5) The person will imminently lose their housing, has no subsequent residence identified, and lacks the resources or support networks needed to obtain other housing; and
- (6) The person is an unaccompanied youth or part of a homeless family with children and youth defined as homeless under other federal statutes who:
 - (a) Has experienced a long-term period without living independently in permanent housing;
 - (b) Has experienced persistent instability as measured by frequent moves over such period; and
 - (c) Can be expected to continue in such status for an extended period of time because of chronic disabilities, chronic physical or mental health conditions, substance addiction, histories of domestic violence or childhood abuse, the presence of a child or youth with a disability, or multiple barriers to employment.

Education Code 25.001(b)(5); 20 U.S.C. 6399; 42 U.S.C. 11434A(2); 42 U.S.C. 11302

Foreign Exchange
Students

- 6. The person is a foreign exchange student placed with a host family that resides in the district by a nationally recognized foreign exchange program, unless the district has applied for and been granted a waiver by the commissioner of education because:
 - a. This requirement would impose a financial or staffing hardship on the district;
 - b. The admission would diminish the district's ability to provide high-quality education services for the district's domestic students; or
 - c. The admission would require domestic students to compete with foreign exchange students for educational resources.

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)

ADMISSIONS

FD
(LEGAL)

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

A district may require evidence that a person is eligible to attend the public schools of the district at the time it considers an application for admission of the person. A board or its designee shall establish minimum proof of residency acceptable to a district. A board or its designee may make reasonable inquiries to verify a person's eligibility for admission. When admission is sought under item 4 above, a board shall determine whether an applicant qualifies as a resident of a district and may adopt reasonable guidelines for making that determination as necessary to protect the best interest of students. *Education Code 25.001(c), (d)*

"Residence"
Defined

"Residence" requires living in the district and having the present intention to remain there. *Martinez v. Bynum, 461 U.S. 321 (1983)*

A district may withdraw any student who ceases to be a resident. *Daniels v. Morris, 746 F.2d 271 (5th Cir. 1984)*

Immigration Status

Denying enrollment based upon immigration status to children who are not legally admitted into the United States violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution. *Plyler v. Doe, 457 U.S. 202 (1982)*

**High School
Equivalency
Certificate**

A student who has received a high school equivalency certificate is entitled to enroll in a public school in the same manner as any other student who has not received a high school diploma. *Education Code 29.087(h)*

**Substitute for Parent
or Guardian**

A board by policy may allow a person showing evidence of legal responsibility for a child other than an order of a court to substitute for a guardian or other person having lawful control of the child under court order. *Education Code 25.001(j)*

**Authorization
Agreement**

"Adult caregiver" means an adult person whom a parent has authorized to provide temporary care for a child under Family Code Chapter 34. *Family Code 34.0015(1)*

A parent, as defined in Family Code 101.024, or both parents of a child may enter into an authorization agreement with an adult caregiver to authorize the adult caregiver to perform acts described in Family Code 34.002 in regard to the child, such as:

1. Authorizing medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law relating to the treatment or immunization;
2. Enrolling the child in the district; and
3. Authorizing the child to participate in age-appropriate extra-curricular, civic, social, or recreational activities, including athletic activities.

Family Code 34.002

A parent may enter into an authorization agreement with an adult caregiver with whom a child is placed under a parental child safety placement agreement approved by the Department of Family and Protective Services (DFPS) to allow the person to perform the acts described above with regard to the child during an investigation of abuse or neglect or while the department is providing services to the parent. *Family Code 34.0021*

The authorization agreement must conform to the requirements of Family Code Chapter 34.

A child who is the subject of an authorization agreement is not considered to be placed in foster care and the parties to the agreement are not subject to any law or rule governing foster care providers. *Family Code 34.0022(b)*

An authorization agreement does not affect the rights of the child's parent or legal guardian regarding the care, custody, and control of the child, and does not mean that the adult caregiver has legal custody of the child. *Family Code 34.007(b)*

Only one authorization agreement may be in effect for a child at any time. Execution of a subsequent authorization agreement does not by itself supersede, invalidate, or terminate a prior authorization agreement. An authorization agreement is void if it is executed while a prior authorization agreement remains in effect. *Family Code 34.002(d), .008(f)*

An authorization agreement is for a term of six months and renews automatically for six-month terms unless an earlier expiration date is stated in the agreement, the agreement is terminated under

	<p>Family Code 34.008, or a court authorizes continuation. <i>Family Code 34.0075</i></p>
Immunity	<p>A person who is not a party to the authorization agreement who relies in good faith on the authorization agreement, without actual knowledge that the authorization agreement is void, revoked, or invalid, is not subject to civil or criminal liability to any person, and is not subject to professional disciplinary action, for that reliance if the agreement is completed as required by Family Code Chapter 34. <i>Family Code 34.007(a)</i></p> <hr/> <p>Note: The Authorization Agreement for Nonparent Relative (PDF)¹ is available on the DFPS website.</p> <hr/>
Temporary Authorization for Care	<p>A person eligible to consent to treatment of a child under Family Code 32.001 or a person eligible to enter an authorization agreement [see Authorization Agreement, above] may seek a court order for temporary authorization for care of a child by filing a petition in the district court in the county in which the person resides if:</p> <ol style="list-style-type: none">1. The child has resided with the person for at least the 30 days preceding the date the petition was filed; and2. The person does not have an authorization agreement or other signed, written documentation from a parent, conservator, or guardian that enables the person to provide necessary care for the child. <p><i>Family Code 35.001–.002</i></p> <p>The order may authorize the petitioner to, among other things:</p> <ol style="list-style-type: none">1. Consent to medical, dental, psychological, and surgical treatment and immunization of the child;2. Enroll the child in the district; and3. Authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities. <p>A temporary authorization order does not affect the rights of the child's parent, conservator, or guardian regarding the care, custody, and control of the child, and does not establish legal custody of the child. <i>Family Code 35.007(b)</i></p>
Immunity	<p>A person who relies in good faith on a temporary authorization order is not subject to civil or criminal liability to any person, or to professional disciplinary action. <i>Family Code 35.007(b)</i></p>

**Students in Foster
Care**

A child placed in foster care by an agency of the state or a political subdivision shall be permitted to attend schools in the district in which the foster parents reside free of any charge to the foster parents or to the agency. A durational residence requirement may not be used to prohibit that child from fully participating in any activity sponsored by a district. *Education Code 25.001(f)*

A student who was enrolled in a primary or secondary public school before the student entered the conservatorship of DFPS and who is placed at a residence outside the attendance area for a school or outside a district is entitled to continue to attend the school in which the student was enrolled immediately before entering conservatorship until the student successfully completes the highest grade level offered by the school at the time of placement without payment of tuition. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g)*

If a student who is in the conservatorship of DFPS is enrolled in a primary or secondary public school, other than the school in which the student was enrolled at the time the student was placed in the conservatorship of DFPS, the student is entitled to continue to attend that school without payment of tuition until the student successfully completes the highest grade level offered by the school at the time of enrollment in the school, even if the child's placement is changed to a residence outside the attendance area for that school or outside the district. The student is entitled to continue to attend the school regardless of whether the student remains in the conservatorship of DFPS for the duration of the student's enrollment in the school. *Education Code 25.001(g-1)*

A written case plan for any child in foster care under the responsibility of the state must include a plan for ensuring the educational stability of the child while in foster care, including:

1. Assurances that each placement of the child in foster care takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and

2. An assurance that the appropriate state agency has coordinated with a district to ensure that the child remains in the school in which the child is enrolled at the time of each placement; or if remaining in that school is not in the best interests of the child, assurances by the state agency and the district to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

42 U.S.C. 675(1)(G), 675a [See CNA]

Transfers from Other States

A district shall charge tuition for a student who resides in a residential facility and whose maintenance or expenses are paid in whole or in part by another state or the United States. Any such tuition charge must be submitted to the commissioner for approval. The attendance of students admitted under this provision shall not be counted for purposes of allocating state funds to a district. *Education Code 25.003*

Students Holding F-1 Student Visas

If a student is required, as a condition of obtaining or holding the appropriate U.S. student visa, to pay tuition to the district that the student attends to cover the cost of the student's education provided by the district, the district shall accept tuition for the student in an amount equal to the full unsubsidized per capita cost of providing the student's education for the period of the student's attendance at school in the district.

The commissioner shall develop guidelines for determining the amount of the full unsubsidized per capita cost of providing a student's education. A district may not accept tuition in an amount greater than the amount computed under the commissioner's guidelines unless the commissioner approves a greater amount as a more accurate reflection of the cost of education to be provided by the district.

The attendance of a student for whom a school district accepts tuition is not counted for purposes of allocating state funds to the district.

Education Code 25.0031

Note: Enrolling students with F-1 visas is optional. If the district is interested in enrolling students with F-1 visas, it must comply with the federal [Student and Exchange Visitor Program](#)² (SEVP) under the Department of Homeland Security.

**Texas Juvenile
Justice Department**

A school-age child of an employee of the Texas Juvenile Justice Department (TJJD) residing in an adjacent district may attend school in a district free of charge to his or her parents or guardian. Any tuition required by the admitting district shall be paid by the district from which the student transfers out of any funds appropriated to the TJJD facility. *Education Code 25.042*

Enrollment

A child must be enrolled by the child's parent, guardian, or other person with legal control under a court order. A district shall record the name, address, and date of birth of the person enrolling the child. *Education Code 25.002(f)*

Legal Surname

A student must be identified by the student's legal surname as it appears on the student's birth certificate or other document suitable as proof of the student's identity, or in a court order changing the student's name. *Education Code 25.0021*

**Required
Documentation**

If a parent or other person with legal control of a child enrolls the child in a district school, the parent or other person, or the 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 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)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

A parent or other person with legal control of a child under a court order must furnish information under items 1 and 2 not later than the 30th day after the date a child is enrolled in a public school.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the

district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1)

*Residential
Facility*

Except for a juvenile pre-adjudication secure detention facility or a juvenile post-adjudication secure correctional facility, a residential facility shall provide to a district that provides educational services to a student placed in the facility any information retained by the facility relating to:

1. The student's school records, including records regarding special education eligibility or services, behavioral intervention plans, school-related disciplinary actions, and other documents related to the student's educational needs;
2. Any other behavioral history information regarding the student that is not confidential under another law; and
3. The student's record of convictions or the student's probation, community supervision or parole status, as provided to the facility, if necessary to provide education services to the student.

Education Code 29.012(f), (g)

**Summer School
Enrollment**

A district shall permit a person who is eligible under Education Code 25.001 [see General Eligibility, above] to attend school in the district but who is not enrolled in school in the district to enroll in a district summer school course on the same basis as a district student, including satisfaction of any course eligibility requirement and payment of any fee authorized under Education Code 11.158 [see FP] that is charged in connection with the course.

This requirement does not apply to enrollment in a Summer Intensive Mathematics Instruction Program under Education Code 29.088, a Summer Intensive Science Instruction Program under Education Code 29.090, or an Intensive Summer Program under Education Code 29.098 or in a similar intensive program.

Education Code 25.008

**Food Allergy
Information**

On enrollment, a district shall request, by providing a form or otherwise, that a parent or other person with legal control of the child under a court order disclose whether the child has a food allergy or a severe food allergy that, in the judgment of the parent or other person with legal control, should be disclosed to the district to enable the district to take any necessary precautions regarding the

child's safety [see FB and FFAF]; and specify the food to which the child is allergic and the nature of the allergic reaction.

The district shall maintain the confidentiality of the provided information, and may disclose the information to teachers, school counselors, school nurses, and other appropriate school personnel only to the extent consistent with district policy under Education Code 38.009 and permissible under the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. Section 1232g. [See FL]

"Severe food allergy" means a dangerous or life-threatening reaction of the human body to a food-borne allergen introduced by inhalation, ingestion, or skin contact that requires immediate medical attention.

Education Code 25.0022(a)–(c)

Child in DFPS
Possession

A district shall enroll a child without the required documentation if DFPS has taken possession of the child. DFPS shall ensure that the required documentation is furnished to a district not later than the 30th day after the date the child is enrolled. *Education Code 25.002(g)*

Inconsistent
Documentation

If a child is enrolled under a name other than the name that appears in the identifying documents or records, a district shall notify the missing children and missing persons information clearinghouse of the child's name as shown on the identifying records and the name under which the child is enrolled.

Missing
Documentation

If the required documents and other records are not furnished to a district within 30 days after enrollment, the district shall notify the police department of the city or the sheriff's department of the county in which the district is located and request a determination of whether the child has been reported as missing.

Education Code 25.002(b)–(c)

Students Under 11

On enrollment of a child under 11 years of age in a school for the first time at the school, the school shall:

1. Request from the person enrolling the child the name of each previous school attended by the child;
2. Request from each school identified in item 1 the school records for the child and, if the person enrolling the child provides copies of previous school records, request verification from the school of the child's name, address, date, and grades and dates attended; and

3. Notify the person enrolling the student that not later than the 30th day after enrollment, or the 90th day if the child was not born in the United States, the person must provide:
 - a. A certified copy of the child's birth certificate; or
 - b. Other reliable proof of the child's identity and age and a signed statement explaining the person's inability to produce a copy of the child's birth certificate.

If a person enrolls a child under 11 years of age in school and does not provide the valid prior school information or documentation required, the school shall notify the appropriate law enforcement agency before the 31st day after the person fails to comply.

Code of Criminal Procedure 63.019

False Information

When accepting a child for enrollment, a district shall inform the parent or other person enrolling the child that presenting a false document or false records in connection with enrollment is a criminal offense under Penal Code 37.10 (Tampering with Governmental Records) and that enrolling the child under false documents makes the person liable for tuition or other costs as provided below. *Education Code 25.002(d)*

In addition to the penalty under Penal Code 37.10, a person who knowingly falsifies information on a form required for a student's enrollment in a district is liable to the district if the student is not eligible for enrollment, but is enrolled on the basis of false information. For the period during which the ineligible student is enrolled, the person is liable for the maximum tuition fee a district may charge [see FDA] or the amount a district has budgeted per student as maintenance and operating expense, whichever is greater. *Education Code 25.001(h)*

A district may include on its enrollment form notice of the legal penalties and liability for falsifying information on the form. *Education Code 25.001(i)*

Placement of Transfers

Credits and
Records

A district shall accept all credits earned toward state graduation requirements by students in accredited Texas school districts, including credits earned in accredited summer school programs. Credits earned in local credit courses may be transferred at a district's discretion. Transfer students shall not be prohibited from attending school pending receipt of transcripts or academic records from the district the student previously attended. *19 TAC 74.26(a)(1)*

A district shall grant a student credit toward the academic course requirements for high school graduation for courses the student

successfully completes in TJJD educational programs. *Education Code 30.104(a)*

Each district shall consider course credit earned by a student while in a juvenile justice alternative education program as credit earned in a district school. *Education Code 37.011(d)*

Nonpublic Schools

Records and transcripts of students from Texas nonpublic schools or from out of state or out of the country (including foreign exchange students) shall be evaluated, and students shall be placed promptly in appropriate classes. A district may use a wide variety of methods to verify the content of courses for which a transfer student has earned credit. *19 TAC 74.26(a)(2)*

Foundation School Program

A person is entitled to the benefits of the available school fund for a school year if:

1. On September 1 of the year, the person:
 - a. Is at least five years of age and under 21 years of age, and has not graduated from high school;
 - b. Is at least 21 years of age and under 26 years of age and is admitted by a school district to complete the requirements for a high school diploma; or
 - c. Is at least 19 years of age and under 26 years of age and is enrolled in an adult high school diploma and industry certification charter school pilot program under Education Code 29.259.
2. The person is enrolled in prekindergarten under Education Code 29.153 or Subchapter E-1, Chapter 29 [see EHBG].
3. The person is younger than five years of age and performs satisfactorily on the state assessment instrument administered to third graders and a district has adopted a policy to admit students younger than five years of age.
4. The person is enrolled in the first grade and is at least six years of age at the beginning of the current school year or has been enrolled in the first grade, or has completed kindergarten, in the public schools of another state before transferring to a Texas public school.

Education Code 25.001(a), 42.003

Screening

The principal of each district school shall ensure that each student admitted to that school has complied with requirements for screening of special senses and communication disorders, spinal screening, and a risk assessment for Type 2 diabetes, or has submitted

**Pest Control
Information**

an affidavit of exemption. *Health and Safety Code 36.005, 37.002, 95.003(c)* [See FFAA]

At the time a student is registered, district personnel shall inform the parent, guardian, or managing conservator that the school periodically applies pesticides indoors and that information on the application of pesticides is available on request. *Occupations Code 1951.455(b)* [See CLB]

¹ Authorization Agreement for Nonparent Relative (PDF): <http://www.dfps.state.tx.us/Application/Forms/showFile.aspx?NAME=2638.pdf>

² Student and Exchange Visitor Program: <https://www.ice.gov/sevis>

INTERDISTRICT TRANSFERS
PUBLIC EDUCATION GRANTS

FDAA
(LEGAL)

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 Students

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 assigned an unacceptable rating that is made publicly available under Education Code 39.054 for:

1. The student achievement domain under Education Code 39.053(c)(1); and
2. The school progress domain under Education Code 39.053(c)(2). [See AIA]

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 described above; 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, .202

Funding

A district is entitled to a public education grant allotment for each eligible student using a public education grant.

A 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)

INTERDISTRICT TRANSFERS
PUBLIC EDUCATION GRANTS

FDA
(LEGAL)

Admission	A district chosen by a student's parent under Education Code 29.201 above 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	A district that has more acceptable applicants for attendance under public education grants than available positions must give priority to students at risk of dropping out of school, as defined by Education Code 29.081 [see EHBC] and must fill the available positions by lottery.
Exception	<p>To achieve continuity in education, however, a district may give preference over at-risk students to:</p> <ol style="list-style-type: none">1. Enrolled students; and2. Siblings or other children residing in the same household as enrolled students, for the convenience of parents, guardians, or custodians of those children.
Tuition	<p>A district chosen by a student's parent under a public education grant may not charge the student tuition.</p> <p><i>Education Code 29.203(d)–(e)</i></p>
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>
Notice to Parent	Not later than February 1 of each year, a district shall notify the parent of each student in the district assigned to attend a campus described by Education Code 29.202 above 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(b)</i>

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

Assignments

A board or its designee may assign and transfer any student from one school facility or classroom to another facility or classroom within its jurisdiction. *Education Code 25.031*

A board or its designee must make the decision concerning the assignment or transfer of a student on an individual basis and may not consider as a factor in its decision any matter relating to the national origin of the student or the student's ancestral language. *Education Code 25.032*

Multiple Birth Siblings

"Multiple birth sibling" means a twin, triplet, quadruplet, or other sibling resulting from a multiple birth.

"Parent" includes a person standing in parental relation.

Placement

The parent of multiple birth siblings who are assigned to the same grade level and school may request in writing, not later than the 14th day after the first day of enrollment, that the school place the siblings in the same classroom or in separate classrooms.

A school shall provide the placement requested, except that a district is not required to place multiple birth siblings in separate classrooms if the request would require the district to add an additional class to the grade level of the siblings.

The school may recommend to a parent the appropriate classroom placement and may provide professional educational advice to assist the parent with the decision.

These provisions do not affect:

1. A right or obligation regarding the individual placement decisions of the admission, review, and dismissal (ARD) committee with respect to students receiving special education services [see EHBAB]; or
2. The right of a district or teacher to remove a student from a classroom under Chapter 37 [see FOA].

Reassignment by Principal

At the end of the first grading period following the multiple birth siblings' enrollment in the school, if the principal of the school, in consultation with the teacher of each classroom in which the siblings are placed, determines that the requested classroom placement is disruptive to the school, the principal may determine the appropriate classroom placement for the siblings.

Appeal

A parent may appeal the principal's classroom placement in the manner provided by district policy. During an appeal, the siblings shall remain in the classroom chosen by the parent. [See FNG]

Education Code 25.043

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

Placement of Older Students

A person who is 21 years of age or older who is admitted by a district to complete the requirements for a high school diploma and who has not attended school in the three preceding school years may not be placed with a student who is 18 years of age or younger in a classroom setting, a cafeteria, or another district-sanctioned school activity. This restriction does not prevent the student from attending a school-sponsored event that is open to the public as a member of the public. *Education Code 25.001(b-2)*

Petitions and Objections

The parent or person standing in parental relation to any student may by written petition either:

1. Request the assignment or transfer of the student to a designated school or to a school to be designated by the board; or
2. File objections to the assignment of the student to the school to which the student has been assigned.

Education Code 25.033, 26.003(a)(1)

Procedure

Upon receiving a written petition, a board shall proceed as follows:

1. If no hearing is requested, act on the petition not later than the 30th day after the petition is submitted and notify the petitioner of its conclusion; or
2. If a hearing is requested, designate a time and place for holding a hearing not later than the 30th day after the petition is submitted.

If a hearing is requested, it shall be conducted by a board in compliance with the following:

1. The petitioner may present evidence relevant to the student.
2. The board may conduct investigations as to the objection or request, examine any student involved, and employ agents, professional or otherwise, for the purpose of examinations and investigations.

Board's Decision

The board must grant the request made in the petition unless the board determines that there is a reasonable basis for denying the request. The decision of a board, with or without a hearing, is final, unless the student, or the parent, guardian, or custodian of the student as next friend, files an exception to the decision as constituting a denial of any right of the student guaranteed under the U.S. Constitution.

If such an exception is filed, a board may reconsider its decision. If a board has not ruled on the exception before the 16th day after the date of the filing, the objection is considered overruled. If the

exception is overruled, an appeal of a board's decision may be filed in the district court of the county in which the board is located.

Education Code 25.034

Students Who Are Victims of Bullying

On the request of a parent or other person with authority to act on behalf of a student who is a victim of bullying, a board or its designee shall transfer the victim to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred.

Students Who Engage in Bullying

The board may transfer the student who engaged in bullying to:

1. Another classroom at the campus to which the victim was assigned at the time the bullying occurred; or
2. A campus in the district other than the campus to which the victim was assigned at the time the bullying occurred, in consultation with a parent or other person with authority to act on behalf of the student who engaged in bullying.

The transfer of a student with a disability who receives special education services and who engaged in bullying may be made only by a duly constituted ARD committee under Education Code 37.004.

Definition

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

Verification

A board or designee shall verify that a student has been a victim of bullying before transferring the student. A board may consider past student behavior when identifying a bully.

The determination by a board or designee is final and may not be appealed. The procedures set forth at Education Code 25.034 [see Petitions and Objections—Procedure, above] do not apply to a transfer under this provision.

A district is not required to provide transportation to a student who transfers to another campus under this provision.

Education Code 25.0342

Note: For bullying rising to the level of prohibited harassment, see FFH. For all other bullying, see FFI.

ADMISSIONS
INTRADISTRICT TRANSFERS AND CLASSROOM ASSIGNMENTS

FDB
(LEGAL)

**Others in Special
Education Student's
Household**

If a district assigns a student to a district campus other than the campus the student would attend based on the student's residence, for purposes of receiving special education services, the district shall permit the student's parent, guardian, or other person standing in parental relation to the student to obtain a transfer to the assigned campus for any other student residing in the household of the student receiving special education services, provided that:

1. The other student is entitled to attend school in the district [see FD]; and
2. The appropriate grade level for the other student is offered at the campus.

This provision does not apply if the student receiving special education services resides in a residential facility.

Education Code 25.034 [see Petitions and Objections—Procedure, above] does not apply to a transfer under this provision.

Transportation

A district is not required to provide transportation to a student who transfers to another campus under this provision. This provision does not affect any transportation services provided by a district in accordance with other law for the student receiving special education services.

Education Code 25.0343

**Students in
Unacceptable
Schools**

A student is eligible to attend another public school in the district in which the student resides if the student is assigned to attend a public school campus assigned an unacceptable rating that is made publicly available under Education Code 39.054 for:

1. The student achievement domain under Education Code 39.053(c)(1); and
2. The school progress domain under Education Code 39.053(c)(2). [See AIA]

Education Code 29.202(a) [See FDAA]

**Students in Schools
Identified for
Support and
Improvement**

A district may provide all students enrolled in a school identified by TEA for comprehensive support and improvement under 20 U.S.C. 6311(c)(4)(D)(i) with the option to transfer to another public school served by the district, unless such an option is prohibited by state law.

A district shall give priority to the lowest achieving children from low-income families. A student who uses the option to transfer shall be enrolled in classes and other activities in the public school to

which the student transfers in the same manner as all other students at the public school.

A district shall permit a student who transfers to another school to remain in that school until the child has completed the highest grade in that school. A district may spend an amount equal to not more than five percent of its allocation under 20 U.S.C. Chapter 70, Part A, Subpart 2 (Title I basic program allocations) to pay for the provision of transportation for students who transfer under these provisions to the schools to which they transfer.

20 U.S.C. 6311(d)(1)(D)

Note: See FDE for the school safety transfer option in Title I programs.

Class Changes

A parent or person standing in parental relation is entitled to reasonable access to the school principal, or to a designated administrator with authority to reassign a student, to request a change in the class or teacher to which the parent's child has been assigned, if the reassignment or change would not affect the assignment or reassignment of another student. The decision of a board regarding such a request is final and may not be appealed. *Education Code 26.002, .003(a)(2), (b)* [See FNG]

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**Compulsory
Attendance**

Students who are at least six years of age, or who have been previously enrolled in first grade, and who have not yet reached their 19th birthday shall attend school for the entire period the program is offered, unless exempted as indicated below. On enrollment in prekindergarten or kindergarten, a student shall attend school. *Education Code 25.085(a)–(c)*

**Voluntary Enrollment
of Students 19 and
Over**

A person who voluntarily enrolls in school or voluntarily attends school after the person's 19th birthday shall attend school each school day for the entire period the program of instruction is offered. A board may adopt a policy requiring the student who is under 21 years of age to attend school until the end of the school year.

After the third unexcused absence of a person who voluntarily enrolls, a district shall issue a warning letter to the person that states the person's enrollment may be revoked for the remainder of the school year if the person has more than five unexcused absences in a semester.

A district may revoke for the remainder of the school year the enrollment of a person who has more than five unexcused absences in a semester, except a school district may not revoke the enrollment of a person under this provision on a day on which the person is physically present at school.

A person whose enrollment is revoked for exceeding this limit may be considered an unauthorized person on school grounds for the purposes of Education Code 37.107 regarding trespassing.

As an alternative to revoking a person's enrollment, a school district may impose a behavior improvement plan described by Education Code 25.0915(a-1)(1).

Education Code 25.085(e)–(h)

**Accelerated /
Compensatory
Programs**

Unless specifically exempted, a student must also attend:

1. An extended-year program for which the student is eligible that is provided by a district for students identified as likely not to be promoted to the next grade level or tutorial classes required by the district under Education Code 29.084 [see EHBC];
2. An accelerated reading instruction program to which the student has been assigned under Education Code 28.006(g) [see EKC];
3. An accelerated instruction program to which the student is assigned under Education Code 28.0211 [see EIE];

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4. A basic skills program to which the student is assigned under Education Code 29.086 [see EHBC]; or
5. A summer program provided:
 - a. To a student placed in in-school suspension or other alternative setting, other than a disciplinary alternative education program (DAEP), who has been offered the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of removal. *Education Code 37.021* [See FO]
 - b. To a student removed to a DAEP who has been offered an opportunity to complete coursework, before the beginning of the next school year. *Education Code 37.008(l)* [See FOCA]

Education Code 25.085(d)

Exemptions

A student is exempt from compulsory attendance requirements if:

Equivalency
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
School

2. The student attends a private or parochial school that includes in its course a study of good citizenship.

A student in a home school shall be exempt from compulsory attendance if he or she is pursuing in good faith a curriculum consisting of books, workbooks, other written materials (including those that appear on an electronic screen of either a computer or video tape monitor), or any combination of these. The curriculum shall be designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship. *TEA v. Leeper*, 893 S.W.2d 432 (Tex. 1994)

Special Education—
Nondistrict
Placement

3. The student is eligible to participate in a district's special education program under Education Code 29.003 and cannot be appropriately served by the resident district.

Medical Condition

4. The student has a temporary and remediable physical or mental condition that makes attendance infeasible and the student has a certificate from a qualified physician specifying the temporary condition, indicating the prescribed treatment, and covering the anticipated period of absence for the purpose of receiving and recuperating from remedial treatment.

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Expulsion—No JJAEP	5.	The student is expelled in accordance with legal requirements in a district that does not participate in a mandatory juvenile justice alternative education program. [See FOD]
17-Year-Old in GED Course	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">a. Has the permission of the student's parent or guardian to attend the course;b. Is required by court order to attend the course;c. Has established a residence separate and apart from the student's parent, guardian, or other person having lawful control of the student; ord. Is homeless as defined by 42 U.S.C. 11302.
High School Replacement Programs	7.	The student is enrolled in the Texas Academy of Leadership in the Humanities, Texas Academy of Mathematics and Science, or Texas Academy of International Studies.
16-Year-Old in GED Program or Job Corps	8.	<p>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">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; orb. The student is enrolled in a Job Corps training program under the Workforce Investment Act of 1998, 29 U.S.C. 2801.
Other Exemption	9.	<p>The student is specifically exempted under another law.</p> <p><i>Education Code 25.086</i></p>
Excused Absences for Compulsory Attendance Determinations		A district shall excuse a student from attending school for the following purposes:
Religious Holy Days	1.	Observing religious holy days. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.
Court Appearances	2.	Attending a required court appearance. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student

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- will attend the required court appearance and up to one day of excused travel for traveling from that site.
- Citizenship Proceedings
3. Appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.
4. Taking part in a United States naturalization oath ceremony. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.
- Election Clerks
5. Serving as an election clerk. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site. [See Early Voting Clerks, below]
- Children in Conservatorship of DFPS
6. If the student is in the conservatorship of the Department of Family and Protective Services (DFPS), participating, as determined and documented by DFPS, in an activity:
- a. Ordered by a court under Family Code Chapter 262 or 263, provided that it is not practicable to schedule the participation outside of school hours, or
- b. Required under a service plan under Family Code Chapter 263, Subchapter B.

Education Code 25.087(b)(1); 19 TAC 129.21(j)(3)

- Health-Care Appointments
7. Temporary absence resulting from an appointment with a health-care professional for the student or the student's child if the student commences classes or returns to school on the same day of the appointment. The appointment must be supported by a document such as a note from the health-care professional. "Temporary absence" includes the temporary absence of a student diagnosed with autism spectrum disorder on the day of the student's appointment with a health-care practitioner to receive a generally recognized service for persons with autism spectrum disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

Education Code 25.087(b)(2), (b-3); 19 TAC 129.21(j)(3) [See FEB]

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Higher Education
Visits

A district may excuse a student from attending school to visit an institution of higher education accredited by a generally recognized accrediting organization during the student's junior and senior years of high school for the purpose of determining the student's interest in attending the institution of higher education, provided that:

1. The district may not excuse for this purpose more than two days during the student's junior year and two days during the student's senior year; and
2. The district adopts:
 - a. A policy to determine when an absence will be excused for this purpose; and
 - b. A procedure to verify the student's visit at the institution of higher education.

Education Code 25.087(b-2); 19 TAC 129.21(j)(3)

Early Voting Clerks

A district may adopt a policy excusing a student from attending school for service as a student early voting clerk in an election. A district may excuse a student for serving as an election clerk [see Election Clerks, above] or early voting clerk for a maximum of two days in a school year. *Education Code 25.087(b-1), (e)*

Military Dependents

A district shall excuse a student whose parent, stepparent, or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or immediately returned from continuous deployment of at least four months outside the locality where the parent, stepparent, or guardian regularly resides, to visit with the student's parent, stepparent, or guardian. A district may not excuse a student under this provision more than five days in a school year. An excused absence under this provision must be taken not earlier than the 60th day before the date of deployment or not later than the 30th day after the date of return from deployment. *Education Code 25.087(b-4) [See FDD]*

Enlistment in Armed
Services

A district shall excuse a student who is 17 years of age or older from attending school to pursue enlistment in a branch of the armed services of the United States or the Texas National Guard, provided that:

1. The district may not excuse for this purpose more than four days of school during the period the student is enrolled in high school; and

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2. The district verifies the student's activities related to pursuing enlistment in a branch of the armed services or the Texas National Guard.

A district shall adopt procedures to verify a student's activities as described in these provisions.

Education Code 25.087(b-5), (b-6)

Taps at Military
Funeral

In addition, a district may excuse a student in grades 6 through 12 for the purpose of sounding "Taps" at a military honors funeral held in this state for a deceased veteran. *Education Code 25.087(c)*

No Penalty

A student whose absence is excused for a reason described beginning at Excused Absences for Compulsory Attendance Determinations, above, may not be penalized for that absence and shall be counted as if the student attended school for purposes of calculating the average daily attendance of students in the district.

Make-Up Work

The student shall be allowed a reasonable time to make up school work missed on the days described above. If the student satisfactorily completes the work, the days of absence shall be counted as days of compulsory attendance.

Education Code 25.087(d)

**Other Excused
Absences**

A person required to attend school may be excused for temporary absence resulting from any cause acceptable to the teacher, principal, or superintendent of the school in which the person is enrolled. *Education Code 25.087(a)*

Notices to Parents
Warning Notice

A district shall notify a student's parent in writing at the beginning of the school year that, if the student is absent from school on ten or more days or parts of days within a six-month period in the same school year, the student's parent is subject to prosecution under Education Code 25.093, and the student is subject to referral to a truancy court for truant conduct under Family Code 65.003(a).

Notice of Absences

A district shall notify a student's parent if the student has been absent from school, without excuse under Education Code 25.087, on three days or parts of days within a four-week period. The notice must:

1. Inform the parent that:
 - a. It is the parent's duty to monitor the student's school attendance and require the student to attend school;
 - b. The student is subject to truancy prevention measures under Education Code 25.0915; and

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2. Request a conference between school officials and the parent to discuss the absences.

The fact that a parent did not receive the notices described above is not a defense for the parent's failure to require a child to attend school nor for the student's failure to attend school.

Education Code 25.095

Non-Attendance

Parent Liability

A parent or person standing in parental relation commits an offense if:

1. A warning notice is issued;
2. The parent with criminal negligence fails to require the child to attend school as required by law; and
3. The child has absences for the amount of time specified under Family Code 65.003(a).

The attendance officer [see FED] or other appropriate school official shall file a complaint against the parent in an appropriate court, as permitted under Education Code 25.093.

*Affirmative
Defense—Parent*

It is an affirmative defense to prosecution that one or more of the absences required to be proven was excused by a school official or should be excused by the court. A decision by the court to excuse an absence for this purpose does not affect the ability of a district to determine whether to excuse the absence for another purpose.

Education Code 25.093

Student Liability

A child engages in truant conduct if the child is required to attend school under the compulsory attendance laws, and fails to attend school on ten or more days or parts of days within a six-month period in the same school year. Truant conduct may be prosecuted only as a civil case in a truancy court. *Family Code 65.003(a), (b)*

"Child" means a person who is 12 years of age or older and younger than 19 years of age. *Family Code 65.002(1)*

Truancy Courts

The following are designated as truancy courts:

1. The constitutional county court in a county with a population of 1.75 million or more;
2. Justice courts; and
3. Municipal courts.

A truancy court has exclusive original jurisdiction over cases involving allegations of truant conduct.

Family Code 65.004(a), (b)

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*Affirmative
Defense—
Student*

It is an affirmative defense to an allegation of truant conduct that one or more of the absences required to be proven have been excused by a school official or by the court or that one or more of the absences were involuntary, but only if there is an insufficient number of unexcused or voluntary absences remaining to constitute truant conduct. The burden is on the child to show by a preponderance of the evidence that the absence has been or should be excused or that the absence was involuntary. A decision by the court to excuse an absence does not affect the ability of the district to determine whether to excuse the absence for another purpose.
Family Code 65.003(c)

**Truancy Prevention
Measures**

If a student fails to attend school without excuse on three or more days or parts of days within a four-week period but does not fail to attend school for the time described below, the district shall initiate truancy prevention measures on the student. [See FED] *Education Code 25.0915(a-4)*

**District Complaint or
Referral**

If a student fails to attend school without excuse on ten or more days or parts of days within a six-month period in the same school year, a district shall within ten school days of the student's tenth absence refer the student to a truancy court for truant conduct under Family Code 65.003(a). [See FED] *Education Code 25.0951*

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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.

Excused Absences

In addition to excused absences required by law, the District shall excuse absences for the following purposes.

Higher Education
Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. A student shall be required to submit verification of such visits in accordance with administrative regulations.

Armed Services
Enlistment

The District shall excuse a student 17 years of age or older for up to four days during a school year for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard. A student shall be required to submit verification of such activities in accordance with administrative regulations.

Early Voting or
Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk. A student shall be required to submit verification of service in accordance with administrative regulations.

[For extracurricular activity absences, see FM.]

**Withdrawal for
Nonattendance**

The District may initiate withdrawal of a student under the age of 19 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 District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

**Students Attending
Homeschools**

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed

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to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing
Compulsory
Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged 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.

WELLNESS AND HEALTH SERVICES
PHYSICAL EXAMINATIONS

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**Physical Fitness
Assessment**

Annually, a district shall assess the physical fitness of students in grade 3 or higher in a course that satisfies the curriculum requirements for physical education under Education Code 28.002(a)(2)(C), using an assessment instrument adopted by the commissioner of education (currently FitnessGram®). *Education Code 38.101(a), .102(a)*

A district is not required to assess a student for whom, as a result of disability or other condition identified by commissioner rule, the assessment instrument is inappropriate. *Education Code 38.101(b)*

The assessment instrument must be based on factors related to student health, including aerobic capacity; body composition; and muscular strength, endurance, and flexibility, unless a particular factor is inappropriate for that student because of a health classification defined in 19 Administrative Code 74.31 [see EHAA]. *Education Code 38.102(b)(1); 19 TAC 103.1001(b)*

Report

A district shall provide the results of individual student performance on the physical fitness assessment to TEA. The results may not contain the names of individual students or teachers or a student's social security number or date of birth.

Confidentiality

The results of individual student performance on the physical fitness assessment instrument are confidential and may be released only in accordance with state and federal law.

Education Code 38.103

A district may accept donations made to facilitate implementation of this subchapter. *Education Code 38.105*

**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). *Health and Safety Code 36.005(a)*

District
Responsibility

A superintendent shall ensure that each student admitted to a district complies with the screening requirements set by TDSHS or submits an affidavit of exemption (see below). *Health and Safety Code 36.005(c)*

Screening Schedule
*Routine
Screening*

Children enrolled in prekindergarten and kindergarten must be screened each year within 120 days of enrollment. Children enrolled in the first, third, fifth, and seventh grades must receive vision and hearing screening in each of those grade years (can be done at any time during each of those years). Upon written request approved by TDSHS, the screening of vision and hearing may in-

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	stead occur in prekindergarten; kindergarten; and first, second, fourth, and sixth grades. <i>25 TAC 37.25(a)(2), (3), (6)</i>
<i>Screening on Enrollment</i>	Students four years of age and older, who are enrolled in a 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 within 120 days of the beginning of the following school year. Students enrolled who turn four years of age after September 1 of that year are exempt from screening until the following September. <i>25 TAC 37.25(a)(1), (5)</i>
Outside Screening	Except for students enrolled in prekindergarten, kindergarten, or first grade, a district shall exempt a student from screening if the student's parent, managing conservator, or legal guardian, or the student under Family Code 32.003 submits a record showing that a professional examination was properly conducted during the grade year in question or during the previous year. The record must be submitted during the grade year in which the screening would otherwise be required. <i>25 TAC 37.25(a)(4)</i>
Provisional Admission	A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by a district, shall conduct the screening (or that a licensed professional shall conduct an examination) as soon as is feasible. The district may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to the district. <i>25 TAC 37.25(b)</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. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit on or before the day of admission an affidavit stating the objections to screening. <i>Health and Safety Code 36.005(b); 25 TAC 37.25(c)</i>
Records	A superintendent shall maintain on a form prescribed by TDSHS in accordance with TDSHS rules, screening records for each student in attendance, and the records are open for inspection by TDSHS or the local health department. <i>Health and Safety Code 36.006; 25 TAC 37.26</i>
<i>Transfer of Records</i>	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. <i>Health and Safety Code 36.006(c); 25 TAC 37.26(b)(4)</i>

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Annual Report	On or before June 30 of each year, a district shall submit to TDSHS a report on the vision and hearing screening status of its aggregate population screened during the reporting year. The district shall report in the manner specified by TDSHS. <i>Health and Safety Code 36.006(d); 25 TAC 37.26(b)(6)</i>
Risk Assessment for Type 2 Diabetes	<p>As soon as possible after admission and as required by rule, each student required to be assessed shall undergo approved risk assessment for type 2 diabetes. The risk assessment should:</p> <ol style="list-style-type: none">1. Identify students with acanthosis nigricans; and2. Further assess students identified under paragraph 1 to determine the students':<ol style="list-style-type: none">a. Body mass index; andb. Blood pressure. <p>The risk assessment shall be performed at the same time hearing and vision screening or spinal screening is performed.</p> <p><i>Health and Safety Code 95.002(d), .003(a)</i></p>
District Responsibility	A superintendent shall ensure that each student admitted to a district complies with the risk assessment requirements or submits an affidavit of exemption. <i>Health and Safety Code 95.003(c)</i>
Applicability	Students who attend public schools located in TEA Regional Education Service Centers 1, 2, 3, 4, 10, 11, 13, 15, 18, 19, and 20 shall be subject to risk assessment. <i>Health and Safety Code 95.002(b)</i>
Outside Screening	The student or minor student's parent, managing conservator, or guardian may substitute a professional examination for the risk assessment. <i>Health and Safety Code 95.003(a)</i>
Exemption — Religious Beliefs	A student is exempt from risk assessment if it conflicts with the tenets and practices of a recognized church or religious denomination of which the student is an adherent or a member. To qualify for the exemption, the student or minor student's parent, managing conservator, or guardian must submit to the superintendent on or before the day of the risk assessment process an affidavit stating the objections to the risk assessment. <i>Health and Safety Code 95.003(b)</i>
Records	A superintendent shall maintain the risk assessment records for each student in attendance and enter the risk assessment information for each student on the surveillance software selected by the University of Texas—Rio Grande Valley Border Health Office (the Office). The risk assessment records are open for inspection

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	by the Office or the local health department. <i>Health and Safety Code 95.004(a)</i>
<i>Transfer of Records</i>	A student's risk assessment records may be transferred among schools without the consent of the student, 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	A district shall submit to the Office an annual report on the risk assessment 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 TDSHS rule to be screened shall undergo approved screening for abnormal spinal curvature. <i>Health and Safety Code 37.002(a)</i>
District Responsibility	A superintendent shall ensure that each student admitted to a district complies with the screening requirements or submits an affidavit of exemption (see below). <i>Health and Safety Code 37.002(c), 25 TAC 37.144(b)</i>
Screening Schedule <i>Routine Screening</i>	Students in grades 6 and 9 shall be screened for abnormal spinal curvature before the end of the school year. The screening requirement for students entering grades 6 or 9 may be met if the student has been screened for spinal deformities during the previous year. <i>25 TAC 37.144(b)(1), (2)</i>
<i>Screening on Enrollment</i>	If a student is enrolled within 60 days of the date a school closes for the summer, the student's screening must be conducted within 120 days of the beginning of the following school year. Districts may offer a student enrolling in grades 10, 11, or 12 the opportunity for spinal screening if the student has no record of having been screened previously. <i>25 TAC 37.144(b)(3), (4)</i>
Outside Screening	The screening requirements may also be met by a professional examination as defined in 25 Administrative Code 37.142(7). <i>25 TAC 37.144(b)(1)</i>
Provisional Admission	A parent, managing conservator, or legal guardian, or the student under Family Code 32.003 may execute an affidavit stating that a person, other than the screener used by a district, shall conduct the screening as soon as is feasible. The district may admit the student on a provisional basis for up to 60 days, or may deny admission until the screening record(s) are provided to the district. The 60-day time period is from November 30 to January 30 of each school year. <i>25 TAC 37.144(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

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which the student is an adherent or a member. To qualify for the exemption, the student's parent, managing conservator, or guardian must submit to the superintendent on or before the day of the screening procedure an affidavit stating the objections to screening. *Health and Safety Code 37.002(b); 25 TAC 37.144(d)*

Records

A district must comply with recordkeeping and reporting requirements set out in 25 Administrative Code 37.145(b).

*Transfer of
Records*

Spinal screening records are transferrable between districts if written consent of the student or minor student's parent, managing conservator, or legal guardian is obtained.

25 TAC 37.145(b)(3)

Report of
Abnormality

If the spinal screening indicates that a student may have abnormal spinal curvature, the individual performing the screening shall fill out a report on a form prescribed by TDSHS.

The superintendent shall retain one copy of the report and shall mail one copy to the parent, managing conservator, or guardian of the individual screened.

Education Code 37.003

Annual Report

On or before June 30 of each year, a district shall submit to TDSHS a report on the spinal screening status of its aggregate population screened during the reporting year. The district shall report in the manner specified by TDSHS. *25 TAC 37.145(b)(5)*

Policy

As a condition of receiving funds under a program funded in whole or in part by the U.S. Department of Education (DOE), a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), regarding the administration of physical examinations or screenings that a district may administer to the student. *20 U.S.C. 1232h(c)(1)(D)*

A district shall provide notice of the policies at least annually, at the beginning of the school year and within a reasonable time after any substantive change in the policies. *20 U.S.C. 1232h(c)(2)(A)(i)*

A district need not develop and adopt new policies if TEA or the district had in place, on January 8, 2002, policies covering the requirements of 20 U.S.C. 1232h(c)(1). *20 U.S.C. 1232h(c)(3)*

Notification and
Opt-Out

At least annually at the beginning of the school year, a district shall directly notify the parent of a student of the specific or approximate dates during the school year when any nonemergency, invasive physical examination or screening, described below, is scheduled or expected to be scheduled. The required notification applies to

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nonemergency, invasive physical examinations or screenings that are:

1. Required as a condition of attendance;
2. Administered and scheduled by the school in advance; and
3. Not necessary to protect the immediate health and safety of the student or of other students.

At a minimum, a district shall offer an opportunity for the parent to opt the student out of participation in the examination or screening. *20 U.S.C. 1232h(c)(2)(A)(ii), (C)(iii)*

Exception

These provisions do not apply to any physical examination or screening that is permitted or required by an applicable state law, including physical examinations or screenings that are permitted without parental notification. *20 U.S.C. 1232h(c)(4)(B)(ii)*

[See EF]

Lice

The board shall adopt a policy requiring an elementary school nurse who determines or otherwise becomes aware that a child enrolled in the school has lice shall provide written or electronic notice of that fact to:

1. The parent of the child with lice as soon as practicable but not later than 48 hours after the administrator or nurse, as applicable, determines or become aware of that fact; and
2. The parent of each child assigned to the same classroom as the child with lice not later than the fifth school day after the date on which the administrator or nurse, as applicable, determines or become aware of that fact.

The notice:

1. Must include the recommendations of the Centers for Disease Control and Prevention for the treatment and prevention of lice; and
2. May not identify the child with lice if the notice is to the parent of each child in the same classroom.

Education Code 38.031

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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.
Notice of Lice	A school nurse or administrator who discovers or becomes aware that a child enrolled in a District elementary school has lice shall provide written or electronic notice to parents within the time frames prescribed in law.

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**Immunization
Requirements**

Each student shall be fully immunized against diphtheria, rubeola (measles), rubella, mumps, tetanus, and poliomyelitis. The Texas Department of State Health Services (TDSHS) 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)*

Students in kindergarten through twelfth grade shall have the following additional vaccines, according to the immunization schedules set forth in TDSHS regulations: pertussis, hepatitis B, hepatitis A (as applicable to the grade levels specified in state rule), and varicella (chickenpox). TDSHS requires students enrolling in seventh through twelfth grades to have one dose of meningococcal vaccine on or after the student's 11th birthday.

25 TAC 97.63

Note: [Immunization requirements](#)¹ and the [recommended immunization schedule](#)² are on the TDSHS website.

Under Health and Safety Code Chapter 81, Subchapter E, additional vaccinations may be required by TDSHS and/or the local health authority in specific situations under the mechanism of a control order containing control measures. *25 TAC 97.72*

**Immunization
Awareness Program**

A district that maintains an Internet website shall post prominently on the website:

1. A list, in English and Spanish, of:
 - a. The immunizations required by TDSHS for admission to public school;
 - b. Any immunizations or vaccines recommended for public school students by TDSHS. The list must include the influenza vaccine, unless TDSHS requires the influenza vaccine for admission to public school; and
 - c. Health clinics in the district that offer the influenza vaccine, to the extent those clinics are known to the district; and
2. A link to the TDSHS Internet website where a person may obtain information relating to the procedures for claiming an exemption from the immunization requirements. The link must be presented in the same manner as the information provided under paragraph 1.

Education Code 38.019

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Applicability

The vaccine requirements apply to all students entering, attending, enrolling in, and/or transferring to a district. 25 TAC 97.61(a)

Exceptions

Immunization is not required for admission to a district:

1. If the student submits to the admitting official:

- a. An affidavit or a certificate signed by a 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

- 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 state health services.

or

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), .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

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	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 vaccine series on schedule and as rapidly as is medically feasible and provide acceptable evidence of vaccination to a district.
Review of Status	<p>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 a district shall exclude the student from school attendance until the required dose is administered.</p> <p><i>Education Code 38.001(e); 25 TAC 97.66(a); Atty. Gen. Op. GA-178 (2004)</i></p>
Homeless Student	A student who is homeless, as defined in the McKinney-Vento Homeless Assistance Act, shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to an appropriate health provider to obtain the required vaccinations. [See FD and FDC] 25 TAC 97.66(b); 42 U.S.C. 11302
Child in Foster Care	A student who is a "child in foster care" as defined by 45 C.F.R. 1355.20(a) shall be admitted temporarily for 30 days if acceptable evidence of vaccination is not available. The school shall promptly refer the student to an appropriate health provider to obtain the required vaccinations. [See FD] 25 TAC 97.66(c)
Transfer Students	A student can be enrolled provisionally for no more than 30 days if the student transfers from one Texas school to another, and is awaiting the transfer of the immunization record. 25 TAC 97.69(a)
Military Dependents	<p>A military dependent 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. [See FDD]</p> <p>The collection and exchange of information pertaining to immunizations shall be subject to confidentiality provisions prescribed by federal law.</p> <p><i>Education Code 162.002 art. IV, C; 25 TAC 97.69(b)</i></p>
Evidence of Immunization	A student shall show acceptable evidence of vaccination before entry, attendance, or transfer to a district. 25 TAC 97.63(2)

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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; immunization records generated from electronic health record systems must include clinic contact information and the provider's signature/stamp;
2. An official immunization record generated from a state or local health authority; 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, hepatitis B, or varicella illnesses must consist of a valid laboratory report that indicates either confirmation of immunity or infection.

A written statement from a parent, legal guardian, managing conservator, school nurse, or physician attesting to a child's positive history of varicella disease (chickenpox) or varicella immunity is acceptable in lieu of a vaccine record for that disease. [[The form to document the history of varicella illness \(PDF\)](#)³ is on the TDSHS website.]

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 a 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), (a-1)*

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 or other assessment to be completed. The records shall be open for inspection at all reasonable times by TEA, local health departments, or the TDSHS. Immunization records may be maintained in paper and/or electronic form. *Education Code 38.002(a); 25 TAC 97.67*

Transfer of Records

Each district shall cooperate in transferring students' immunization records to other schools. Specific approval from students, parents,

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or guardians is not required before transferring those records. *Education Code 38.002(b)*

Annual Report

Districts shall submit annual reports of the immunization status of students, in a format prescribed by 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. *Education Code 38.002(c); 25 TAC 97.71*

**Consent to
Immunization**

In addition to persons authorized to consent to immunization under Family Code Chapters 151 (parents) and 153 (conservators), the following persons may consent to the immunization of a child:

1. A guardian of the child; and
2. A person authorized under the law of another state or a court order to consent for the child.

Family Code 32.101(a)

The district in which the child is enrolled may give consent to the immunization if:

1. The persons listed above are not available; and
2. The district has written authorization to consent from a person listed above.

Family Code 32.101(b)(5)

A district may not consent for the child if it has actual knowledge that a person listed above has:

1. Expressly refused to give consent to the immunization;
2. Been told not to consent for the child; or
3. Withdrawn a prior written authorization for the district to consent.

Family Code 32.101(c)

Consent by Child

A child may consent to the child's own immunization for a disease if the child is pregnant or is the parent of a child and has actual custody of that child, and the Centers for Disease Control and Prevention recommend or authorize the initial dose of an immunization for that disease to be administered before seven years of age.

Consent by a child to immunization is not subject to disaffirmance because of minority. A health-care provider or facility may rely on the written statement of the child containing the grounds on which the child has capacity to consent to the child's immunization.

Family Code 32.1011

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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] A district has the responsibility to ensure that the consent, if given, is an informed consent. A district is not required to be present when the immunization is requested if a consent form has been given to the health-care provider. <i>Family Code 32.101(f), .102</i>
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. <i>Family Code 32.103</i>

¹ Immunization requirements: <http://www.dshs.texas.gov/immunize/school/default.shtm#requirements>

² Immunization schedule: http://www.dshs.texas.gov/immunize/Schedule/schedule_child.shtm

³ Documenting History of Illness: Varicella (PDF): <http://www.dshs.texas.gov/immunize/docs/c-9.pdf>

WELLNESS AND HEALTH SERVICES
COMMUNICABLE DISEASES

FFAD
(LEGAL)

Reports

School authorities, including a superintendent, principal, teacher, school health official, or counselor, should report to the local health authority those students attending school who are suspected of having a notifiable condition, as defined by state law and the Texas Department of State Health Services (TDSHS). If there is no local health authority appointed for the jurisdiction where the school is located, the report shall be made to the TDSHS regional director. *25 TAC 97.2(d), .5(a); Health and Safety Code 81.041–.042*

Sexually
Transmitted
Diseases and HIV

In addition to the reporting requirements at Reports, above, a health professional as defined by 25 Administrative Code 97.131(5), and a local school authority shall report cases and suspected cases of STD(s) in the manner described in 25 Administrative Code 97.133. *25 TAC 97.132(a)(1)*

[See FFG(LEGAL) regarding reports to the Department of Family and Protective Services]

“School authority” means the superintendent or the superintendent’s designee. *Health and Safety Code 81.003(10)*

Penalties

A person commits a Class B misdemeanor if the person knowingly fails to report a reportable disease or health condition under Health and Safety Code Chapter 81, Subchapter B. *Health and Safety Code 81.049*

Exclusion

Communicable
Condition Defined
by Rule

A principal shall exclude from attendance any child having or suspected of having a communicable condition listed in 25 Administrative Code 97.7(a) until the readmission criteria for the condition are met. *25 TAC 97.7(a)*

Communicable
Disease Designated
by Commissioner

A principal shall exclude from attendance any child having or suspected of having a communicable disease designated by the commissioner of health as cause for exclusion. Any child excluded for reason of communicable disease may be readmitted, as determined by the health authority, by:

1. Submitting a certificate of the attending physician, advanced practice nurse, or physician assistant attesting that the child does not currently have signs or symptoms of a communicable disease or to the disease’s non-communicability in a school setting;
2. Submitting a permit for readmission issued by a local health authority; or
3. Meeting readmission criteria as established by the commissioner.

25 TAC 97.7(b)–(c)

Note: The TDSHS Recommendations for the Prevention and Control of [Communicable Diseases](#)¹ in a Group-Care Setting, including the Communicable Disease Chart for Schools and Child-Care Centers, details symptoms and treatment information regarding several diseases, as well as exclusion and readmission criteria.

Bacterial Meningitis

TEA 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, a district may provide the information to its students and their parents by a method different from the method prescribed by TEA if TEA determines that method would be effective in bringing the information to the attention of the parents of each student.

Education Code 38.0025

¹ TDSHS Infectious Disease Control resources:
https://www.dshs.texas.gov/idcu/health/schools_childcare/resources/

**Recommended
Programs**

The Texas Department of State Health Services (TDSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

Subject Areas

The list must include programs and practices in the following areas:

1. Early mental health intervention;
2. Mental health promotion;
3. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
4. Substance abuse prevention and intervention;
5. Suicide prevention;
6. Grief-informed and trauma-informed practices;
7. Positive behavior interventions and supports and positive youth development; and
8. Safe, supportive, and positive school climate.

“School climate” means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

TDSHS, TEA, and each ESC shall make the list easily accessible on their websites.

**Practices and
Procedures**

A district may develop practices and procedures concerning each area listed above, including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

1. Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in

sleep or eating habits, and destructive behavior toward self and others;

2. Include a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;
3. Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and
4. Set out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures developed must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

Nothing in these provisions is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with these provisions are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. These provisions do not give school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

Health and Safety Code 161.325

Immunity

These requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Health and Safety Code 161.326*

Liaison for Court-Related Students

A district shall appoint at least one educator, as defined by Education Code 5.001(5), to act as a liaison officer for court-related students. The liaison officer shall provide counseling and other services for court-related students and their parents to establish or reestablish normal attendance and progress in school. *Education Code 37.014*

Liaison for Homeless Students

As a condition of receiving funds under the McKinney-Vento Homeless Assistance Act (McKinney-Vento Act), a district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district will adopt policies and practices to ensure participation by the liaison in professional development and other technical assistance activities provided and approved by the statewide coordinator for education of homeless children and youths. *42 U.S.C. 11432(g)(1)(J)*

Notice

A district shall inform school personnel, service providers, and advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FD for definition of "homeless children."]

Duties

The liaison shall ensure that:

1. Homeless children are identified by school personnel and through outreach and coordination activities with other entities and agencies;
2. Homeless children are enrolled in, and have a full and equal opportunity to succeed in, district schools;
3. Homeless families and homeless children have access to and receive educational services for which they are eligible, including services through Head Start programs (including Early Head Start programs) under the Head Start Act, early intervention services under Part C of the Individuals with Disabilities Education Act, and other district preschool programs;
4. Homeless families and homeless children receive referrals to health care, dental, mental health and substance abuse, housing, and other appropriate services;
5. The parents or guardians of homeless children are informed of the available educational and related opportunities and are provided meaningful opportunities to participate in the education of their children;
6. Public notice of the educational rights of homeless children is disseminated in locations frequented by parents or guardians of such children, and unaccompanied youths, including schools, shelters, public libraries, and soup kitchens, in a

manner and form understandable to the parents and guardians of homeless children, and unaccompanied youths;

7. Enrollment disputes are mediated;
8. The parent or guardian of a homeless child, and any unaccompanied youth, are fully informed of all transportation services, including transportation to the school of origin, and are assisted in accessing transportation to the school of enrollment;
9. School personnel providing services under the McKinney-Vento Act receive professional development and other support; and
10. Unaccompanied youths:
 - a. Are enrolled in school;
 - b. Have opportunities to meet the same challenging state academic standards as the state establishes for other children; and
 - c. Are informed of their status as independent students under section 480 of the Higher Education Act of 1965 and that the youths may obtain assistance from the liaison to receive verification of such status for purposes of the Free Application for Federal Student Aid.

42 U.S.C. 11432(g)(6)(A), (B)

Determination of
Homeless Status

A liaison who receives training under 42 U.S.C. 11432(F)(6) may affirm, without further action by the Department of Housing and Urban Development, that a child who is eligible for and participating in a district program, or the immediate family of such a child, who meets the eligibility requirements of the McKinney-Vento Act for an authorized program or service under Title IV of the Act, is eligible for such program or service. *42 U.S.C. 11432(g)(6)(D)*

**Liaison for Children
in State
Conservatorship**

Each district shall appoint at least one employee to act as a liaison officer to facilitate the enrollment in or transfer to a public school of a child in the district who is in the conservatorship of the state and submit the liaison's name and contact information to TEA in a format and under the schedule determined by the commissioner of education.

TEA shall provide information to the liaisons on practices for facilitating the enrollment in or transfer to a public school of children who are in the conservatorship of the state.

Education Code 33.904

Transition to Higher Education

A district, in coordination with the Department of Family and Protective Services (DFPS), shall facilitate the transition of each child enrolled in the district who is eligible for a tuition and fee waiver under Education Code 54.366, and who is likely to be in the conservatorship of DFPS on the day preceding the child's 18th birthday to an institution of higher education by:

1. Assisting the child with the completion of any applications for admission or financial aid;
2. Arranging and accompanying the child on campus visits;
3. Assisting the child in researching and applying for private or institution-sponsored scholarships;
4. Identifying whether the child is a candidate for appointment to a military academy;
5. Assisting the child in registering and preparing for college entrance examinations, including, subject to the availability of funds, arranging for the payment of any examination fees by DFPS; and
6. Coordinating contact between the child and a liaison designated by the Higher Education Coordinating Board for students who were formerly in the conservatorship of DFPS.

Family Code 264.1211 [See EJ]

Child Welfare Contact

A district receiving Title 1, Part A funds must collaborate with the state or local child welfare agency to designate a point of contact if the child welfare agency notifies the district, in writing, that the agency has designated an employee to serve as a point of contact for the district. *20 U.S.C. 6312(c)(5)(A)*

School-Community Guidance Center

A district may establish a school-community guidance center designed to locate and assist children with problems that interfere with their education, including juvenile offenders and children with severe behavioral problems or character disorders.

Each center shall coordinate efforts of district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

Education Code 37.051

Upon request from a superintendent, a governmental agency concerned with children that has jurisdiction in a district shall cooperate with the school-community guidance center and shall designate

a liaison to work with the center in identifying and correcting problems affecting school-age children in the district. The governmental agency may establish or finance a school-community guidance center jointly with a district according to terms approved by the governing body of each participating entity. *Education Code 37.053*

Cooperative
Programs

A board may develop cooperative programs with state youth agencies for children found to have engaged in delinquent conduct. *Education Code 37.052*

Parental Notice and
Access to
Information

Before a student is admitted to a school-community guidance center, the administrator of the center shall notify the student's parent or guardian that the student has been assigned to attend the center.

The notice must include:

1. The reason the student has been assigned to the center;
2. A statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and
3. A statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

If after notification, the parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

A parent or guardian of a student attending a center is entitled to inspect:

1. Any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and
2. The results of any treatment, testing, or guidance method involving the student.

The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the conduct of classes or business activities of the school.

Education Code 37.054

Parental Involvement

On admitting a student to a school-community guidance center, a representative of a district, the student, and the student's parent or legal guardian shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

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1. A statement of the student's behavioral and learning objectives;
2. A requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and
3. The parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting objectives, defined by the district, to aid student remediation.

A superintendent may obtain a court order from a district court in the district requiring a parent to comply with such an agreement. A parent who violates such a court order may be punished for contempt of court.

Court Supervision

If a district, the student, and the parent or guardian for any reason fail to reach an agreement, any party may request the juvenile court or its designee to conduct a hearing and enter an order establishing the responsibilities and duties of each of the parties as the court deems appropriate.

Education Code 37.055--.056

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**Certified School
Counselor**

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.
3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

Note: The provision above regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a). The provisions below apply to all school districts.

**School Counselor
Duties**

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

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;

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5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and
7. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.083.

Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

Education Code 33.006

Program Design

The school counselor shall design the developmental guidance and counseling program to include:

1. A guidance curriculum to help students develop their full educational potential, including the student's interests and career objectives.
2. A responsive services component to intervene on behalf of any student whose immediate personal concerns or problems put the student's continued educational, career, personal, or social development at risk.
3. An individual planning system to guide a student as the student plans, monitors, and manages the student's own educational, career, personal, and social development.
4. System support to support the efforts of teachers, staff, parents, and other members of the community in promoting the educational, career, personal, and social development of students.

Education Code 33.005

Parental Consent
and Review

A board shall adopt guidelines to ensure that written consent is obtained from the parent, legal guardian, or other person entitled to enroll the student under Education Code 25.001(j) for the student to participate in those activities for which parental consent is required. *Education Code 33.003*

Each school shall obtain, and keep as part of the student's permanent record, this written consent by the parent or legal guardian. The consent form shall include specific information on the content

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of the program and the types of activities in which the student will be involved.

Each school, before implementing a comprehensive and developmental guidance and counseling program, shall annually conduct a preview of the program for parents and guardians. All materials, including curriculum to be used during the year, must be available for a parent or guardian to preview during school hours. Materials or curriculum not included in the materials available on the campus for preview may not be used.

Education Code 33.004

**Notice of Educator
Misconduct**

The board shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have engaged in the following misconduct:

1. The educator abused or otherwise committed an unlawful act with a student or a minor. *Education Code 21.006(b)(2)(A)*
2. The educator was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor. *Education Code 21.006(b)(2)(A-1)*

The notice must inform the parent or guardian:

1. That the alleged misconduct occurred;
2. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
3. Whether a report was submitted to the State Board for Educator Certification concerning the alleged misconduct.

The policy must require that information specified in item 1 above be provided as soon as feasible after the district becomes aware that alleged misconduct may have occurred.

Education Code 21.0061

**Depiction of Minors
in Visual Material**

Definitions

“Bullying” has the meaning assigned by Education Code 37.0832. [See FFI]

“Cyberbullying” has the meaning assigned by Education Code 37.0832. [See FFI]

“Harassment” has the meaning assigned by Education Code 37.001. [See FO]

“Sexual conduct” has the meaning assigned by Penal Code 43.25.

Programs

The Texas School Safety Center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

1. The possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;
2. Other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:
 - a. Negative effects on relationships;
 - b. Loss of educational and employment opportunities; and

- c. Possible removal, if applicable, from certain school programs or extracurricular activities;
- 3. The unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:
 - a. Search and replication capabilities; and
 - b. Potentially worldwide audience;
- 4. The prevention of, identification of, responses to, and reporting of incidents of bullying; and
- 5. The connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

A district shall annually provide or make available information on these programs to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

Education Code 37.218

The District shall notify a parent of a student with whom an educator is alleged to have engaged in misconduct, informing the parent:

1. As soon as feasible that the alleged misconduct may have occurred;
2. Whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and
3. Whether a report was submitted to the State Board for Educator Certification (SBEC) concerning the alleged misconduct.

For purposes of this policy, misconduct is defined as an educator's alleged abuse or commission of an otherwise unlawful act with the student or involvement in a romantic relationship, or soliciting or engaging in sexual contact with the student.

[See also FFG for reporting requirements related to child abuse and FFH for parental notification requirements regarding prohibited conduct as defined by that policy.]

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**Antivictimization
Program**

A 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)*

*Abuse of Persons
with Disabilities*

A person having cause to believe that a person with a disability who is 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 Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

Human Resources Code 48.051, .052, .054

By a Professional

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

Family Code 261.101(b)

Adult Victims of
Abuse

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another

	child or an elderly person or person with a disability. <i>Family Code 261.101(b-1)</i>
Psychotropic Drugs and Psychological Testing	<p>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:</p> <ol style="list-style-type: none">1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child. <p><i>Education Code 26.0091; Family Code 261.111(a)</i> [See FFAC]</p>
Contents of Report	<p>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:</p> <ol style="list-style-type: none">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; and3. Any other pertinent information concerning the alleged or suspected abuse or neglect. <p><i>Family Code 261.102, .104</i></p>
To Whom Reported	<p>If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].</p> <p>All other reports shall be made to:</p> <ol style="list-style-type: none">1. Any local or state law enforcement agency;2. DFPS, Child Protective Services (CPS) Division;3. A local office of CPS, where available; or4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred. <p><i>Family Code 261.103(a); 19 TAC 61.1051(a)(1)</i></p>

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JJAEPs	Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. <i>Family Code 261.405(a)(4)(A), (b)</i>
Immunity from Liability	<p>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. <i>Family Code 261.106</i></p> <p>A 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. <i>Family Code 261.110</i> [See DG]</p>
Criminal Offenses	
Failure to Report	<p>A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.</p> <p>A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.</p> <p><i>Family Code 261.109</i></p> <p>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 Administrative Code Chapter 249. <i>19 TAC 61.1051(a)(2)(A)</i></p>
False Report	A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i>
Coercion	A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i>
Confidentiality of Report	A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information

Act), and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

Investigations

Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

Interview of Student

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

Interference with Investigation

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

Confidentiality

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

Reporting Policy

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion.

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (relating to CPS) regarding investigations by DFPS, including regulations governing

investigation of abuse by school personnel and volunteers. [See GRA]

The policies must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
 - a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
 - b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with a district's reporting policy;
6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above]; and
7. The current toll-free number for DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

19 TAC 61.1051(a)

Annual Distribution
and Staff
Development

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(b)*

Each school year, a district shall provide training as required by Education Code 38.0041 to all new district employees as a part of new employee orientation. [See DH and DMA] *Education Code 38.0041; 19 TAC 61.1051(c)*

Required Poster

A district shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
 - a. The current toll-free DFPS Abuse Hotline telephone number (in bold print);
 - b. Instructions to call 911 for emergencies; and
 - c. Directions for accessing the DFPS [Texas Abuse Hotline Website](http://www.txabusehotline.org)¹ for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f)

¹ Texas Abuse Hotline Website: <http://www.txabusehotline.org>

Definitions

Bullying

“Bullying”:

1. Means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements below and that:
 - a. Has the effect or 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;
 - b. Is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;
 - c. Materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or
 - d. Infringes on the rights of the victim at school; and
2. Includes cyberbullying.

Cyberbullying

“Cyberbullying” means bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

Applicability

These provisions apply to:

1. Bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;
2. Bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and
3. Cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:
 - a. Interferes with a student's educational opportunities; or

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- b. Substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

Policy

The board shall adopt a policy, including any necessary procedures, concerning bullying that:

1. Prohibits the bullying of a student;
2. Prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
3. Establishes a procedure for providing notice of an incident of bullying to:
 - a. A parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and
 - b. A parent or guardian of the alleged bully within a reasonable amount of time after the incident;
4. Establishes the actions a student should take to obtain assistance and intervention in response to bullying;
5. Sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
6. Establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
7. Prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying; and
8. Requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

The policy and any necessary procedures must be included annually in the student and employee handbooks and in the district improvement plan under Education Code 11.252. [See BQ]

Internet Posting

The procedure for reporting bullying must be posted on a district's Internet Web site to the extent practicable.

**Prevention and
Mediation**

A district may establish a district-wide policy to assist in the prevention and mediation of bullying incidents between students that:

1. Interfere with a student's educational opportunities; or
2. Substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity.

Education Code 37.0832

Note: This policy addresses bullying of District students. For purposes of this policy, the term bullying includes cyber-bullying.

For provisions regarding discrimination and harassment involving District students, see FFH. Note that FFI shall be used in conjunction with FFH for certain prohibited conduct. For reporting requirements related to child abuse and neglect, see FFG.

Bullying Prohibited

The District prohibits bullying, including cyberbullying, as defined by state law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Examples

Bullying of a student could occur by physical contact or through electronic means and may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name calling, rumor spreading, or ostracism.

Retaliation

The District prohibits retaliation by a student or District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.

Examples

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

False Claim

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding bullying shall be subject to appropriate disciplinary action.

Timely Reporting

Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.

**Reporting
Procedures**

Student Report

To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, school counselor, principal, or other District employee. The Superintendent shall develop procedures allowing a student to anonymously report an alleged incident of bullying.

Employee Report

Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee.

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Report Format	A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.
Notice of Report	When an allegation of bullying is reported, the principal or designee shall notify a parent of the alleged victim on or before the third business day after the incident is reported. The principal or designee shall also notify a parent of the student alleged to have engaged in the conduct within a reasonable amount of time after the incident is reported.
Prohibited Conduct	The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, sex, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.
Investigation of Report	The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.
Concluding the Investigation	<p>Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the initial report alleging bullying; however, the principal or designee shall take additional time if necessary to complete a thorough investigation.</p> <p>The principal or designee shall prepare a final, written report of the investigation. The report shall include a determination of whether bullying occurred, and if so, whether the victim used reasonable self-defense. A copy of the report shall be sent to the Superintendent or designee.</p>
Notice to Parents	If an incident of bullying is confirmed, the principal or designee shall promptly notify the parents of the victim and of the student who engaged in bullying.
District Action	If the results of an investigation indicate that bullying occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the District's Student Code of Conduct and may take corrective action reasonably calculated to address the conduct. The District may notify law enforcement in certain circumstances.
<i>Bullying</i>	
<i>Discipline</i>	A student who is a victim of bullying and who used reasonable self-defense in response to the bullying shall not be subject to disciplinary action.

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	The discipline of a student with a disability is subject to applicable state and federal law in addition to the Student Code of Conduct.
<i>Corrective Action</i>	Examples of corrective action may include a training program for the individuals involved in the complaint, a comprehensive education program for the school community, follow-up inquiries to determine whether any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where bullying has occurred, and reaffirming the District's policy against bullying.
<i>Transfers</i>	The principal or designee shall refer to FDB for transfer provisions.
<i>Counseling</i>	The principal or designee shall notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.
Improper Conduct	If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the Student Code of Conduct or any other appropriate corrective action.
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.
Appeal	A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level.
Records Retention	Retention of records shall be in accordance with CPC(LOCAL).
Access to Policy and Procedures	This policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and shall be readily available at each campus and the District's administrative offices.

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Education Records

**"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 are created or received by a district after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student.
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 a district that were created by that law enforcement unit for the purpose of law enforcement.
4. Records on a student who is 18 years of age or older, or who is attending an institution of postsecondary education, that are:
 - a. Made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity;
 - b. Made, maintained, or used only in connection with treatment of the student; and
 - c. Disclosed only to individuals providing the treatment. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the agency or institution.
5. Grades on peer-graded papers before they are collected and recorded by a teacher.

20 U.S.C. 1232g; 34 C.F.R. 99.3

Screening Records

The principal of each school shall maintain records of screening for special senses and communication disorders, spinal screening, and assessment for type 2 diabetes for each student in the school. Records shall be open for inspection by the state or local health department. The University of Texas—Rio Grande Valley Border Health Office may, directly or through local health departments, enter a school and inspect records relating to assessment for type 2

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diabetes. Individual screening records may be transferred among schools in accordance with provisions below concerning Access by Others. *20 U.S.C. 1232g; Health and Safety Code 36.006, 37.003, 95.004; 25 TAC 37.145(b)* [See FFAA]

Immunization
Records

A 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 State Health Services. A district shall cooperate with other districts in transferring students' 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 a district. On request of a student's parent or guardian, a district shall provide a copy of the student's medical records to the parent or guardian. A district may not impose a charge that exceeds the amount authorized by Section 552.261 of the Government Code [see GBAA]. *Education Code 38.0095*

*Privacy Rule for
Non-"Education
Records"*

To the extent a district is a covered entity under the Health Insurance Portability and Accountability Act (HIPAA), the district must comply with the Privacy Rule, 45 C.F.R. Part 164, with respect to protected health information that is not an education record. *45 C.F.R. 160.103, 164.501* [See CRD]

Food Allergy
Information

Information regarding a child's food allergy, regardless of how it is received by the school or school district, shall be retained in the child's student records but may not be placed in the health record maintained for the child by the district.

Exceptions

If the school receives documentation of a food allergy from a physician, that documentation shall be placed in the health record maintained for the child by the district.

A registered nurse may enter appropriate notes about a child's possible food allergy in the health record maintained for the child by the district, including a notation that the child's student records indicate that a parent has notified the district of the child's possible food allergy.

Education Code 25.0022(d)–(f)

Assessment
Instruments

The results of individual student performance on basic skills assessment instruments or other achievement tests administered by a district are confidential and may be made available only to the student, the student's parent or guardian, and to the school per-

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sonnel 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)

Following guidelines developed by the commissioner of education, a district must use an academic achievement record (transcript) form that includes student demographics, school data, student data, and the record of courses and credits earned. The academic achievement record shall serve as the academic record for each student and must be maintained permanently by the district. A district must ensure that copies of the record are made available for a student transferring from one district to another. To ensure appropriate placement of a transfer student, a district must respond promptly to each request for student records from a receiving district. *19 TAC 74.5(b)* [See EI]

Enrollment Records

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 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.

Education Code 25.002(a)

A district must furnish information under items 1 and 2 not later than the tenth working day after the date the district receives a request for the information.

If a parent or other person with legal control of a child under a court order requests that a district transfer a child's student records, the district to which the request is made shall notify the parent or other person as soon as practicable that the parent or other person may request and receive an unofficial copy of the records for delivery in person to a school in another district.

Education Code 25.002(a-1) [See FD]

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**Access, Disclosure,
and Amendment**

Access to
Education Records

Definitions

“Attendance”

“Attendance” includes, but is not limited to:

1. Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and
2. The period during which a person is working under a work-study program.

“Disclosure”

“Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

“Parent”

“Parent” includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

“Personally
Identifiable
Information”

“Personally identifiable information” includes, but is not limited to:

1. The student’s name;
2. The name of the student’s parent or other family members;
3. The address of the student or student’s family;
4. A personal identifier, such as the student’s biometric record, defined as a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual (e.g., fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting); social security number; or student number;
5. Other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
7. Information requested by a person who the district reasonably believes knows the identity of the student to whom the education record relates.

“Record”

“Record” means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

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“Authorized
Representative”

“Authorized representative” means any entity or individual designated by a state or local educational authority or an agency headed by an official listed in 34 C.F.R. 99.31(a)(3) to conduct—with respect to federal- or state-supported education programs—any audit, evaluation, or any compliance or enforcement activity in connection with federal legal requirements that relate to these programs.

“Education
Program”

“Education program” means any program that is principally engaged in the provision of education, including, but not limited to, early childhood education, elementary and secondary education, postsecondary education, special education, job training, career and technical education, and adult education, and any program that is administered by an educational agency or institution.

34 C.F.R. 99.3

“Signed and
Dated Written
Consent”

“Signed and dated written consent” may include a record and signature in electronic form that:

1. Identifies and authenticates a particular person as the source of the electronic consent; and
2. Indicates such person’s approval of the information contained in the electronic consent.

34 C.F.R. 99.30(d)

*Access by
Parents*

Access to the education records of a student who is or has been in attendance at a school in a district shall be granted to the parent of the student who is a minor or who is a dependent for tax purposes.
34 C.F.R. 99.10, .31(a)(8)

A 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 C.F.R. 99.4; Family Code 153.012, .073

A parent is entitled to access to all written records of a district concerning the parent’s child, including attendance records, test scores, grades, disciplinary records, counseling records, psychological records, applications for admission, health and immunization information, teacher and school counselor evaluations, reports of behavioral patterns, and records relating to assistance provided for learning difficulties, including information collected regarding any intervention strategies used with the child.

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“Intervention strategy” means a strategy in a multi-tiered system of supports that is above the level of intervention generally used in that system with all children. The term includes response to intervention and other early intervening strategies.

Education Code 26.004

*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.

Nothing in this section prevents a district from disclosing education records, or personally identifiable information from education records, to a parent without prior written consent of an eligible student if the disclosure meets the conditions in 34 C.F.R. 99.31(a), including if the student is a dependent for tax purposes or in the case of a health or safety emergency.

34 C.F.R. 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 C.F.R. 99.12(a)*

Access by Others

Personally identifiable information in education records shall not be released without the written consent of the student’s parents, except to the following.

School Officials

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 a district for reasons determined in district policy.

A contractor, consultant, volunteer, or other party to whom a district has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party:

1. Performs an institutional service or function for which the district would otherwise use employees;
2. Is under the direct control of the district with respect to the use and maintenance of education records; and
3. Is subject to the requirements of 34 C.F.R. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.

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A district must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. A district that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education records is effective and that it remains in compliance with the legitimate educational interest requirement.

34 C.F.R. 99.31, .36; Education Code 38.009

Officials of Other
Schools

Officials of other schools or school systems in which the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer, provided that a district either:

1. 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
2. Makes a reasonable attempt to notify the parent (unless the record transfer is initiated by the parent).

In either case, a district shall furnish a copy of the transferred records to the parent if requested and shall give the parent an opportunity for a hearing to challenge the content of the record.

34 C.F.R. 99.34

Authorized
Government
Representatives

Authorized representatives of the officials or agencies headed by 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 C.F.R. 99.35*

A 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. A 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 C.F.R. 214.3(g), or any corresponding regulation. *8 U.S.C. 1372(c)(2); 8 C.F.R. 214.1(h)*

Financial Aid
Personnel

Personnel involved with a student's application for, or receipt of, financial aid.

Juvenile Justice
Officials

State and local officials to whom such information is specifically allowed to be reported or disclosed by state statute if:

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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.

A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Family Code 58.0051 [see GRAC].

Education Code 37.084(a)

Organizations
Conducting
Studies

Organizations conducting studies for, or on behalf of, districts 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 who have legitimate interests in the information. Such information must be destroyed when no longer needed for the original purposes of the studies.

The district must enter into a written agreement with the organization that:

1. Specifies the purpose, scope, and duration of the study or studies and the information to be disclosed;
2. Requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement;
3. Requires the organization to conduct the study in a manner that does not permit personal identification of parents and students, as defined in this part, by anyone other than representatives of the organization with legitimate interests; and
4. Requires the organization to destroy all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

A district that enters into an agreement with an organization conducting a study may redisclose personally identifiable information from education records on behalf of educational agencies and insti-

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tutions that disclosed the information to the district in accordance with the requirements of 34 C.F.R. 99.33(b).

A district is not required to initiate a study or agree with or endorse the conclusions or results of the study.

Accrediting
Organizations

Accrediting organizations that require the information for purposes of accreditation.

Health or Safety
Emergency

Appropriate persons, including the student's parents, who, in an emergency, must have such information in order to protect the health or safety of the student or other person.

In making a determination, a district may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the district determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. If, based on the information available at the time of the determination, there is a rational basis for the determination, the U.S. Department of Education (DOE) will not substitute its judgment for that of the district in evaluating the circumstances and making its determination.

34 C.F.R. 99.36

Agriculture
Secretary

The Secretary of Agriculture, or authorized representative from the Food and Nutrition Service, for the purposes of conducting program monitoring, evaluations, and performance measurements of districts receiving funding or providing benefits of programs authorized under the National School Lunch Act or the Child Nutrition Act. *20 U.S.C. 1232g(b)(1)(K)*

Child Welfare
Agency

An agency caseworker or other representative of a state or local child welfare agency who has the right to access a student's case plan when the agency is legally responsible, in accordance with state law, for the care and protection of the student. Records of the student shall not be disclosed by the agency, except to an individual or entity engaged in addressing the student's education needs and authorized by the agency to receive the disclosure. Any subsequent disclosure must be consistent with state laws applicable to protecting the confidentiality of a student's education records. *20 U.S.C. 1232g(b)(1)(L)*

Directory
Information

Any person requesting directory information after a district has given public notice of that definition. *34 C.F.R. 99.37*

20 U.S.C. 1232g(b); 34 C.F.R. 99.31

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Written Consent	<p>The parent shall provide a signed and dated written consent before a 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. <i>34 C.F.R. 99.30</i></p>
Information Collection <i>U.S. DOE– Funded Surveys</i>	<p>No student shall be required, as part of any program funded in whole or in part by the U.S. DOE, 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:</p> <ol style="list-style-type: none">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 students have close family relationships.6. Legally recognized privileged or analogous relationships, such as those of lawyers, physicians, and ministers.7. Religious practices, affiliations, or beliefs of the student or student's parent.8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under such program. <p><i>20 U.S.C. 1232h(b)</i></p>
<i>Funded by Other Sources</i>	<p>Except as provided by 20 U.S.C. 1232h(a) or (b), as a condition of receiving funds from programs funded in whole or in part by the U.S. DOE, a district shall develop and adopt policies, in consultation with parents, pursuant to 20 U.S.C. 1232h(c)(1), and provide for parent notification in accordance with 20 U.S.C. 1232h(c)(2). <i>20 U.S.C. 1232h(c)(1)–(4) [See EF]</i></p>
Subpoenaed Records	<p>A district shall release student records to an entity or persons designated in a subpoena. A district shall not disclose to any person the existence or contents of the subpoena if a court orders the dis-</p>

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trict to refrain from such disclosure. Unless the court or other issuing agency orders the district to refrain from such disclosure or the order is an ex parte court order obtained by the U.S. Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331, the district shall make a reasonable effort to notify the parents and the student of all such subpoenas in advance of compliance, except when a parent is a party to a court proceeding involving child abuse and neglect or dependency matters, and the order is issued in the context of that proceeding. *20 U.S.C. 1232g(b)(1)(J), (b)(2)(B); 34 C.F.R. 99.31(a)(9)*

Sex Offenders

A district may disclose personally identifiable information without consent if the disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the district under 42 U.S.C. 14071 and applicable federal guidelines. *34 C.F.R. 99.31(a)(16)*

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. A district shall respond to reasonable requests for explanations and interpretations of the records. *34 C.F.R. 99.10*

Records
Destruction

A district shall not destroy any education records if there is an outstanding request to inspect and review the records. *34 C.F.R. 99.10(e)*

De-Identified
Records

A district, or a party that has received education records or information from education records, may release the records or information without the parent's written consent after the removal of all personally identifiable information provided that the district or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.

*Education
Research*

A district, or a party that has received education records or information from education records, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that:

1. A district or other party that releases de-identified data under this section does not disclose any information about how it

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generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;

2. The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
3. The record code is not based on a student's social security number or other personal information.

Authenticating
Requestors'
Identities

A district must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the district discloses personally identifiable information from education records.

34 C.F.R. 99.31(b)–(c)

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, a 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 C.F.R. 99.33(a)(1)*

A district shall inform a party to whom a disclosure is made of the requirements of 34 C.F.R. 99.33, unless the disclosure is made pursuant to a court order, lawfully issued subpoena, or litigation; the disclosed information is directory information; the disclosure concerns sex offenders; or the disclosure is made to a parent of a student who is not an eligible student or to a student. *34 C.F.R. 99.33(c)–(d)*

A 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 C.F.R. 99.31; and
2. The district has complied with the requirements of 34 C.F.R. 99.32(b) regarding the record of disclosure; or a state or local educational authority or federal official or agency listed requesting information through a subpoena or ex parte order has complied with the requirements of 34 C.F.R. 99.32(b)(2).

34 C.F.R. 99.33(b)

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Record of Access to
Student Records

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, as well as the names of state and local educational authorities and federal officials and agencies listed in 34 C.F.R. 99.31(a)(3) that may make further disclosures of personally identifiable information from the student's education records without consent. A district must obtain a copy of the record of further disclosures maintained by the named authorities, officials, and agencies under 34 C.F.R. 99.32(b)(2) and make it available in response to a parent's request to review the record.

A district must record the following information when it discloses personally identifiable information from education records under the health or safety emergency exception [see Health or Safety Emergency, above]:

1. The articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and
2. The parties to whom the district disclosed the information.

34 C.F.R. 99.32

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 a district, requests accompanied by prior written consent of the parent, requests for directory information, or a party seeking or receiving records in accordance with a subpoena or ex parte order. *34 C.F.R. 99.32(d)*

Right to Amend

The parent of a student whose records are covered by this policy may ask a 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 a 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 a 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

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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.

34 C.F.R. 99.20–.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 C.F.R. 99.11; Education Code 26.012*

Records of
Students with
Disabilities

A 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 C.F.R. 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 C.F.R. 300.613(b)(3)*
2. A 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 C.F.R. 300.613(a)*
3. A 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 C.F.R. 300.614*

*Record Types
and Locations*

A district shall provide parents on request a list of types and locations of education records. *34 C.F.R. 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

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this information. A district may not release information from these records without parental consent except as provided in FERPA.
34 C.F.R. 300.622

Confidentiality

A district shall protect the confidentiality of personally identifiable information in collection, storage, disclosure, and destruction of records. One official in a 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. A district shall maintain for public inspection a current listing of the names and positions of employees who may have access to this information. *34 C.F.R. 300.623*

*Information
Destruction*

A 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 C.F.R. 300.624

Annual Notification
of Rights

A district shall give parents of students in attendance and eligible students in attendance annual notification of their rights under FERPA.

The notice must inform parents or eligible students that they have the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the Act and 34 C.F.R. 99.31 authorize disclosure without consent; and
4. File with the U.S. DOE a complaint under 34 C.F.R. 99.63 and 99.64 concerning alleged failures by the district to comply with the requirements of the Act and 34 C.F.R. part 99.

The notice must include all of the following:

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1. The procedure for exercising the right to inspect and review education records.
2. The procedure for requesting amendment of records under 34 C.F.R. 99.20.
3. If the district has a policy of disclosing education records under 34 C.F.R. 99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

A district may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights.

A district shall effectively notify parents who are disabled and parents of students who have a primary or home language other than English.

20 U.S.C. 1232g(e); 34 C.F.R. 99.7

**Directory
Information**

"Directory
Information"
Defined

"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. "Directory information" does not include a student's:

1. Social security number; or
2. Student identification (ID) number, unless:
 - a. The student ID number, user ID number, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user; or
 - b. The student ID number or other unique personal identifier that is displayed on a student ID badge cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or

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other factor known or possessed only by the authorized user.

*Disclosure of
Directory
Information*

A 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.

In Class

A parent or eligible student may not use the right of refusal to opt out of directory information disclosures to prevent a district from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled.

Former Students

A district may disclose directory information about former students without satisfying the public notice conditions above. However, the district must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt-out request.

*Confirmation of
Identity or
Records*

A district may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. 99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records.

34 C.F.R. 99.3, .37

*Homeless
Students*

Information about a homeless child's living situation shall be treated as a student education record, and shall not be deemed to be directory information. *42 U.S.C. 11432(g)(3)(G)*

*Directory
Information
Designation*

A 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 a 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 a district, remains otherwise confidential and may not be released under Government Code Chapter 552.

Annual Notice

A 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

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;

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- (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 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 a military recruiter or an institution of higher education, access to secondary school students' names, addresses, and telephone listings unless a student's parent has submitted the prior consent request below.

Consent to
Release

A student who has attained 18 years of age or a parent of a secondary school student may submit a written request to a district that the student's name, address, and telephone listing not be released for purposes described above without prior written consent. Upon receiving such request, a district may not release the student's name, address, and telephone listing for such purposes without the prior written consent of the parent or student. A district shall notify parents of the option to make a request.

No Opt-In
Process

Nothing in this provision shall be construed to allow a district to withhold access to a student's name, address, and telephone listing from a military recruiter or institution of higher education by implementing an opt-in process or any other process other than the written consent request process above.

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

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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;
4. Media coverage of the school; or
5. A purpose related to the promotion of student safety under Education Code 29.022.

Education Code 26.009 [See EHA, EHBAF, FM, and FO]

**Information from
Law Enforcement**

Oral Notice of
Arrest or Referral

Upon receipt of oral notice from the head of a law enforcement agency or designee that the law enforcement agency has arrested a student or referred a student to the juvenile board for a specified offense [see GRAA], a superintendent shall immediately notify all instructional and support personnel who have responsibility for supervising the student. All personnel shall keep the information received confidential.

Written Notice of
Arrest or Referral

Upon subsequent receipt of confidential, written notice of the arrest or referral, a superintendent or designee shall send the information in the confidential notice to a district employee having direct supervisory responsibility over the student.

Oral Notice of
Conviction or
Adjudication

Upon receipt of oral notice from a prosecuting attorney of a student's conviction, deferred prosecution, or adjudication of a specified offense, including a statement as to whether the student is required to register as a sex offender, a superintendent shall, within 24 hours of receiving the notice, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

Notice of Transfer
or Reenrollment

Upon receipt of notice from a parole, probation, or community supervision office having jurisdiction over a student that a student has transferred or reenrolled, the superintendent of the district to which the student transfers or returns shall, within 24 hours of receiving the notice, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

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A person who receives information described above shall not disclose it except as specifically authorized by Code of Criminal Procedure 15.27.

Contents

Required oral or written notice must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;
2. Weapons used in the commission of the offense or conduct; or
3. Weapons possessed during the commission of the offense or conduct.

Code of Criminal Procedure 15.27(a)–(c), (f), (k)

Information received by a district under this provision shall not be attached to the permanent academic file of the student who is the subject of the report. A 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 enforcement 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-.022

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**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. *Education Code 33.081(b)* [See FO regarding additional standards of conduct for extracurricular activities]

Athletic Activities

UIL Forms

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

Notices

Each school that offers an extracurricular athletic activity shall:

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

Education Code 33.207(b), .208

Safety Training

The District shall provide training to students participating in athletic extracurricular activities related to:

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

The training may be conducted by the District, the American Red Cross, the American Heart Association, or a similar organization, or by the UIL.

Education Code 33.202(d)–(e)

Records

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

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

Education Code 33.206

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

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

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

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

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

Education Code 33.205

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

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

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*Concussion
Oversight Team*

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

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

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

Education Code 38.154, .158

*Return-to-Play
Protocol*

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

*Required Annual
Form*

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

*Removal from
Play*

A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have sustained a concussion during the practice or competition: a coach; a physician; a licensed health-care professional, as defined by Education Code 38.151(5); a licensed chiropractor; or the student's parent or guardian or another person with legal authority to make medical decisions for the student. *Education Code 38.156*

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Return to Play

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

1. The student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;
2. The student has successfully completed each requirement of the return-to-play protocol established under Education Code 38.153 necessary for the student to return to play;
3. The treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and
4. The student and the student's parent or guardian or another person with legal authority to make medical decisions for the student have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play, have provided the treating physician's written statement to the person responsible for compliance with the return-to-play protocol and the person who has supervisory responsibilities, and have signed a consent form indicating that the person signing:
 - a. Has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;
 - b. Understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;
 - c. Consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191, of the treating physician's written statement and, if any, the return-to-play recommendations of the treating physician; and
 - d. Understands the immunity provisions under Education Code 38.159.

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

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

Education Code 38.157

Immunity

These provisions do not:

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

Education Code 38.159

Football Helmet
Safety
Requirements

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

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

Education Code 33.094(a)–(c)

Steroid Testing

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

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

Education Code 33.091(d)–(e)

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Rodeos

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

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

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

Educational Program

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

Restriction on Participation

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

Protective Gear for Bull Riding

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

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

Eligibility

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

Military Dependents

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

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**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 a course described below at Exempt Courses.

Length of
Suspension

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

Grade Evaluation
Period

“Grade evaluation period” means:

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

Education Code 33.081(c)

School Week

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

Exempt Courses

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

The following are honors classes for purposes of eligibility to participate in extracurricular activities:

1. All College Board Advanced Placement courses and International Baccalaureate courses in all disciplines;
2. English language arts: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)”;
3. Languages other than English: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and languages other than English courses Levels IV–VII;

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4. Mathematics: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)” and precalculus;
5. Science: high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One)”; and
6. Social Studies: Social Studies Advanced Studies, Economics Advanced Studies, high school/college concurrent enrollment classes that are included in the “Community College General Academic Course Guide Manual (Part One).”

Districts may identify additional honors courses in the subject areas of English language arts, mathematics, science, social studies, economics, or a language other than English for the purposes of extracurricular eligibility, but must identify such courses before the semester in which any exemptions related to extracurricular activities occur.

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

19 TAC 74.30

Students with
Disabilities

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

For the purposes of this provision, “student with a disability” means a student who is eligible for 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 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

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grade in each class, other than a course described above at Exempt Courses, is equal to or greater than the equivalent of 70 on a scale of 100. The principal and each of the student's teachers shall make the determination concerning the student's grades. *Education Code 33.081(d)*

Attendance and Participation

The State Board of Education 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), .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:

1. The activity is competitive;
2. The activity is held in conjunction with another activity that is considered extracurricular;

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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. Only item 4, above, applies; 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

During the School Week

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

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:

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.

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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 Evaluation 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)*

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

Discriminatory Club An extracurricular activity sponsored or sanctioned by 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 de-

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nies any person full and equal enjoyment of equipment or facilities provided by the athletic club because of the person's race, color, religion, creed, national origin, or sex.

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

Education Code 33.082

**Special Olympics
Recognition**

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

**Student Election
Clerks**

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

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**Possession of
Weapons**

Expulsion Offense

A student shall be expelled from school if the student engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02, or elements of an offense relating to prohibited weapons under Penal Code 46.05, on school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(a)(1)* [See also FOD]

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k)

**Federal Firearms
Provision**

Expulsion Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

"School" Defined

For expulsion under this provision, "school" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district.

20 U.S.C. 7961; Education Code 37.007(e) [See FOD]

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. *20 U.S.C. 7961(g)* [See also DH and GKA]

**Unlawful Carrying of
Weapons**

Handgun or Club

A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun or club and is not on the person's own premises or premises under the person's control; or inside of or directly en route to a motor ve-

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hicle that is owned by the person or under the person's control.

Penal Code 46.02(a)

Location-Restricted
Knife

A person commits an offense if the person:

1. Intentionally, knowingly, or recklessly carries on or about his or her person a location-restricted knife;
2. Is younger than 18 years of age at the time; and
3. Is not:
 - a. On the person's own premises or premises under the person's control;
 - b. Inside of or directly en route to a motor vehicle that is owned by the person or under the person's control; or
 - c. Under the direct supervision of a parent or legal guardian of the person.

Penal Code 46.02(a-4)

Definitions
"Firearm"

For purposes of state law, "handgun" means any firearm that is designed, made, or adapted to be fired with one hand. A "firearm" means any device designed, made, or adapted to expel a projectile through a barrel by using the energy generated by an explosion or burning substance or any device readily convertible to that use.

Penal Code 46.01(3),(5)

"Location-
Restricted Knife"

"Location-restricted knife" means a knife with a blade over 5-1/2 inches. *Penal Code 46.01(6)*

"Club"

A "club" is an instrument specially designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with the instrument, including a blackjack, nightstick, mace, and tomahawk. *Penal Code 46.01(1)*

Prohibited Weapons

Under Penal Code 46.05, a person commits an offense if the person intentionally or knowingly possesses, manufactures, transports, repairs, or sells:

1. An explosive weapon (any explosive or incendiary bomb, grenade, rocket, or mine that is designed, made, or adapted for the purpose of inflicting serious bodily injury, death, or substantial property damage, or for the principal purpose of causing such a loud report as to cause undue public alarm or terror, and includes a device designed, made, or adapted for delivery or shooting an explosive weapon). *Penal Code 46.01(2)*

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2. A machine gun (any firearm that is capable of shooting more than two shots automatically, without manual reloading, by a single function of the trigger). *Penal Code 46.01(9)*
3. A short-barrel firearm (rifle with a barrel length of less than 16 inches or a shotgun with a barrel length of less than 18 inches, or any weapon made from a rifle or shotgun that, as altered, has an overall length of less than 26 inches). *Penal Code 46.01(10)*
4. A firearm silencer (any device designed, made, or adapted to muffle the report of a firearm), unless the firearm silencer is classified as a curio or relic by the United States Department of Justice or the actor otherwise possesses, manufactures, transports, repairs, or sells the firearm silencer in compliance with federal law. *Penal Code 46.01(4)*
5. Knuckles (any instrument consisting of finger rings or guards made of a hard substance that is designed, made, or adapted for the purpose of inflicting serious bodily injury or death by striking a person with a fist enclosed in the knuckles). *Penal Code 46.01(8)*
6. Armor-piercing ammunition (handgun ammunition that is designed primarily for the purpose of penetrating metal or body armor and to be used primarily in pistols and revolvers). *Penal Code 46.01(12)*
7. A chemical dispensing device (a device, other than a small chemical dispenser sold commercially for personal protection, that is designed, made, or adapted for the purpose of dispensing a chemical capable of causing an adverse psychological or physiological effect on a human being). *Penal Code 46.01(14)*
8. A zip gun (a device or combination of devices that was not originally a firearm and is adapted to expel a projectile through a smooth-bore or rifled-bore barrel by using the energy generated by an explosion or burning substance). *Penal Code 46.01(16)*
9. A tire deflation device (a device, including a caltrop or spike strip, that, when driven over, impedes or stops the movement of a wheeled vehicle by puncturing one or more of the vehicle's tires; it does not include a traffic control device that is designed to puncture one or more of a vehicle's tires when driven over in a specific direction, and has a clearly visible sign posted in close proximity to the traffic control device that

prohibits entry or warns motor vehicle operators of the traffic control device). *Penal Code 46.01(17)*

10. An improvised explosive device (a completed and operational bomb designed to cause serious bodily injury, death, or substantial property damage that is fabricated in an improvised manner using nonmilitary components. It does not include unassembled components that can be legally purchased and possessed without a license, permit, or other governmental approval; or an exploding target that is used for firearms practice, sold in kit form, and contains the components of a binary explosive. *Penal Code 46.01(18)*

A person does not commit an offense if an item is listed at items 1–3, above, and is registered in the National Firearms Registration and Transfer Record maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives or otherwise not subject to that registration requirement or unless the item is classified as a curio or relic by the United States Department of Justice.

Penal Code 46.05(a)

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STUDENT AND PARENT COMPLAINTS/GRIEVANCES

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**United States
Constitution**

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

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

Texas Constitution

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

There is no requirement that a board negotiate or even respond to complaints. However, a board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist.*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

Federal Laws

Section 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b)*

Americans with
Disabilities Act

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107*

Title IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b)* [See FB]

**Education Code
Chapter 26**

Parents are partners with educators, administrators, and the board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

STUDENT RIGHTS AND RESPONSIBILITIES
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

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Unless otherwise provided by law, a board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

'Parent' Defined

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.001(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

Complaint
Procedures

A board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

A board shall adopt a grievance procedure under which the board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights).

The board is not required by the provision above or Education Code 11.1511(b)(13) (requiring adoption of a process to hear complaints) to address a complaint concerning a student's participation in an extracurricular activity that does not involve a violation of a right guaranteed by Education Code Chapter 26. This provision does not affect a claim brought by a parent under the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) or a successor federal statute addressing special education services for a child with a disability.

Education Code 26.011

Parental Rights

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials. *Education Code 26.006* [See EF and EKB]

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5. Access to board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA]
9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

Objection to School Assignment

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, a board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

Challenge to Education Records

A district shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

Denial of Class Credit or Final Grade

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the board. *Education Code 25.092(d)* [See FEC]

Complaints Against Professional Employees

A person may not file suit against a professional employee of a district unless the person has exhausted the district's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of a district" includes:

1. A superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a district;
2. A teacher employed by a company that contracts with a district to provide the teacher's services to the district;

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3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the board; and
6. Any other person whose employment by a district requires certification and the exercise of discretion.

Education Code 22.051(a)

Finality of Grades

An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with a district's grading policy applicable to the grade, as determined by the board.

A board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]

Education Code 28.0214

Public Information Requests

A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). A district shall also comply with the deadlines and provisions set forth at Education Code 26.0085. *Gov't Code Ch. 552; Education Code 26.0085*

Closed Meeting

A board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. *Gov't Code Ch. 551, Subch. D* [See BEC]

Record of Proceedings

An appeal of a board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the district level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. *Education Code 7.057(c), (f)*

It is a district's responsibility to make and preserve the records of the proceedings before the board. If a district fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the district. The record shall include:

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

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- b. Each speaker must be clearly identified.
- 2. All evidence admitted;
- 3. All offers of proof;
- 4. All written pleadings, motions, and intermediate rulings;
- 5. A description of matters officially noticed;
- 6. If applicable, the decision of the hearing examiner;
- 7. A tape recording or transcript of the oral argument before the board; and
- 8. The decision of the board.

19 TAC 157.1073(d)

Disruption

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

Note: See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

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**Student Code of
Conduct**

The board shall adopt a Student Code of Conduct for a district, with the advice of its district-level committee. The Student Code of Conduct must:

1. Specify the circumstances, in accordance with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, disciplinary alternative education program (DAEP), or vehicle owned or operated by the district.
2. Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), regardless of whether the decision concerns a mandatory or discretionary action, to:
 - a. Self-defense;
 - b. Intent or lack of intent at the time the student engaged in the conduct;
 - c. A student's disciplinary history; or
 - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), a district is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions.

"Bullying" has the meaning provided by Education Code 37.0832. [See FFI]

"Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another

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student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety.

"Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:
 - a. Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
 - b. Disciplining students; and
 - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

9. Include an explanation of the provisions regarding refusal of entry to or ejection from district property under Education Code 37.105 [see GKA], including the appeal process established under 37.105(h).

Changes in SCOC	Once a Student Code of Conduct is promulgated, any change or amendment shall be approved by a board.
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Posting	The Student Code of Conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal.
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Education Code 37.001

Notice to Parents	Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. <i>Education Code 37.001(d)</i>
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<i>Noncustodial Parent</i>	A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, a district
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provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. A district may not unreasonably deny the request. Notwithstanding this requirement, a district shall comply with any applicable court order of which the district has knowledge. *Education Code 37.0091*

Copies to Staff

The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. *Education Code 37.018*

Campus Behavior Coordinator

A person at each campus must be designated to serve as the campus behavior coordinator (CBC). The person may be the campus principal or any other campus administrator selected by the principal.

The CBC is primarily responsible for maintaining student discipline and the implementation of Education Code Chapter 37, Subchapter A.

Duties

The specific duties of the CBC may be established by campus or district policy. Unless the policy provides otherwise, duties imposed on a campus principal or other campus administrator by Education Code Chapter 37, Subchapter A must be performed by the CBC and a power granted to a campus principal may be exercised by the CBC.

Notice to Parents

The CBC shall promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a DAEP, expelled, or placed in a JJAEP or is taken into custody by a law enforcement officer.

A CBC must provide notice by promptly contacting the parent or guardian by telephone or in person; and making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

If a parent or guardian entitled to notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a CBC shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

If a CBC is unable or not available to promptly provide notice, the principal or other designee shall provide the notice.

Education Code 37.0012

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No Unsupervised Setting

Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. *Education Code 37.008(h)*

Continuation of Disciplinary Action

If a district takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

“Disciplinary action” means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.

“District or school” includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

Education Code 37.022

Opportunity to Complete Courses

If a student is placed in in-school suspension or other alternative setting other than a DAEP, a district shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. A district may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. *Education Code 37.021* [For DAEP notice requirements, see FOCA.]

Seclusion

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

Education Code 37.0021(b)(2)

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of

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understanding between the district and a local law enforcement agency.

Education Code 37.0021(h)

Exceptions

This prohibition on seclusion does not apply to:

1. A peace officer performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

*“Law
Enforcement
Duties”*

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

Education Code 37.0021(b)(4), (g)

Restraint Reports

A district shall report electronically to TEA, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *Education Code 37.0021(b)(1)*

**Corporal
Punishment**

If the board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student’s parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

Parent Statement

To prohibit the use of corporal punishment as a method of student discipline, each school year a student’s parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board in the manner established by the board. The student’s parent or guardian or other person having lawful control over the student may revoke the statement provided to the board at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board. *Education Code 37.0011(c)–(d)*

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Definition	<p>“Corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. <i>Education Code 37.0011(a)</i></p>
Use of Force to Maintain Discipline	<p>The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. <i>Penal Code 9.62</i></p>
Videotapes and Recordings	<p>A district employee is not required to obtain the consent of a child’s parent before the employee may make a videotape of the child or authorize the recording of the child’s voice if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. <i>Education Code 26.009(b)(1)</i> [See FNG]</p>
Reports	<p>For each placement in a disciplinary alternative education program (DAEP), a district shall annually report to the commissioner:</p>
Disciplinary Alternative Education Programs	<ol style="list-style-type: none">1. Information identifying the student, including the student’s race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;2. Information indicating whether the placement was based on:<ol style="list-style-type: none">a. Conduct violating the Student Code of Conduct;b. Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];c. Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; ord. Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);3. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

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4. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.
- Expulsions
- For each expulsion, a district shall annually report to the commissioner:
1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
 2. Information indicating whether the expulsion was based on:
 - a. Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
 - b. Conduct for which expulsion is permitted;
 3. The number of full or partial days the student was expelled;
 4. Information indicating whether:
 - a. The student was placed in a JJAEP;
 - b. The student was placed in a DAEP; or
 - c. The student was not placed in a JJAEP or other alternative education program; and
 5. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

Education Code 37.020

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OUT-OF-SCHOOL SUSPENSION

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**Suspension
Authorized**

The principal or other appropriate administrator may suspend a student who engages in conduct identified in the Student Code of Conduct as conduct for which a student may be suspended. *Education Code 37.005(a)*

Maximum Length

A suspension may not exceed three school days. *Education Code 37.005(b)*

Students Below
Grade 3

A student who is enrolled in a grade level below grade 3 may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

1. Conduct that contains the elements of an offense related to weapons under Penal Code 46.02 or 46.05;
2. Conduct that contains the elements of a violent offense related under Penal Code 22.01, 22.011, 22.02, 22.021; or
3. Selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:
 - a. Marihuana or a controlled substance, as defined by Health and Safety Code Chapter 481, or by 21 U.S.C. Section 801 et seq.;
 - b. A dangerous drug, as defined by Health and Safety Code Chapter 483; or
 - c. An alcoholic beverage, as defined by Alcoholic Beverage Code 1.04.

Education Code 37.005(c)

**Positive Behavior
Program**

A district may develop and implement a program, in consultation with campus behavior coordinators employed by the district [see FO] and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade 3 who engages in conduct described by Education Code 37.005(a) [at Suspension Authorized, above] and is not subject to 37.005(c) [at Students below Grade 3, above]. The program must:

1. Be age-appropriate and research-based;
2. Provide models for positive behavior;
3. Promote a positive school environment;
4. Provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school sus-

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pension, or placement in a disciplinary alternative education program to manage student behavior; and

5. Provide behavior management strategies including:
 - a. Positive behavioral intervention and support;
 - b. Trauma-informed practices;
 - c. Social and emotional learning;
 - d. A referral for services, as necessary; and
 - e. Restorative practices.

A district may annually conduct training for district staff on the program adopted.

Education Code 37.0013

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PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING

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**Removal Under
Student Code of
Conduct**

The Student Code of Conduct must specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a disciplinary alternative education program (DAEP). *Education Code 37.001(a)(2)*

**Mandatory
Placement in DAEP**

A student shall be removed from class and placed in a DAEP if the student engages in conduct described in Education Code 37.006 that requires placement. *Education Code 37.006*

School-Related
Misconduct

A student shall be removed from class and placed in a DAEP if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student shall also be removed from class and placed in a DAEP if the student commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off school property:

1. Engages in conduct punishable as a felony.
2. Engages in conduct that contains the elements of assault, under Penal Code 22.01(a)(1).
3. Sells, gives, or delivers to another person or possesses, uses, or is under the influence of:
 - a. Marijuana or a controlled substance, as defined by the Texas Controlled Substances Act, Health and Safety Code Chapter 481, or by 21 U.S.C. 801, et seq.;
 - b. A dangerous drug, as defined by the Texas Dangerous Drug Act, Health and Safety Code Chapter 483.
4. Sells, gives, or delivers to another person an alcoholic beverage, as defined by Alcoholic Beverage Code 1.04, or commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage.
5. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031 through 485.034.
6. Engages in conduct that contains the elements of the offense of public lewdness under Penal Code 21.07.
7. Engages in conduct that contains the elements of the offense of indecent exposure under Penal Code 21.08.

Education Code 37.006(a)

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<i>Exception</i>	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>
Retaliation	Except where a student engages in retaliatory acts against a district employee for which expulsion is mandatory [see FOD], a student shall be removed from class and placed in a DAEP if the student engages in conduct on or off school property containing the elements of retaliation under Penal Code 36.06, against any school employee. <i>Education Code 37.006(b)</i>
Conduct Unrelated to School	<p>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:</p> <ol style="list-style-type: none">1. The student receives deferred prosecution under Family Code 53.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03;2. A court or jury finds that the student has engaged in delinquent conduct under Family Code 54.03 for conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03; or3. The superintendent or designee has a reasonable belief that the student has engaged in conduct defined as a felony offense in Penal Code Title 5 or the felony offense of aggravated robbery under Penal Code 29.03. <p><i>Education Code 37.006(c)</i></p>
<i>Reasonable Belief</i>	<p>In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense, a superintendent or a superintendent's designee may consider all available information and must consider the information furnished under Code of Criminal Procedure Article 15.27. <i>Education Code 37.006(e); Code of Criminal Procedure 15.27(a)</i> [See GRAA]</p>
<i>Title 5 Felonies</i>	<p>The following are felony offenses listed in Penal Code, Title 5, Offenses Against the Person.</p> <ol style="list-style-type: none">1. Murder. <i>Penal Code 19.02</i>2. Capital Murder. <i>Penal Code 19.03</i>3. Manslaughter. <i>Penal Code 19.04</i>4. Criminally Negligent Homicide. <i>Penal Code 19.05</i>

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5. Unlawful Restraint, if:
 - a. The person restrained was younger than 17 years of age; or
 - b. The actor recklessly exposes the victim to a substantial risk of serious bodily injury; restrains an individual the actor knows is a public servant while the public servant is lawfully discharging an official duty or in retaliation or on account of an exercise of official power or performance of an official duty; or while in custody restrains any other person.

Penal Code 20.02

6. Kidnapping. *Penal Code 20.03*
7. Aggravated Kidnapping. *Penal Code 20.04*
8. Smuggling of Persons. *Penal Code 20.05*
9. Continuous Smuggling of Persons. *Penal Code 20.06*
10. Trafficking of Persons. *Penal Code 20A.02*
11. Continuous Trafficking of Persons. *Penal Code 20A.03*
12. Continuous Sexual Abuse of Young Child or Children. *Penal Code 21.02*
13. Bestiality. *Penal Code 21.09*
14. Indecency with a Child. *Penal Code 21.11*
15. Improper Relationship between Educator and Student. *Penal Code 21.12*
16. Invasive Visual Recording. *Penal Code 21.15*
17. Unlawful Disclosure or Promotion of Intimate Visual Material. *Penal Code 21.16*
18. Voyeurism, if the victim was younger than 14 years of age at the time of the offense. *Penal Code 21.17*
19. Sexual Coercion. *Penal Code 21.18*
20. Assault, if the offense is punishable as a felony as specified in Penal Code 22.01(b), (b-1), and (b-2). *Penal Code 22.01*
21. Sexual Assault. *Penal Code 22.011*
22. Aggravated Assault. *Penal Code 22.02*
23. Aggravated Sexual Assault. *Penal Code 22.021*

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24. Injury to a Child, Elderly Individual, or Disabled Individual.
Penal Code 22.04
25. Abandoning or Endangering a Child. *Penal Code 22.041*
26. Deadly Conduct, if the person knowingly discharges a firearm at or in the direction of one or more individuals, or at or in the direction of a habitation, building, or vehicle and is reckless as to whether the habitation, building, or vehicle is occupied. *Penal Code 22.05*
27. Terroristic Threat, if the actor threatens to commit any offense involving violence to any person or property with intent to:
 - a. Place any person in fear of imminent serious bodily injury if the actor knows the person is a peace officer or judge;
 - b. Prevent or interrupt the occupation or use of a building, room, place of assembly, place to which the public has access, place of employment or occupation, aircraft, automobile, or other form of conveyance, or other public place if the prevention or interruption causes pecuniary loss of \$1,500 or more to the owner;
 - c. Cause impairment or interruption of public communications, public transportation, public water, gas, or power supply or other public service;
 - d. Place the public or a substantial group of the public in fear of serious bodily injury; or
 - e. Influence the conduct or activities of a branch or agency of the federal government, the state, or a political subdivision.*Penal Code 22.07*
28. Aiding Suicide, if the conduct causes suicide or attempted suicide that results in serious bodily injury. *Penal Code 22.08*
29. Tampering with Consumer Product. *Penal Code 22.09*
30. Harassment by Persons in Certain Facilities or of Public Servant. *Penal Code 22.11*

Sexual Assault of
Another Student

A student shall be removed from class and placed in a DAEP or juvenile justice alternative education program (JJAEP) if:

1. The student was convicted of, received adjudication for, or was placed on probation for sexual assault of another student while the students were assigned to the same campus, re-

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ardless of whether the assault occurred on or off school property;

2. The parent of the victim of the assault has requested that the student be transferred to a campus other than that to which the victim is assigned; and
3. There is only one campus in a district serving the grade level in which the student is enrolled.

Education Code 25.0341, 37.0051(a) [See FDE at Sexual Assault Transfer—Transfer of Assailant]

A limitation imposed by Education Code Chapter 37 on the length of placement in a DAEP or a JJAEP does not apply to a placement under this provision. *Education Code 37.0051(b)*

Permissive Removal
Non-Title 5 Felony

A student may be removed from class and placed in a DAEP based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

1. The superintendent or designee has a reasonable belief [see Reasonable Belief, above] that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Penal Code 29.03, or those offenses listed in Penal Code Title 5 [see above at Title 5 Felonies]; and
2. The continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

Education Code 37.006(d)–(e)

Bullying

A student may be removed from class and placed in a DAEP if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;
2. Incites violence against a student through group bullying; or
3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions
“Bullying”

“Bullying” has the meaning assigned by Education Code 37.0832. [See FFI]

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"Intimate Visual Material"	<p>"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.</p> <p><i>Education Code 37.0052</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>
Certain Organization and Gang Membership and Solicitation	<p>A board or an educator shall recommend placing in DAEP any student who commits the misdemeanor offenses described in Education Code 37.121(a) and (c), regarding membership in or solicitation to join a public school fraternity, sorority, secret society, or gang [see FNCC]. <i>Education Code 37.121(b)</i></p>
Older Students	<p>A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a DAEP if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, the district shall revoke the student's admission. <i>Education Code 25.001(b-1)</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), .007(e)</i> [See FOD]</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] shall be provided educational services in a DAEP. <i>Education Code 37.006(l), .007(e)(2)</i></p>
Process for Removal 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 campus behavior coordinator (CBC) or other appropriate administrator shall schedule a conference among the CBC or other appropriate administrator, the student's parent or guardian, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular class pending the conference.</p>

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Mitigating Factors	Before ordering removal to a DAEP, the CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action.
Order	Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the CBC, after considering any mitigating factors under Education Code 37.001(a)(4) [see FO], shall order the placement of the student for a period consistent with the Student Code of Conduct.
Appeal	<p>If district policy allows a student to appeal to the board or the board's designee a decision of the CBC or other appropriate administrator, the decision of the board or the board's designee is final and may not be appealed.</p> <p><i>Education Code 37.009(a) [See Student Code of Conduct]</i></p>
Term of Removal	A board or designee shall set a term for a student's placement in a DAEP. If the period of placement is inconsistent with the guidelines in the Student Code of Conduct, the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, a district determines that the student is a threat to the safety of other students or to district employees. <i>Education Code 37.009(a), (d)</i>
Beyond Grading Period or 60 Days	If placement in a DAEP is to extend beyond 60 days or the end of the next grading period, whichever is earlier, the student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before a board or designee.
<i>No Appeal</i>	<p>Any decision of a board or designee concerning placement beyond 60 days or the end of the next grading period is final and cannot be appealed.</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, a board or designee must determine that:</p> <ol style="list-style-type: none">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

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2. The student has engaged in serious or persistent misbehavior that violates the Student Code of Conduct.

Education Code 37.009(c)

Order of Removal

A board or designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a DAEP. *Education Code 37.009(g)*

Not later than the second business day after the date of the removal conference, a board or designee shall deliver a copy of the order placing the student in a DAEP and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the juvenile resides. *Education Code 37.010(a)*

Activities

The terms of a placement under Education Code 37.006 must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.006(g)*

In addition to any notice required under Code of Criminal Procedure 15.27 [see GRAA], a principal or designee shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in conduct for which DAEP placement must or may be ordered.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as 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 a district before an order for placement in a DAEP is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student re-enrolls in the district the same or subsequent school year, the district may enforce the order at that time except for any period of the placement that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

Enrollment in Another District

If a student placed in a DAEP enrolls in another district before the expiration of the placement, a board shall provide to the district in which the student enrolls a copy of the placement order at the

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same time it provides other records. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law.

The district in which the student enrolls may continue the placement or allow the student to attend regular classes. [See FO] The district in which the student enrolls may take any of these actions if:

1. The student was placed in a DAEP by an open-enrollment charter school and the charter school provides the district a copy of the placement order; or
2. The student was placed in a DAEP by a district in another state and:
 - a. The out-of-state district provides a copy of the placement order; and
 - b. The grounds for placement are the same as grounds for placement in the enrolling district.

Education Code 37.008(j)

**Out-of-State
Placement**

If a student was placed in a DAEP in another state for more than one year and the enrolling district continues the placement under Education Code 37.008(j), the enrolling district shall reduce the period of placement so that the aggregate period does not exceed one year unless the enrolling district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

Education Code 37.008(j-1)

**Court-Ordered
Placement**

Unless a board and the juvenile board for the county in which a district's central administrative office is located have entered into a memorandum of understanding concerning the juvenile probation department's role in supervising and providing other support services for students in DAEP programs:

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1. A court may not order a student expelled under Section 37.007 to attend a school district DAEP as a condition of probation;
2. A court may not order a student to attend a DAEP without a district's consent, until the student has successfully completed any sentencing requirements, if the court has ordered the student to attend a DAEP as a condition of probation once during a school year and the student is referred to juvenile court again during that school year.

Education Code 37.010(c)–(d)

School Activities

Any court placement in a DAEP must prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.010(e)*

Placement After
Court Disposition

After the student has successfully completed any court disposition requirements, including conditions of deferred prosecution or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission into the public schools. A district may place the student in the DAEP.

Notwithstanding Education Code 37.002(d) [see FOA], the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

**Not Guilty/
Insufficient
Evidence/Charges
Dropped**

The office of the prosecuting attorney or the office or official designated by the juvenile board shall, within two working days, notify the school district that removed a student to a DAEP under Education Code 37.006 if:

1. Prosecution of a student was refused for lack of prosecutorial merit or insufficient evidence, and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or
2. A court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice.

On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP. The student may not be returned to the regular classroom pending the review. The superintendent or designee shall schedule a review of the student's placement with the student's parent or guardian not later than the

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third class day after the superintendent or designee receives notice from the office or official designated by the court.

After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or designee may continue the student's placement in the DAEP if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

Education Code 37.006(h); Code of Criminal Procedure 15.27(g)

**Appeal After
Placement Upheld**

The student or the student's parent or guardian may appeal a superintendent's decision to the board. The student may not be returned to the regular classroom pending the appeal. A board shall, at the next scheduled meeting, review the notice provided by the office of the prosecuting attorney or the office or official designated by the juvenile board; receive information from the student, the student's parent or guardian, and the superintendent or designee; and confirm or reverse the superintendent's decision. The board shall make a record of the proceedings.

If a board confirms the decision, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner of education. The student may not be returned to the regular classroom pending the appeal to the commissioner.

Education Code 37.006(i)–(j)

**120-Day Review of
Status**

A student placed in a DAEP shall be provided a review of the student's status, including a review of the student's academic status, by a board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required to provide a course in the DAEP, except as required by Education Code 37.008(l). [See FOCA] At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent. *Education Code 37.009(e)*

**Additional
Proceedings**

If, during the term of placement, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

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Reporting

A district may include the number of students removed to a DAEP in its annual performance report. *Education Code 39.306(e)(5)*
[See AIB]

Note: See FOF for provisions concerning students with disabilities.

PLACEMENT IN A DISCIPLINARY ALTERNATIVE EDUCATION SETTING
DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OPERATIONS

FOCA
(LEGAL)

	<p>A disciplinary alternative education program (DAEP) is an educational and self-discipline alternative instruction program for students in elementary through high school grades who are removed from their regular classes for mandatory or discretionary disciplinary reasons and placed in a DAEP. <i>19 TAC 103.1201(a)</i></p>
Joint / Contracted DAEP	<p>A district may provide a DAEP jointly with one or more other districts, or may contract with third parties for DAEP services. The district must require and ensure compliance with district responsibilities that are transferred to the third-party provider. <i>Education Code 37.008(d); 19 TAC 103.1201(d)</i></p>
	<p>A DAEP may provide for a student's transfer to a different campus, a school-community guidance center, or a community-based alternative school. <i>Education Code 37.008(b)</i></p>
Community Organizations	<p>A 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>
Funding	<p>A student removed to a DAEP is counted in computing a district's average daily attendance for the student's time in actual attendance in the program. <i>Education Code 37.008(f)</i></p> <p>A district shall allocate to a DAEP the same expenditure per student attending the DAEP that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program. <i>Education Code 37.008(g)</i> [See also EHBC(LEGAL), Limit on DAEP Expenditures]</p>
Location	<p>A DAEP shall be provided in a setting other than the student's regular classroom and may be located on or off a regular school campus. <i>Education Code 37.008(a)(1)–(2)</i></p> <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 or 39A. <i>Education Code 37.008(c)</i></p> <p>An elementary school student may not be placed in a DAEP with a student who is not an elementary school student. The designation of elementary and secondary is determined by adopted local policy. <i>Education Code 37.006(f); 19 TAC 103.1201(h)(1)</i></p> <p>Students who are assigned to the DAEP shall be separated from students who are not assigned to the program. Notwithstanding this requirement, summer programs provided by the district may serve students assigned to a DAEP in conjunction with other students, as determined by local policy.</p>

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Students in the DAEP shall be separated from students in a juvenile justice alternative education program (JJAEP).

Education Code 37.008(a)(3), (c); 19 TAC 103.1201(f)(3), (h)(3)

Hours of Operation

The school day for a DAEP shall be at least seven hours but no more than ten hours in length each day, including intermissions and recesses. *Education Code 37.008(a); 19 TAC 103.1201(f)(2)*

Safety

A district is responsible for the safety and supervision of the students assigned to the DAEP; however, the immunity from the liability established in Education Code 22.0511 [see DG], shall not be impacted. The DAEP staff shall be prepared and trained to respond to health issues and emergencies.

Each district shall establish a board-approved policy for discipline and intervention measures to prevent and intervene against unsafe behavior and include disciplinary actions that do not jeopardize students' physical health and safety, harm emotional well-being, or discourage physical activity.

19 TAC 103.1201(h)

Staffing

A DAEP shall employ only teachers who meet certification requirements under Education Code Chapter 21, Subchapter B. The certified teacher-to-student ratio in a DAEP shall be one teacher for each 15 students in elementary through high school grades. *Education Code 37.008(a)(7); 19 TAC 103.1201(h)(1)*

Staff at each DAEP shall participate in training programs on education, behavior management, and safety procedures that focus on positive and proactive behavior management strategies. The training programs must also target prevention and intervention that include:

1. Training on the education and discipline of students with disabilities who receive special education services;
2. Instruction in social skills and problem-solving skills that addresses diversity, dating violence, anger management, and conflict resolution to teach students how to interact with teachers, family, peers, authority figures, and the general public; and
3. Annual training on established procedures for reporting abuse, neglect, or exploitation of students.

19 TAC 103.1201(i)

Entrance Procedures

Procedures for each DAEP shall be developed and implemented for newly-entering students and their parents or guardians on the

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expectations of the DAEP. These procedures shall include written contracts between students, parents or guardians, and the DAEP that formalize expectations and establish the students' individual plans for success. *19 TAC 103.1201(j)*

Academics

The academic mission of DAEPs shall be to enable students to perform at grade level. A DAEP shall focus on English language arts, mathematics, science, history, and self-discipline. *Education Code 37.008(a)(4), (m)*

A district shall provide an academic and self-discipline program that leads to graduation and includes instruction in each student's currently enrolled foundation curriculum necessary to meet the student's individual graduation plan, including special education services. A student's four-year graduation plan (Minimum, Recommended, or Advanced/Distinguished Achievement) may not be altered when the student is assigned to a DAEP.

Opportunity to
Complete Course

A district shall offer a student removed to a DAEP an opportunity to complete a foundation curriculum course in which the student was enrolled at the time of removal, before the beginning of the next school year, through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this provision.

Education Code 37.008(l); 19 TAC 103.1201(f)

A district shall provide the parents of a student removed to a DAEP with written notice of the district's obligation to provide the student with an opportunity to complete coursework required for graduation. The notice must include information regarding all methods available for completing the coursework and state that the methods are available at no cost to the student. *Education Code 37.008(l-1)*

Accountability

The campus of accountability for student performance must be the student's locally assigned campus, including when the district or shared services arrangement contracts with a third party for DAEP services. *19 TAC 103.1201(e)*

**Academic
Assessments**

A district shall administer to a student placed in a DAEP program for a period of 90 school days or longer an assessment instrument:

1. Initially on placement of the student in the program; and
2. Subsequently on the date of the student's departure from the program, or as near that date as possible.

Released state assessments for reading and mathematics for the appropriate grade may be used. A district may apply for approval of

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an assessment that includes the Texas Essential Knowledge and Skills (TEKS) for reading and mathematics for the student's assigned grade. The commissioner will publish on the TEA website a list of assessments approved for use in each school year.

The grade level of an assessment shall be based upon the academic grade completed prior to the student being assigned to a DAEP if placement occurs in the fall or first semester of the academic school year. If placement occurs in the spring or second semester of the academic school year, the student shall be administered an assessment based on the current grade level.

Each district shall provide an academic report to the student's locally assigned campus, which shall include the pre- and post-assessment results of the student's basic skills in reading and mathematics, within ten days of the student completing the post-assessment.

Procedures for administering the pre- and post-assessment shall be developed and implemented in accordance with local school district policy.

A student in the district's DAEP must also be assessed under the requirements of the Education Code Chapter 39. [See EKB]

Education Code 37.0082; 19 TAC 103.1203

Special Populations

Special Education

A DAEP serving a student with a disability who receives special education services shall provide educational services that will support the student in meeting the goals identified in the individualized education program (IEP) established by a duly-constituted admission, review, and dismissal (ARD) committee, in accordance with Education Code 37.004 and federal requirements. *19 TAC 103.1201(g)*

Drug and Alcohol
Treatment

A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs or alcohol as specified under Education Code 37.006 and 37.007. A DAEP that provides chemical dependency treatment services must be licensed under Health and Safety Code Chapter 464. *Education Code 37.008(k)*

Transition Services

The transition services established for a student who is exiting a DAEP and returning to the student's locally assigned campus shall be implemented and updated annually as needed. The transition procedures shall include:

1. An established time line for the student's transition from the DAEP to the student's locally assigned campus; and

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2. Written and oral communication from the DAEP staff to the locally assigned campus during the student's assignment to the DAEP, including the student's educational performance and tasks completed.

19 TAC 103.1201(k)

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**Students Younger
Than Ten**

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

Overage Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

Mandatory Expulsion
School Related

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];
2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or
3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

Education Code 37.007(a)

Exception

A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

1. At an approved target range facility that is not located on a school campus; and
2. While participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored

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shooting sports competition or a shooting sports educational activity.

Education Code 37.007(k), (l)

Retaliation

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(d)*

Federal Firearms
Offense

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

Exception

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

*Provision of
Educational
Services*

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

20 U.S.C. 7961; Education Code 37.007(e)

Definitions

For purposes of this provision:

"School"

"School" means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. *20 U.S.C. 7961(f)*

"Firearm"

"Firearm" means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. "Destructive device" means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile having

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ing an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.

18 U.S.C. 921, 20 U.S.C. 7961(b)(3)

**Discretionary
Expulsion**

Threats

A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

School-Related
Conduct

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
 - a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
 - b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
 - c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.
2. Engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Health and Safety Code 485.031–485.034.
3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053.
4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)

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Conduct Within 300
Feet of School

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see Mandatory Expulsion—School Related, above]; or
2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see Federal Firearm Provision, above].

Education Code 37.007(b)(3)

Retaliation Against
School Employee or
Volunteer

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. *Education Code 37.007(d)*

Conduct Against
Another Student

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. *Education Code 37.007(b)(4)*

Bullying

A student may be removed from class and expelled if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;
2. Incites violence against a student through group bullying; or
3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student's consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

"Bullying"

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

"Intimate Visual
Material"

"Intimate visual material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052

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Criminal Mischief	<p>A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. <i>Education Code 37.007(f)</i></p>
Breach of Computer Security	<p>A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:</p> <ol style="list-style-type: none">1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system. <p><i>Education Code 37.007(b)(5)</i></p>
Serious Misbehavior in DAEP	<p>A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.</p> <p>“Serious misbehavior” means:</p> <ol style="list-style-type: none">1. Deliberate violent behavior that poses a direct threat to the health or safety of others;2. Extortion, meaning the gaining of money or other property by force or threat;3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or4. Conduct that constitutes the offense of:<ol style="list-style-type: none">a. Public lewdness under Penal Code 21.07;b. Indecent exposure under Penal Code 21.08;c. Criminal mischief under Penal Code 28.03;d. Personal hazing under Penal Code 37.152; ore. Harassment, under Penal Code 42.07(a)(1), of a student or district employee. <p>If the student is expelled, a board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Family Code Title 3 (Juvenile Justice Code).</p> <p><i>Education Code 37.007(c), .010(b)</i></p>

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Property or
Activities of Another
District

A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and
2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

Education Code 37.007(i)

**Expulsion
Proceedings**

Due Process

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

Notice

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

Hearing

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

Representative

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.

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Mitigating Factors	<p>Before ordering the expulsion of a student, the board or the board's designee must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action.</p> <p><i>Education Code 37.009(f)</i></p>
Term of Expulsion	<p>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.</p>
Beyond One Year	<p>The period of expulsion may not exceed one year unless a district determines that:</p> <ol style="list-style-type: none">1. The student is a threat to the safety of other students or to district employees; or2. Extended placement is in the best interest of the student. <p><i>Education Code 37.009(h)</i></p>
Notice of Expulsion Order	<p>A board or its designee shall deliver a copy of the order expelling the student to the student and the student's parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. <i>Education Code 37.009(g)–(h)</i></p>
To Parent or Guardian	
To Court	<p>Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.</p> <p>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:</p> <ol style="list-style-type: none">1. All information in a district's possession pertaining to the identity of the child and the child's address; the name and address of the child's parent, guardian, or custodian; the names and addresses of any witnesses; and the child's present whereabouts; and2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision. <p><i>Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)</i></p>

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To Juvenile Board	<p>In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board's designated representative. The notification shall be made not later than two business days following a board's determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district's educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. <i>Family Code 52.041</i></p>
To Staff	<p>In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.</p> <p>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.</p> <p><i>Education Code 37.007(g)</i></p>
Completion of Proceedings Upon Withdrawal	<p>If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.</p> <p><i>Education Code 37.009(i)</i></p>
Additional Proceedings	<p>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></p>
Appeals	<p>A decision by a board's designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student's inspection. <i>Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ.</i>, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)</p>

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**Restrictions on
Court Orders**

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

Exception

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

Education Code 37.010(c)

**District
Responsibility for
Expelled Student**

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

Students Not
Eligible for Existing
JJAEP

*Contracting for
Services*

A district may provide the program or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

Education Code 37.011(l)

Certain Districts

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The district's DAEP.
2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an

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open-enrollment charter school under Education Code Chapter 12, Subchapter D.

Education Code 37.011(a-3)–(a-5)

Return to Class

Early / Permissive

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

Required

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

Education Code 37.010(f)

**Expelled from
Another District**

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

Out-of-State
Expulsion

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

Education Code 37.010(g)

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or

2. Extended placement is in the best interest of the student.

Education Code 37.010(g-1)

Note: See FOF for provisions concerning expulsion of students with disabilities.

STUDENT FEES, FINES, AND CHARGES

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Authorized Fees

A board may require payment of:

1. A fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials.
2. Membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary.
3. A security deposit for the return of materials, supplies, or equipment.
4. A fee for personal physical education and athletic equipment and apparel, although 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. A fee 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. A fee specifically permitted by any other statute.
7. A fee 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 a district.
9. A fee for items of personal apparel that become the property of the student and that are used in extracurricular activities.
10. A parking fee [see CLC] or a fee for identification cards.
11. A fee for a driver training course, not to exceed the actual district cost per student in the programs for the current school year.
12. A fee for a course offered for credit that requires 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. The board may not charge a fee for a course requested by parents according to Education Code 28.003 [see EHA].
13. A fee for a course offered during summer school, except that the board may charge a fee for a course required for gradua-

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tion only if 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 must 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 only assess the fee if the student returns the signed form.
16. If the district does not receive any funds under Education Code 42.155 and does not participate in a county transportation system for which an allotment is provided under Education Code 42.155(i), a reasonable fee for the transportation of a student to and from the school the student attends.

Education Code 11.158(a), (d), (h)

17. A fee for enrollment in an electronic course provided through the Texas virtual school network (TXVSN) in accordance with Education Code 30A.155. *Education Code 30A.155* [See EHDE]

Prohibited Fees

A board may not charge fees for:

1. Instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course, except as authorized under the Education 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.

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5. Library materials required to be used for any educational course or program, other than fines assessed for lost, damaged, or overdue materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission to 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, notebooks, and school uniforms, except that students who are educationally disadvantaged may be required to furnish school uniforms only as provided by Education Code 11.162. [See FNCA]

School Store A district may operate a school store where students may purchase school supplies and materials.

Waiver of Fees A 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 A 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(b)–(c), (e)–(g)

Please Note: This manual does not have policies in all codes. The coding structure is common to all TASB manuals and is designed to accommodate expansion of both (LEGAL) and (LOCAL) policy topics and administrative regulations.

SECTION G: COMMUNITY AND GOVERNMENTAL RELATIONS

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GC	PUBLIC NOTICES
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**Right of Access to
Public Information**

Public information is available, at a minimum, to the public during a district's normal business hours. *Gov't Code 552.021*

Availability

Information That
Must Be Disclosed

The following categories of information are public information and not excepted from required disclosure unless made confidential under Government Code Chapter 552 or other law:

1. A completed report, audit, evaluation, or investigation made of, for, or by a board, except as provided in Government Code 552.108.
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a district.
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public funds.
4. The name of each official and the final record of voting on all proceedings of a board.
5. All working papers, research material, and information used to estimate the need or expenditure of public funds or taxes by a board, on completion of the estimate.
6. A description of a district's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions.
7. A statement of the general course and method by which a district's functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures.
8. A rule of procedure, description of forms available or the places where forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations.
9. A substantive rule of general applicability adopted or issued by a board and a statement of general policy or interpretation of general applicability formulated and adopted by the board.
10. Any amendment, revision, or repeal of the information described in items 6–9.
11. Final opinions and orders issued in adjudication of cases.
12. A policy statement or interpretation adopted or issued by a board.
13. Administrative manuals and instructions to staff that affect a member of the public.

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14. Information regarded as open to the public under a district's policies.
15. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege.
16. Information that is also contained in a public court record.
17. A settlement agreement to which a board is a party.

Gov't Code 552.022

*Investment
Information*

Certain district investment information, as specified by Government Code 552.0225, is public information and not excepted from disclosure. *Gov't Code 552.0225*

*Security System
Information*

Financial information in the possession of a district that relates to the expenditure of funds by a district for a security system is public information that is not excepted from required disclosure under the Texas Public Information Act (PIA). *Gov't Code 418.182(b)*

*Body-Worn
Camera*

Except as set forth at Occupations Code Chapter 1701, Subchapter N, a recording from a body-worn camera that is or could be used as evidence in a criminal prosecution is subject to the requirements of the PIA.

However, a law enforcement agency may not release any portion of a recording made in a private space, or of a recording involving the investigation of conduct that constitutes a misdemeanor punishable by fine only and does not result in arrest, without written authorization from the person who is the subject of that portion of the recording or, if the person is deceased, from the person's authorized representative.

Occupations Code 1701.661

Personal
Information

*Employee /
Board Member*

Each district employee, other than a peace officer or security officer, and board member and each former employee and board member shall choose whether to allow public access to district-held information relating to the person's home address, home telephone number, emergency contact information, or social security number, or any other information that reveals whether the person has family members. However, a district may not require an employee or former employee of the district to choose whether to allow public access to the employee's or former employee's social security number.

Employees and board members shall state their choice to a district's main personnel officer in a signed writing not later than the 14th day after employment begins, election or appointment to the board occurs, or service with the district ends. If an employee or

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board member fails to state his or her choice within 14 days, the information is available to the public. However, an employee or board member may make a written request at any time to the personnel officer to open or close the information. A written request made after the 14 days does not apply to an open records request made before the option was exercised.

Gov't Code 552.024; Tex. Atty. Gen. ORD 530 (1989)

*Notice to
Requestor*

If an employee or board member has opted to restrict public access to his or her personal information, the district may redact the personal information from any information the district discloses without the necessity of requesting a decision from the attorney general. *Gov't Code 552.024(c)*

If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter. *Gov't Code 552.024(c-2)*

Special Rights of
Access

Employees

An employee or an employee's authorized representative has a special right of access, beyond the right of the general public, to information held by the district that relates to the employee and that is protected from public disclosure by laws intended to protect the employee's privacy interests. [See DBA] *Gov't Code 552.023*

Board Members

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district. "Official capacity" means all duties of office and includes administrative decisions or actions. [See BBE] *Education Code 11.1512; Atty. Gen. Op. JM-119 (1983)*

Information District
Is Not Required to
Release

*Commercial
Information*

A district is not required to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the district for research purposes, if the book or publication is commercially available to the public. Although information in a book or publication may be made available to the public as resource material, such as a library book, a district is not required to make a copy of the information in response to a request for public information. The district shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of the district. *Gov't Code 552.027*

*Request for
Information from
Incarcerated
Individual*

A district is not required to accept or comply with a request for information from an individual who is imprisoned or confined in a correctional facility or an agent of that individual, other than the individual's attorney when the attorney is requesting information that is

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subject to disclosure under the PIA. This section does not prohibit a district from disclosing to an incarcerated individual or the individual's agent information that pertains to the individual. *Gov't Code 552.028*

Voluntary
Disclosure

A board or the officer for public information voluntarily may make part or all of its records available to the public, unless the disclosure is expressly prohibited by law or the records are confidential by law. *Gov't Code 552.007*

**Confidential
Information Under
the Public
Information Act or
Other Law**

Information That
May Not Be
Disclosed

A person commits a misdemeanor offense if the person distributes information considered confidential under the terms of the PIA. A violation of this section also constitutes official misconduct. *Gov't Code 552.352*

Student Records

Information is confidential and excepted from required disclosure if it is information in a student record at a district.

"Student record" means information that constitutes education records as that term is defined by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g(a)(4)) [see FL] and information in a record of an applicant for admission to an educational institution, including a transfer applicant.

A district may disclose or provide information included in an education record as authorized by 20 U.S.C. Section 1232g or other federal law. [See FL] In addition, a student record shall be made available upon request to district personnel, the student, the student's parents, guardian, or spouse, or a person conducting a child abuse investigation required by Family Code Chapter 261, Subchapter D.

Except as set forth in federal law (the Family Educational Rights and Privacy Act), a district shall not release personally identifiable information in education records without the written consent of the student's parents.

A district may redact information that constitutes a student record from information disclosed under the PIA without requesting a decision from the attorney general.

If an applicant for admission to an educational institution funded wholly or partly by state revenue, or a parent or legal guardian of a minor applicant to such an educational institution, requests information in the record of the applicant, the district shall disclose any

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information that is related to the application for admission and was provided to the district by the applicant.

Gov't Code 552.026, .114 [See FL]

*Employee Social
Security
Numbers*

The social security number of an employee of a district in the custody of the district is confidential. *Gov't Code 552.147(a-1)*

Evaluations

A document evaluating the performance of a teacher or administrator is confidential and is not subject to disclosure under the Public Information Act. *Education Code 21.355*

*Educator
Certification
Exam*

The results of an educator certification examination are confidential and are not subject to disclosure, unless the disclosure is regarding notification to a parent of the assignment of an uncertified teacher to a classroom as required by Education Code 21.057. *Education Code 21.048(c-1)*

*Credit Card,
Debit Card,
Charge Card,
and Access
Device Numbers*

A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a district is confidential.

"Access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another device may be used to:

1. Obtain money, goods, services, or another thing of value; or
2. Initiate a transfer of funds other than a transfer originated solely by paper instrument.

A district may redact credit card, debit card, charge card, or access device numbers from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information required by Government Code 552.136 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.136

E-Mail Addresses
Confidential

An e-mail address of a member of the public that is provided for the purpose of communicating electronically with a district is confidential and not subject to disclosure unless the member of the public affirmatively consents to its release.

Exceptions

This confidentiality does not apply to an e-mail address:

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1. Provided to a district by a person who has a contractual relationship with the district or by the contractor's agent;
2. Provided to a district by a vendor who seeks to contract with the district or by the vendor's agent;
3. Contained in a response to a request for bids or proposals, contained in a response to similar invitations soliciting offers or information relating to a potential contract, or provided to a district in the course of negotiating the terms of a contract or potential contract;
4. Provided to a district on a letterhead, coversheet, printed document, or other document made available to the public; or
5. Provided to a district for the purpose of receiving orders or decisions from the district, or for the purpose of providing public comment on or receiving notices related to an application for a license. A "license" under this section includes a state agency permit, certificate, approval, registration, or similar form of permission required by law.

A 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, 2001.003(2)

*Victim of Abuse
or Improper
Relationship*

The name of a person who is enrolled in a public or private primary or secondary school and involved in an improper relationship with an educator as provided by Penal Code 21.12(a) may not be released to the public and is not public information subject to disclosure. *Penal Code 21.12(d)*

The name of a student or minor who is the victim of abuse or unlawful conduct by an educator is not public information subject to disclosure. *Education Code 21.006(h)*

Crime Victims

Information relating to a participant in the Address Confidentiality Program for Victims of Family Violence, Sexual Assault, and Stalking under Code of Criminal Procedure Chapter 56, Subchapter C is confidential, except as provided by Code of Criminal Procedure 56.90, and may not be disclosed. *Code of Criminal Procedure 56.88*

A district employee who is a victim under the Crime Victim Compensation Act may elect whether to allow public access to information held by the district that would identify or tend to identify the victim, including a photograph or other visual representation of the victim. The election must be made in writing on a form developed by the district, signed by the employee, and filed with the district

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before the third anniversary of the latest to occur of one of the following:

1. The date the crime was committed;
2. The date employment begins; or
3. The date the governmental body develops the form and provides it to employees.

If the employee fails to make an election, the identifying information is excepted from disclosure until the third anniversary of the date the crime was committed. In case of disability, impairment, or other incapacity of the employee, the election may be made by the guardian of the employee or former employee.

Gov't Code 552.132

*Criminal History
Records*

Information collected to comply with Education Code Chapter 22, Subchapter C (criminal records), including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records, is confidential and may not be released except to comply with Subchapter C, by court order, or with the consent of the person who is the subject of the information. *Education Code 22.08391*

Criminal history record information obtained by the district from the Texas Department of Public Safety may not be disclosed to any person except:

1. The person who is the subject of the information;
2. The Texas Education Agency;
3. The State Board for Educator Certification;
4. The chief personnel officer of the transportation company if the information was obtained under Government Code 411.097(a)(2) with respect to a transportation company that contracts with the district to provide student transportation; or
5. By court order.

Gov't Code 411.097(d)(1) [See CJA, DBAA, and DHB]

*Sensitive Crime
Scene Image*

A sensitive crime scene image in the custody of a district is confidential and excepted from the requirements of the PIA, regardless of the date that the image was taken or recorded.

"Sensitive crime scene image" means a photograph or video recording taken at a crime scene, contained in or part of a closed criminal case, that depicts a deceased person in a state of

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dismemberment, decapitation, or similar mutilation or that depicts the deceased person's genitalia. A district may not permit a person to view or copy the image except as provided by Government Code 552.1085.

Gov't Code 552.1085(a)(6), (c)

*School Marshal
Identity*

The identity of a school marshal appointed under Education Code 37.0811 is confidential except as provided by Occupations Code 1701.260(j).

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose the identity of the school marshal.

Education Code 37.0811(g), (h)

*Closed Meeting
Recording /
Certified Agenda*

The certified agenda or tape recording of a closed meeting is available for public inspection only under a court order issued in litigation in a district court involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(c); Atty. Gen. ORD 684 (2009)*

*Security
Information*

Except as provided by the Texas Homeland Security Act, Government Code 418.182, information, including access codes and passwords, in the possession of a district that relates to the specifications, operating procedures, or location of a security system used to protect public or private property from an act of terrorism or related criminal activity is confidential. *Gov't Code 418.182(a)*

The following information is confidential under Subchapter C of the PIA:

1. A computer network vulnerability report;
2. Any other assessment of the extent to which data processing operations, a computer, a computer program, network, system, or system interface, or software of a district or of a contractor of a district is vulnerable to unauthorized access or harm, including an assessment of the extent to which a district's or contractor's electronically stored information containing sensitive or critical information is vulnerable to alteration, damage, erasure, or inappropriate use;
3. A photocopy or other copy of an identification badge issued to an official or employee of a district; and
4. Information directly arising from a governmental body's routine efforts to prevent, detect, investigate, or mitigate a computer security incident, including information contained in or

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derived from an information security log. This does not affect the notification requirements related to a breach of system security as defined by Business and Commerce Code 521.053. [See CQ]

A district may disclose the information to a bidder if the district determines that providing the information is necessary for the bidder to provide an accurate bid. Such a disclosure is not a voluntary disclosure for purposes of Government Code 552.007.

Gov't Code 552.139(b), (c)

*Military
Discharge
Records*

A military veteran's Department of Defense Form DD-214 or other military discharge record that first comes into the possession of a district on or after September 1, 2003, is confidential for the 75 years following the date it comes into the possession of a district. A district that obtains information from the record shall limit the use and disclosure of the information to the purpose for which the information was obtained. *Gov't Code 552.140; Atty. Gen. ORD 684 (2009)*

*Retirement
Eligibility Records*

Records, including any identifying information, of individual members, annuitants, retirees, beneficiaries, alternate payees, program participants, or persons eligible for benefits from TRS or another retirement system, are confidential and not subject to public disclosure. This provision applies to records in the custody of the district acting in cooperation with or on behalf of the retirement system. A district acting in cooperation with or on behalf of the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general.

For purposes of Government Code 825.507, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

Gov't Code 552.0038, 825.507(g)

*Peace / Security
Officer
Information*

District information related to the home address, home telephone number, emergency contact information, date of birth, or social security number of a peace officer or commissioned security officer, or information that reveals whether the officer has family members, is confidential and may not be released if the officer chooses to

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restrict public access to the information by notifying the district on a form provided by the district with evidence of the individual's status.

In accordance with Government Code 552.1175(h), a district may redact information that must be withheld under this section from any information the district discloses under the PIA without the necessity of requesting a decision from the attorney general. If a district redacts information under this provision, the district shall provide the information required by Government Code 552.024(c-2) to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

Gov't Code 552.1175

*Election Judges
and Clerks*

An e-mail address or personal phone number of an election judge or clerk collected or maintained by the authority conducting the election is confidential and does not constitute public information for purposes of Government Code Chapter 552.

Exception

An e-mail address or phone number of an election judge or clerk shall be made available on request to:

1. Any entity eligible to submit lists of election judges or clerks for that election; or
2. The state executive committee of a political party with a county chair eligible to submit lists of election judges or clerks for that election.

Election Code 32.076

*Cybersecurity
Information*

A cyber threat indicator or defensive measure shared by or with a state, tribal, or local government under 6 U.S.C. 1503 shall be deemed voluntarily shared information and exempt from disclosure under any state or local freedom of information law, open government law, open meetings law, open records law, sunshine law, or similar law requiring disclosure of information or records. *6 U.S.C. 1503(d)(4)(B)*

A cyber threat indicator or defensive measure shared with the federal government under Title 6, United States Code, shall be:

1. Deemed voluntarily shared information and exempt from disclosure under federal public information law and any state or local provision of law requiring disclosure of information or records; and
2. Withheld, without discretion, from the public under federal public information law and any state or local provision of law requiring disclosure of information or records.

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6 U.S.C. 1504(d)(3) [See CQ]

**Information
Excepted from
Disclosure**

Except for social security numbers or as otherwise provided by law, information that is not confidential, but is excepted from required disclosure under Government Code sections 552.101–.151, is public information and is available to the public on or after the 75th anniversary of the date the information was originally created or received by a district. This paragraph does not limit the authority of a district to establish retention periods for records under applicable law. *Gov't Code 552.0215*

Confidential by Law

Information is excepted from public disclosure if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision. *Gov't Code 552.101*

Certain Personnel
File Information

Information is excepted from public disclosure if it is information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in files of professional employees; however, the degree obtained and the curriculum on the transcripts shall be subject to disclosure. *Gov't Code 552.102*

Disclosure of employee birth dates would constitute a clearly unwarranted invasion of personal privacy, and such dates are excepted from disclosure under Government Code 552.102(a), if the employees' privacy interests substantially outweigh the public interest in the information. *Texas Comptroller of Public Accts. v. Atty. Gen'l of Texas*, 354 S.W.3d 336 (Tex. 2010) (holding that a newspaper's stated reason for requesting state employees' dates of birth did not outweigh employees' privacy rights)

Information is excepted from public disclosure if it is information in the custody of the district that relates to an employee or officer of the district if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm. *Gov't Code 552.152*

Information Relating
to Litigation

Information is excepted from public disclosure if it is information relating to litigation of a civil or criminal nature to which a district is, or may be, a party or to which an officer or employee of the district, as a consequence of the office or employment, is or may be a party, but only if the litigation is pending or reasonably anticipated at the time the district's public information officer receives the request. *Gov't Code 552.103*

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Information That Advantages Competitors or Bidders	Information is excepted from public disclosure if it is 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. <i>Gov't Code 552.104</i>
Certain Information on Real or Personal Property	Information is excepted from public disclosure if it is information relating to the location of real or personal property for a public purpose prior to public announcement of the project, or information pertaining to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property. <i>Gov't Code 552.105</i>
Drafts Involving Legislation	A draft or working paper involved in the preparation of proposed legislation is excepted from public disclosure. <i>Gov't Code 552.106</i>
Attorney–Client Information	Information is excepted from public disclosure if it is information a district's attorney is prohibited from disclosing because of a duty to the district under the Texas Rules of Evidence or the Texas Disciplinary Rules of Professional Conduct or information that a court order has prohibited from disclosure. <i>Gov't Code 552.107</i>
Certain Information from Law Enforcement	<p>Under certain circumstances, information (except basic information about an arrested person, an arrest, or a crime) held by a law enforcement agency or prosecutor is excepted from public disclosure if it is:</p> <ol style="list-style-type: none">1. Information that deals with detection, investigation, or prosecution of crime; and2. An internal record or notation that is maintained for internal use in matters relating to law enforcement or prosecution. <p><i>Gov't Code 552.108</i></p>
Private Correspondence of Elected Official	Private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy are excepted from public disclosure. <i>Gov't Code 552.109</i>
Trade Secrets	A trade secret obtained from a person and privileged or confidential by statute or judicial decision is excepted from public disclosure. <i>Gov't Code 552.110(a)</i>
Certain Commercial and Financial Information	Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the infor-

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	mation was obtained is excepted from public disclosure. <i>Gov't Code 552.110(b)</i>
Certain Memoranda	An interagency or intra-agency memoranda or letters that would not be available by law to a party in litigation with a district is excepted from public disclosure. <i>Gov't Code 552.111; <u>City of Garland v. Dallas Morning News</u>, 22 S.W.3d 351 (Tex. 2000) (concluding that the deliberative process privilege, incorporated into the exception found at Government Code 552.111, exempts communications related to a governmental agency's policymaking)</i>
Audit Working Paper	An audit working paper of an audit performed by the district auditor, including any audit relating to the criminal history background check of a public school employee, is excepted from public disclosure. If information in an audit working paper is also maintained in another record, that other record is not excepted. <i>Gov't Code 552.116</i>
Certain Personal Information	<p>Information is excepted from public disclosure if it is information that relates to the home address, home telephone number, emergency contact information, or social security number of the following persons, or that reveals whether the person has family members:</p> <ol style="list-style-type: none">1. A current or former district employee or board member, except as provided by Government Code 552.024; or2. 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 Government Code 552.1175. <p><i>Gov't Code 552.117</i></p>
Photograph of Peace Officer	<p>A photograph that depicts a peace officer, the release of which would endanger the life or physical safety of the officer, is excepted from public disclosure unless:</p> <ol style="list-style-type: none">1. The officer is under indictment or charged with an offense by information;2. The officer is a party in a fire or police civil service hearing or a case in arbitration; or3. The photograph is introduced as evidence in a judicial proceeding. <p>If a photograph is exempt from public disclosure as described above, it may be made public only if the officer gives written consent.</p>

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Gov't Code 552.119

Testing Items

A test item developed by a state-funded educational institution is excepted from public disclosure. *Gov't Code 552.122*

Certain Library
Records

A record of a library or library system that identifies or serves to identify a person who requested, obtained, or used a library material or service is excepted from public disclosure, unless the record is disclosed:

1. Because the library determines that disclosure is reasonably necessary for the operation of the library and the records are not confidential under other state or federal law;
2. To a person with a special right of access under Government Code 552.023; or
3. To a law enforcement agency or prosecutor under a court order or subpoena.

Gov't Code 552.124

Superintendent
Applicants

The name of an applicant for superintendent is excepted from public disclosure, except a board must give public notice of the name or names of the finalists being considered for that position at least 21 days before the date of the meeting at which final action or a vote is to be taken on the applicant's employment. *Gov't Code 552.126*

Certain Motor
Vehicle and
Personal
Identification
Information

Information is excepted from public disclosure if the information relates to:

1. A motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
2. A motor vehicle title or registration issued by an agency of this state or another state or country; or
3. A personal identification document issued by an agency of this state, another state or country, or a local agency authorized to issue an identification document.

The motor vehicle record information described above may be released only in accordance with Transportation Code Chapter 730.

Subject to Transportation Code Chapter 730 (the Motor Vehicle Records Disclosure Act), a district may redact motor vehicle or driver license information under this provision from any information the district discloses without the necessity of requesting a decision from the attorney general. The district shall provide the information specified at Government Code 552.130 to the requestor on a form prescribed by the attorney general. The requestor is entitled to seek a decision from the attorney general about the matter.

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Gov't Code 552.130; Atty. Gen. ORD 684 (2009)

Individuals Who
Inform of Violations
of Law

An informer's name or information that would substantially reveal the identity of an informer is excepted from public disclosure, unless:

1. The informer consents. If the informer is a student or former student, consent may also be given by the informer's legal guardian or spouse; or
2. The informer planned, initiated, or participated in the possible violation.

"Informer" means a student or former student or an employee or former employee of a district who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the district or the proper regulatory enforcement authority.

The informer's name may be made available to a law enforcement agency or prosecutor for official purposes upon proper request, made in compliance with applicable law and procedure. However, this exception does not impair the confidentiality of information considered to be confidential by law, including information excepted from disclosure under the PIA.

Gov't Code 552.135

Economic
Development
Negotiations

Information is excepted from public disclosure if it is information that relates to economic development negotiations involving a board and a business prospect that the board seeks to have locate, stay, or expand in or near a district and the information relates to:

1. A trade secret of the business prospect; or
2. Commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained.

Gov't Code 552.131(a)

Unless and until an agreement is made with the business prospect, information about a financial or other incentive being offered to a business prospect by a board or by another person is excepted from public disclosure.

After an agreement is made, information about a financial or other incentive being offered is no longer exempted from public disclosure if the information is about a financial or other incentive being offered to the business prospect:

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1. By a board; or
2. By another person, if the financial or other incentive may directly or indirectly result in the expenditure of public funds by a district or a reduction in revenue received by the district from any source.

Gov't Code 552.131(b), (c)

Computer Network
Security

Information is excepted from public disclosure if it is information that relates to computer network security, to network security information that is restricted under Government Code 2059.055, or to the design, operation, or defense of a computer network. [See Security Information, above] *Gov't Code 552.139(a)*

Social Security
Numbers

The social security number of a living person is excepted from public disclosure. The social security number of a living person other than a district employee is not confidential, however. A district may redact the social security number of a living person from any information the district discloses to the public without the necessity of requesting a decision from the attorney general. *Gov't Code 552.147*

Crime Victim

Information that would identify or tend to identify a district employee who is also a crime victim under Code of Criminal Procedure, Chapter 56, Subchapter B, regardless of whether the employee chooses to restrict public access to the information, is excepted from public disclosure until the third anniversary of the date the crime was committed. *Gov't Code 552.132*

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**Officer for Public
Information and
Required Notices**

Officer for Public
Information

Duties

A superintendent shall be a district's officer for public information. Each department head shall be an agent of the officer for purposes of complying with the public information laws.

The officer is responsible for the release of public information as required by the Public Information Act (PIA), Government Code Chapter 552. The officer for public information shall:

1. Make public information available for public inspection and copying.
2. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal.
3. Repair, renovate, or rebind public information when necessary to maintain it properly.

The officer is not responsible for the use made of the information by the requestor or the release of the information after it is removed from a record as a result of an update, correction, or change of status of the person to whom the information pertains.

Gov't Code 552.201(a)–.204

*Public
Information
Coordinator*

Within 90 days after assuming office, a public information coordinator shall complete a course of training regarding the responsibilities of a district and district officers and employees under Chapter 552 of the Texas Government Code (Public Information Act).

The training shall be not less than one nor more than two hours. The attorney general may provide the training and may also approve other acceptable sources of training.

A district shall maintain and make available for public inspection the record of a public information coordinator's completion of the training.

Gov't Code 552.012(b), (e)

Sign

The officer for public information shall prominently display a sign in the form prescribed by the attorney general that contains basic information about the rights of a requestor, the responsibilities of a district, and the procedures for inspecting or obtaining a copy of public information under the PIA. The officer shall display the sign at one or more places in the district's administrative offices where it is plainly visible to:

1. Members of the public who request public information in person; and

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2. Employees of the district whose duties include receiving or responding to public information requests.

Gov't Code 552.205

**Access to Public
Information**

*Access to Public
Information*

A district may promulgate reasonable rules of procedure by which public information may be inspected and copied efficiently, safely, and without delay. These rules may not be inconsistent with any provision of the PIA. *Gov't Code 552.230*

Procedural Rules

It shall be the policy of a district to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested. *Gov't Code 552.228*

*Treatment of
Requests*

The officer for public information and agent shall not make an inquiry of a requestor, except to establish proper identification or to ask the requestor to narrow or clarify the request. The officer for public information or agent shall treat all requests for information uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or agent shall give the requestor all reasonable comfort and facility for the full exercise of the right granted by the PIA. *Gov't Code 552.222(a)–(b), .223–.224*

*Location of
Access*

An officer for public information complies with a request for public information by:

1. Providing the information for inspection or duplication in a district's offices [see Time for Examination, below]. The PIA does not authorize a requestor to remove an original copy of a public record from the office of a district;
2. Sending copies of the information by first class mail, if the requestor requests that copies be provided and pays the postage and any other applicable charges that the requestor has accrued under Subchapter F of the PIA [see Costs and Charges, below];
3. By referring a requestor to an exact Internet location or uniform resource locator (URL) address on a website maintained by the district and accessible to the public if the requested information is identifiable and readily available on that website. If the person requesting the information prefers a manner other than access through the URL, the district must supply the information by sending copies to the requestor, as described above.

If the officer for public information provides by e-mail an Internet location or URL address, the e-mail must contain a state-

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ment in a conspicuous font clearly indicating that the requestor may nonetheless access the requested information by inspection or duplication or by receipt through United States Mail, as described above.

Gov't Code 552.221(b)–(b-2), .226

Time for Response

An officer for public information shall promptly produce public information for inspection, duplication, or both, on application by any person. "Promptly" means as soon as possible under the circumstances, that is, within a reasonable time, without delay. A district may not automatically withhold for ten business days public information not excepted from disclosure.

If an officer for public information cannot produce the public information for inspection or duplication within ten business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

If the requested information is unavailable because it is in storage or active use, an officer for public information shall certify this fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available for inspection or duplication.

Gov't Code 552.221; Tex. Atty. Gen. ORD 664 (2000)

Requests to Narrow
or Clarify

If a large amount of information has been requested, the district may discuss with the requestor how the scope of the request might be narrowed, but the district may not inquire into the purpose for which the information will be used. If what information is requested is unclear to the district, the district may ask the requestor to clarify the request.

If the request included the requestor's physical or mailing address, the district must send the request for discussion or clarification to that address by certified mail. The written request for discussion or clarification must include a statement as to the consequences of failure by the requestor to timely respond.

If the requestor's request for public information was sent by electronic mail, the district may send the request for clarification or discussion or the written request for additional information by electronic mail to the same electronic mail address from which the original request was sent or to another electronic mail address provided by the requestor.

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If the district does not receive a written response or a response by electronic mail, as applicable, by the 61st day after the district sends the written request, the underlying request for public information is considered to have been withdrawn by the requestor.

Gov't Code 552.222(b), (d)–(g)

Time for
Examination

A requestor shall complete the examination of the information not later than the tenth business day after the date the custodian of the information makes it available. If the requestor does not complete the examination within ten business days and does not file a request for additional time, the requestor is considered to have withdrawn the request.

The officer shall extend the initial examination period by an additional ten business days if, within the initial period, the requestor files with the officer a written request for additional time. The officer shall extend an additional examination period by another ten business days if, within the first additional period, the requestor files with the officer a written request for more additional time.

The time during which a person may examine information may be interrupted by the officer if the information is needed for use by the district. The period of interruption is not considered to be a part of the time during which the person may examine the information.

A request is considered to have been withdrawn if the requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available or fails to pay the postage and any other applicable charges accrued under Government Code, Chapter 552, Subchapter F on or before the 60th day after the date the requestor is informed of the charges.

Gov't Code 552.221(e), .225

Electronic Data

If public information exists in an electronic or magnetic medium, the requestor may request a copy in an electronic medium, such as on diskette or on magnetic tape. A district shall provide a copy in the requested medium:

1. If the district has the technological ability to produce the information in the requested medium;
2. If the district is not required to purchase any software or hardware to accommodate the request; and
3. Providing the copy will not violate any copyright agreement between the district and a third party.

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If a district is unable to comply with a request to produce a copy of information in a requested medium for any of these reasons, the district shall provide a copy in another medium that is acceptable to the requestor. A district is not required to copy information onto a diskette or other material provided by the requestor but may use district supplies.

Gov't Code 552.228

Requests Requiring
Programming or
Manipulation

A district shall provide the requestor a written statement, described below, if the district determines:

1. That responding to a request for information will require programming or manipulation of data; and
2. That:
 - a. Compliance with the request is not feasible or will result in substantial interference with operations; or
 - b. The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.

The written statement shall include:

1. A statement that the information is not available in the requested form;
2. A description of the form in which the information is available;
3. A description of any contract or services that would be required to provide the information in the requested form;
4. A statement of the estimated cost of providing the information in the requested form, as determined in accordance with the rules established by the attorney general [see GBAA(EXHIBIT)]; and
5. A statement of the anticipated time required to provide the information in the requested form.

*Response Time
When
Programming or
Manipulation Is
Required*

A district shall provide the written statement to the requestor within 20 days after the date the district receives the request. The district has an additional ten days to provide the statement if the district gives written notice to the requestor, within 20 days after receiving the request, that additional time is needed.

Further Action

After providing the written statement described above, the district has no further obligation to provide the information in the requested form or in the form in which it is available, unless within 30 days the requestor states in writing that the requestor:

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1. Wants the information in the requested form according to the time and cost parameters set out in the written statement, or according to other terms to which the requestor and the district agree; or
2. Wants the information in the form in which it is available.

If a requestor does not make a timely written statement, the requestor is considered to have withdrawn the request for information.

*Processing of
Requests*

The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data. A district shall maintain a readily accessible file containing all written statements issued concerning requests for information that require programming or manipulation of data.

Gov't Code 552.231

Repetitious or
Redundant
Requests

If a district determines that a requestor has made a request for information for which the district has previously furnished or made copies available to the requestor, the district may:

1. Respond to the request for information as set forth below, at Procedures; or
2. Furnish the information or make the information available to the requestor again in accordance with the request. If the district selects this option, the district is not required to comply with the procedures described below.

Gov't Code 552.232(a)

These provisions do not apply to information not previously furnished to a requestor. A district shall treat a request for information for which copies have not been previously furnished or made available to the requestor, including information that was not furnished or made available because the information was redacted or because the information did not exist at the time of an earlier request, in the same manner as any other request for public information. *Gov't Code 552.232(d)*

Procedures

A district shall, free of charge, certify to the requestor that copies of all or part of the requested information were previously furnished or made available to the requestor. The certification must include:

1. A description of the information for which copies have been previously furnished or made available to the requestor;

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2. The date the district received the requestor's original request for that information;
3. The date the district previously furnished copies or made available copies of the information to the requestor;
4. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
5. The name, title, and signature of the officer for public information or agent making the certification.

Gov't Code 552.232(b), (c)

**Attorney General
Decisions**

Attorney General
Decisions

If a district receives a written request for information that the district considers to be within one of the exceptions to required disclosure and that the district wishes to withhold from public disclosure, the district shall request a decision from the attorney general about whether the information is within the exception [see Submission to Attorney General, below]. For these purposes, the term "written request" includes a request sent by electronic mail or facsimile transmission to the officer or designee.

Time for Request

A district must submit the request to the attorney general not later than the tenth business day after receiving the written request. If a district does not timely request a decision from the attorney general and comply with the requirements at Statement to Requestor, below, the information is presumed to be subject to public disclosure and must be released unless there is a compelling reason to withhold it.

Gov't Code 552.301(a)–(c), .302

A district may only request an attorney general decision if the district reasonably believes that the requested information is excepted from required disclosure. *Tex. Atty. Gen. ORD 665 (2000)*

*Calculating
Timelines*

For the purposes of Government Code sections 552.301–.308, if a district receives a written request by United States mail and cannot adequately establish the actual date of receipt, the request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. *Gov't Code 552.301(a-1)*

When Government Code sections 552.301–.308 require a request, notice, or other document to be submitted or otherwise given to the attorney general within a specified period, the requirement is met in a timely fashion if the district submits the document through the attorney general's designated electronic filing system within that period. This provision does not affect the right of a district to submit

information to the attorney general by mail under Government Code 552.308.

When the attorney general is required to deliver a notice, decision, or other document within a specified period, the requirement is met in a timely fashion if the attorney general electronically transmits the document within that period.

Gov't Code 552.309

*Previous
Determinations*

Same
Information

Except as set forth at Government Code section 552.301(g), a district may not request an attorney general decision if the district has previously requested and received a determination from the attorney general concerning the precise information at issue in a pending request and the attorney general or a court determined that the information is not within one of the exceptions. This exception applies to specific information that is again requested from a district after the attorney general has previously issued a decision regarding the precise information or records at issue. *Gov't Code 552.301(f); Tex. Atty. Gen. ORD 673 (2001)*

Categories of
Information

A district may rely on a previous determination by the attorney general regarding a specific, clearly delineated category of information if:

1. The previous decision is applicable to a school district;
2. The previous decision concludes that the category of information is or is not excepted from public disclosure;
3. The elements of law, fact, and circumstances are met to support the previous decision's conclusion that the requested records and information at issue are or are not excepted from public disclosure; and
4. The previous decision explicitly provides that the governmental body or bodies to which the decision applies may withhold the information without the necessity of seeking a decision from the attorney general.

Tex. Atty. Gen. ORD 673 (2001)

A district that relies on any previous determination to withhold information from disclosure should notify the requestor in writing of the decision or ruling upon which it is relying.

A district may withhold from public disclosure the categories of records listed at Texas Attorney General Open Records Decision 684 (2009).

Tex. Atty. Gen. ORD 684 (2009)

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A district may withhold from public disclosure personally identifiable, non-directory information in "education records" as defined in the Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. 1232g [see FL]. *Tex. Atty. Gen. ORD 634 (1995)*

*Statement to
Requestor*

If a district requests an attorney general decision, it shall provide to the requestor within a reasonable time but not later than the tenth business day after the date of receiving the requestor's written request:

1. A written statement that the district wishes to withhold the requested information and has asked for a decision from the attorney general about whether the information is within an exception to public disclosure; and
2. A copy of the district's written communication to the attorney general asking for the decision. If a district's written communication to the attorney general discloses the requested information, the district shall provide a redacted copy of that written communication.

Gov't Code 552.301(d)

*Submission to
Attorney General*

When a district requests an attorney general decision, it shall, within a reasonable time but not later than the 15th business day after 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; and
4. A copy of the specific information requested, or representative samples of the information if a voluminous amount of information was requested. The district shall label the copies or representative samples to indicate which exceptions apply to which parts of the copy.

The district shall send a copy of the comments to the requestor not later than the 15th business day after the district receives the written request. If the written comments disclose or contain the substance of the information requested, the copy of the comments provided to the requestor shall be redacted.

Gov't Code 552.301(e), (e-1)

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Unless the information is confidential by law, the district may disclose the requested information to the public or the requestor before a final determination that the information is public has been made by the attorney general or a court with jurisdiction. *Gov't Code 552.303(a)*

*Additional
Information*

If the attorney general determines that additional information is necessary to render a decision, the attorney general shall give the district and the requestor written notice of that fact. The district shall submit the necessary additional information to the attorney general not later than the seventh calendar day after the date the notice is received. If the district does not comply with the attorney general's request, the information is presumed to be subject to required public disclosure and must be released unless there is a compelling reason to withhold the information. *Gov't Code 552.303(c)–(e)*

*Privacy or
Property Interests*

If information is requested and a person's privacy or property interests may be involved, including a case under Government Code 552.101 (information confidential by law), 552.104 (information related to competitive bidding), 552.110 (trade secrets), and 552.114 (student records), a district may decline to release the information for the purpose of requesting a decision from the attorney general. A person whose interests may be involved, or any other person, may submit in writing to the attorney general the person's reasons why the information should be withheld or released. A district may, but is not required to, submit its reasons why the information should be withheld or released. *Gov't Code 552.305(a)–(c)*

*Notice to Owner
of Proprietary
Information*

If release of a person's proprietary information may be subject to exception under Government Code 552.101 (information confidential by law), 552.110 (trade secrets), 552.113 (geological or geophysical information), or 552.131 (economic development information), a district that requests an attorney general decision shall make a good faith attempt to provide written notice to that person of its request. The notice must:

1. Be sent within a reasonable time not later than the tenth business day after the district receives the request for information; and
2. Include:
 - a. A copy of any written request a district received for the information; and
 - b. A statement, in the form prescribed by the attorney general, that the person is entitled to submit to the attorney general, not later than the tenth business day after the

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person receives the notice, a written statement of the reason(s) why the information should be withheld and a letter, memorandum, or brief supporting the reason(s).

Gov't Code 552.305(d)

**Charges Regarding
Public Information
Requests**

Costs and Charges

The charge for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the information, including costs of materials, labor, and overhead. The charges shall not be excessive and shall not exceed the actual cost of producing the information or for making public information that exists in a paper record available.

Charges for providing a copy of public information are considered to accrue at the time the district advises the requestor that the copy is available on payment of the applicable charges.

50 Pages or Less

If a request is for 50 or fewer pages of paper records, the charge for providing the copy of the information shall be limited to the charge for each page of the paper record that is photocopied, unless the pages to be photocopied are located in two or more separate buildings that are not physically connected with each other or a remote storage facility. The charge for providing a copy may not include costs of materials, labor, or overhead.

*Statement of
Labor Costs*

If the charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy. The statement must be signed by the officer or agent, and the officer or agent's name must be typed or legibly printed below the signature. A charge may not be imposed for providing the written statement to the requestor.

All requests received in one calendar day from an individual may be treated as a single request for purposes of calculating costs. A district may not combine multiple requests from separate individuals who submit requests on behalf of an organization.

Gov't Code 552.261, .262(a)

*Attorney
General's Rules*

A district shall use the attorney general's rules to determine the charges for providing copies of public information and to determine the charge, deposit, or bond required for making public information that exists in a paper record available for inspection, except to the extent that other law provides for charges for specific kinds of public information. [See GBAA(EXHIBIT)]

A district may determine its own charges for providing copies of public information and its own charge, deposit, or bond for making

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public information that exists in a paper record available for inspection. However, a district may not charge an amount that is greater than 25 percent more than the amount established by the attorney general, unless the district requests an exemption. *Gov't Code 552.262(a); 1 TAC 70.1(b)*

Exemptions

A district may request that it be exempt from part or all of the rules adopted by the attorney general for determining charges. The request must be made in writing to the attorney general and must state the reason for the exemption. If a district receives notice from the attorney general that an exemption has been granted, the district may amend its charges according to the attorney general's determination. *Gov't Code 552.262(c)*

*Copies for
Parents*

A district may charge a reasonable fee in accordance with the above requirements for copies of materials provided to parents pursuant to Education Code Chapter 26. *Education Code 26.012*

*Statement of
Estimated
Charges*

If a request for a copy of public information will result in the imposition of a charge that exceeds \$40, a district shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If an alternative less costly method of viewing the records is available, the statement must include a notice that the requestor may contact the district regarding the alternative method. A district must inform the requestor of the responsibilities imposed on the requestor by Government Code 552.2615 and the rights granted by that section and give the requestor the information needed to respond as detailed in Government Code 552.2615(a).

If, after a district provides the requestor the itemized statement but before it makes the copy or the paper record available, the district determines that the estimated charges will exceed the charges detailed in the original itemized statement by 20 percent or more, the district shall send to the requestor an updated written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs.

*Requestor's
Response*

A request for which a district is required to produce an (original or updated) itemized statement of estimated charges is considered to have been withdrawn if the requestor does not respond in writing to the itemized statement by informing the district within ten business days after the date the statement is sent to the requestor that:

1. The requestor will accept the estimated charges;
2. The requestor is modifying the request in response to the itemized statement; or

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3. The requestor has sent to the attorney general a complaint alleging that the requestor has been overcharged for being provided with a copy of the public information.

Actual Charges

If the actual charges exceed \$40, the charges may not exceed:

1. The amount estimated in the updated itemized statement; or
2. If an updated itemized statement is not sent to the requestor, an amount that exceeds by 20 percent or more the amount estimated in the original itemized statement.

*Timing of
Deadlines*

An original or updated itemized statement is considered to have been sent by a district, and a requestor is considered to have responded to the statement, on the date that the statement or response is:

1. Delivered in person;
2. Deposited, properly addressed, in the U.S. Mail; or
3. Transmitted by electronic mail or facsimile, provided the requestor agrees to receive the statement by those means.

The time deadlines for providing or responding to the required statement of estimated charges do not affect the application of a time deadline imposed on a district for requesting a decision by the attorney general under Government Code 552, Subchapter G.

Gov't Code 552.2615

Deposit or Bond

The officer for public information or agent may require a deposit or bond for payment of anticipated costs for the preparation of a copy of public information if:

1. The officer or agent has provided the requestor with the written itemized statement required by Government Code 552.2615 [see Statement of Estimated Charges, above]; and
2. The charge for providing the copy is estimated by the district to exceed \$100, if the district has more than 15 full-time employees, or \$50, if the district has fewer than 16 full-time employees.

The officer or agent may not require a deposit or bond as a down payment for copies of public information that the requestor may request in the future.

Gov't Code 552.263(a), (b)

For the purposes of charging for providing copies of public information or for requesting an attorney general's opinion, a request

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for a copy of public information is considered to have been received by the district on the date the district receives the deposit or bond. *Gov't Code 552.263(e)*

A requestor who fails to make such a deposit or post such a bond before the tenth business day after the date the deposit or bond is required is considered to have withdrawn the request. *Gov't Code 552.263(f)*

Modified
Request

If a requestor modifies a request in response to the requirement of a deposit or bond, the modified request is considered a separate request and is considered received on the date the district receives the written modified request. *Gov't Code 552.263(e-1)*

Unpaid Amounts

The officer for public information or agent may require a deposit or bond for payment of unpaid amounts the requestor owes a district in relation to previous public information requests before preparing a copy of public information in response to a new request, if those unpaid amounts exceed \$100. The officer for public information or agent may not seek payment of those unpaid amounts through any other means. *Gov't Code 552.263(c)*

A district that receives a request from a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the district as provided under Government Code 552.261(b) may require the requestor to pay the estimated charges for the request before the request is fulfilled. *Gov't Code 552.2661*

*Documentation of
Unpaid Amounts*

A district must fully document the existence and amount of those unpaid amounts or the amount of any anticipated costs before requiring a deposit or bond. The documentation is subject to required public disclosure. *Gov't Code 552.263(d)*

Waivers

A district shall provide a copy of public information without charge or at a reduced charge if the district determines that waiver or reduction of the charge is in the public interest because providing the information primarily benefits the public.

If the cost to a district of processing the collection of a charge for providing a copy of public information will exceed the amount of the charge, the district may waive the charge.

Gov't Code 552.267

*Government
Publication*

The cost provisions described above do not apply to a publication that is compiled and printed by or for a district for public dissemination. If the cost of the publication is not determined by state law, a district may determine the charge for providing the publication, or

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	the district may provide the publication free of charge, if state law does not require a certain charge. <i>Gov't Code 552.270</i>
Inspection of Public Information	If the requestor does not request a copy of public information, a district may not impose a charge for making available for inspection any public information that exists in a paper record, except as set forth below. <i>Gov't Code 552.271(a)</i>
Inspection of Public Information	
<i>Confidential Information</i>	If a page contains confidential information that must be edited from the record before the information can be made available for inspection, a district may charge for the cost of making a photocopy of the page from which the confidential information must be edited. No charge other than the cost of the photocopy may be imposed. <i>Gov't Code 552.271(b)</i>
<i>Payment, Deposit, or Bond</i>	<p>The officer for public information or agent may require a requestor to pay, or to make a deposit or post a bond for the payment of, anticipated personnel costs for making available for inspection public information that exists in paper records if:</p> <ol style="list-style-type: none">1. The information specifically requested by the requestor is older than five years or completely fills, or when assembled will completely fill, six or more archival boxes; and2. The officer for public information or agent estimates that more than five hours will be required to make the information available for inspection. <p><i>Gov't Code 552.271(c)</i></p>
Certain Small Districts	<p>If a district has fewer than 16 full-time employees, the payment, deposit, or bond may be required only if:</p> <ol style="list-style-type: none">1. The information specifically requested by the requestor is older than three years or completely fills, or when assembled will completely fill, three or more archival boxes; and2. The officer for public information or agent estimates that more than two hours will be required to make the information available for inspection. <p><i>Gov't Code 552.271(d)</i></p>
<i>Electronic Records</i>	If a district receives a request to inspect information that exists in an electronic medium and that is not available directly online to the requestor, the district may not impose a charge for access to the information unless complying with the request will require programming or manipulation of data. If programming or manipulation of data is required, a district shall notify the requestor before assembling the information and provide the requestor with an estimate of charges that will be imposed.

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If public information exists in an electronic form on a computer owned or leased by a district, and the public has direct access to that computer through a computer network or other means, the electronic form of the information may be electronically copied from that computer without charge if accessing the information does not require processing, programming, or manipulation on the district's computer before the information is copied. If such information does require processing, programming, or manipulation before it can be copied, a district may impose charges.

If a district creates or keeps information in an electronic form, the district is encouraged to explore options to separate confidential information from public information and make the public information available to the public through electronic access through a computer network or other means.

Gov't Code 552.272

**Miscellaneous
Provisions**

Large or Frequent
Requests

Personnel Time

A district may establish reasonable monthly and yearly limits on the amount of time that district employees are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without recovering its costs attributable to that personnel time. A yearly time limit may not be less than 36 hours for a requestor during the 12-month period that corresponds to a district's fiscal year. A monthly time limit may not be less than 15 hours for a requestor for a one-month period.

Request by
Minor

Any time spent complying with a request submitted in the name of a minor, as defined by Family Code 101.003(a), is to be included in the calculation of the cumulative amount of time spent complying with a request for public information by a parent, guardian, or other person who has control of the minor under a court order and with whom the minor resides, unless that parent, guardian, or other person establishes that another person submitted that request in the name of the minor.

Exception

This section does not apply if the requestor is an individual who, for a substantial portion of the individual's livelihood or for substantial financial gain, gathers, compiles, prepares, collects, photographs, records, writes, edits, reports, investigates, processes, or publishes news or information for and is seeking the information for:

1. Dissemination by a news medium or communication service provider, including:
 - a. An individual who supervises or assists in gathering, preparing, and disseminating the news or information; or

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- b. An individual who is or was a journalist, scholar, or researcher employed by an institution of higher education at the time the person made the request for information; or
2. Creation or maintenance of an abstract plant as described by Insurance Code 2501.004.

"Communication service provider" has the meaning assigned by Civil Practice and Remedies Code 22.021.

"News medium" means a newspaper, magazine or periodical, a book publisher, a news agency, a wire service, an FCC-licensed radio or television station or a network of such stations, a cable, satellite, or other transmission system or carrier or channel, or a channel or programming service for a station, network, system, or carrier, or an audio or audiovisual production company or Internet company or provider, or the parent, subsidiary, division, or affiliate of that entity, that disseminates news or information to the public by any means, including:

1. Print;
2. Television;
3. Radio;
4. Photographic;
5. Mechanical;
6. Electronic; and
7. Other means, known or unknown, that are accessible to the public.

This section also does not apply if the requestor is an elected official of the United States, this state, or a political subdivision of this state or a representative of a publicly funded legal services organization that is a federal tax exempt entity under Section 501(c)(3), Internal Revenue Code of 1986.

*Written
Statement of
Personnel Time*

If a district establishes a time limit, each time the district complies with a request for public information, the district shall provide the requestor with a written statement of the amount of personnel time spent complying with that request and the cumulative amount of time spent complying with requests for public information from that requestor during the applicable monthly or yearly period. The amount of time spent preparing the written statement may not be included in the amount of time in the statement.

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*Written Estimate
of Charges*

If the cumulative amount of personnel time spent complying with requests for public information from the same requestor equals or exceeds the established time limit, a district shall provide the requestor with a written estimate of the total cost, including materials, personnel time, and overhead expenses, necessary to comply with the request. The district shall provide the written estimate on or before the tenth day after the date on which the request was made. The amount of this charge relating to the cost of locating, compiling, and producing the public information shall be established by rules prescribed by the attorney general.

When a request is made by a requestor who has made a previous request to the district that has not been withdrawn, for which the district has located and compiled documents in response, and for which the district has issued a written estimate of charges that remains unpaid on the date the requestor submits the new request, the district is not required to locate, compile, produce, or provide copies of documents or prepare an estimate of charges in response to a new request until the date the requestor pays each unpaid statement issued in connection with a previous request or withdraws the previous request to which the statement applies.

Additional Time

If a district provides the requestor with written notice that additional time is required to prepare the written estimate, the district must provide the written estimate as soon as practicable, but on or before the tenth day after the date the district provided the notice that additional time was required.

*Acceptance of
Charges*

If a district provides a requestor with the estimate of charges and the time limits regarding the requestor have been exceeded, a district is not required to produce public information for inspection or duplication or to provide copies of public information in response to the requestor's request unless on or before the tenth day after the date the district provided the written estimate, the requestor submits payment of the amount stated in the written estimate.

If the requestor fails or refuses to submit payment, the requestor is considered to have withdrawn the request.

*Waived or
Reduced
Charges*

This section does not prohibit a district from providing a copy of public information without charge or at a reduced rate, or from waiving a charge for providing a copy of public information, under Government Code 552.267 [see Waivers, above].

Gov't Code 552.275

*Filing Suit to
Withhold
Information*

A district may file suit seeking to withhold information if the district receives a determination from the attorney general that information must be disclosed to a requestor. The suit must be filed in Travis

County district court against the attorney general and must seek declaratory relief from compliance with the attorney general's decision.

The district must bring the suit not later than the 30th calendar day after the district receives the attorney general's decision. If the district wishes to preserve an affirmative defense for its officer for public information, as provided by Government Code 552.353(b)(3), the district must file suit not later than the tenth calendar day after receipt of the attorney general's decision.

Gov't Code 552.324, .353(b)(3)

Parent's Request
for Information

A district that receives a request from a parent for public information relating to the parent's child shall comply with the PIA.

A district that seeks to withhold information from a parent who has requested public information relating to the parent's child under the PIA, and that files suit to challenge a decision by the attorney general, must bring the suit not later than the 30th calendar day after the date the district receives the decision of the attorney general, unless an earlier deadline is established by the PIA.

A court shall grant such a suit precedence over other pending matters to ensure prompt resolution. Notwithstanding any other law, a district may not appeal the decision of the court. This prohibition does not affect the right of a parent to appeal the decision. If a district does not bring suit within the period established, the district shall comply with the decision of the attorney general.

Education Code 26.0085

**Charging for
Personnel Time**

As authorized by law, the District shall charge a requestor for additional personnel time spent producing information for the requestor after personnel of the District have collectively spent:

1. 36 hours of time during the District's fiscal year; or
2. 15 hours of time during a one-month period.

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**Applicability of
Criminal Laws**

The criminal laws of the state apply to the areas under the control and jurisdiction of the board. *Education Code 37.101*

Trespass

A school administrator, school resource officer, or school district peace officer may refuse to allow persons to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

1. The person poses a substantial risk of harm to any person; or
2. The person behaves in a manner that is inappropriate for a school setting and:
 - a. The administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is inappropriate and may result in the person's refusal of entry or ejection; and
 - b. The person persists in that behavior.

Identification may be required of any person on the property.

A district shall maintain a record of each verbal warning issued, including the name of the person to whom the warning was issued and the date of issuance.

At the time a person is refused entry to or ejected from a school district's property, the district shall provide to the person written information explaining the appeal process.

If a parent or guardian of a child enrolled in a school district is refused entry to the district's property, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.

A district shall post on the district's website and each district campus shall post on any campus website a notice regarding these trespass provisions, including the appeal process.

Education Code 37.105

An unauthorized person who trespasses on the grounds of a school district commits a Class C misdemeanor. *Education Code 37.107*

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**Vehicles on School
Property**

A board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule or regulation promulgated by the board or set forth in Education Code Chapter 37, Subchapter D. [See CLC] *Education Code 37.106*

**Disruption of Lawful
Assembly**

A person commits a Class B misdemeanor if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of a public school.

Disruptive activity means:

1. Obstructing or restraining the passage of persons in an exit, entrance, or hallway of any building without the authorization of the administration of the school;
2. Seizing control of any building or portion of a building to interfere with any administrative, educational, research, or other authorized activity;
3. Preventing or attempting to prevent by force or violence or the threat of violence any lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;
4. Disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or
5. Obstructing or restraining the passage of any person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats thereof the ingress or egress of any person to or from the property or campus without the authorization of the administration of the school.

Free Speech

This provision shall not be construed to infringe upon any right of free speech or expression guaranteed by the constitutions of the United States or the state of Texas.

Education Code 37.123

**Disruption of
Classes**

A person, other than a primary or secondary grade student enrolled in the school, commits a Class C misdemeanor if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities. It is an exception to the application of the offense that, at the time the person engaged

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in the prohibited conduct, the person was younger than 12 years of age.

Disrupting the conduct of classes or other school activities includes:

1. Emitting noise of an intensity that prevents or hinders classroom instruction.
2. Enticing or attempting to entice a student away from a class or other school activity that the student is required to attend.
3. Preventing or attempting to prevent a student from attending a class or other school activity that the student is required to attend.
4. Entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or use of loud or profane language, disrupting class activities.

"School property" includes a public school campus or school grounds on which a public school is located, and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

"Public property" includes a street, highway, alley, public park, or sidewalk.

Education Code 37.124

**Disruption of
Transportation**

A person, other than a primary or secondary grade student, commits a Class C misdemeanor if the person intentionally disrupts, prevents, or interferes with the lawful transportation of students to and from school, or to or from activities sponsored by a school, on a vehicle owned and/or operated by a district. It is an exception to the application of the offense that, at the time the person engaged in the prohibited conduct, the person was younger than 12 years of age. *Education Code 37.126*

**Tobacco and
E-Cigarettes**

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property. School personnel shall enforce these policies on school property. *Education Code 38.006* [See FNCD for the definition of e-cigarette.]

**Smoking in
Buildings**

A district shall not permit smoking within any indoor facility used for provision of routine or regular kindergarten, elementary, or secondary education or library services to children; or regular or routine health care or day care or early childhood development (Head Start) services to children or for the use of employees who provide such services. *20 U.S.C. 6083; 20 U.S.C. 7183*

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<i>Criminal Penalty</i>	A person commits an offense if the person is in possession of a burning tobacco product, smokes tobacco, or operates an e-cigarette in a facility of a public school.
<i>Defense</i>	It is a defense to prosecution that a district does not have prominently displayed a reasonably sized notice that smoking is prohibited by state law in such place and that an offense is punishable by a fine not to exceed \$500.
<i>Facilities for Extinguishment</i>	A district shall be equipped with facilities for extinguishment of smoking materials. <i>Penal Code 48.01(a)–(c)</i>
Alcohol	A 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> [See FNCF regarding alcohol-free zones.]
Intoxicants	A person commits a Class C misdemeanor if the person possesses an intoxicating beverage for consumption, sale, or distribution while: <ol style="list-style-type: none">1. On the grounds or in a building of a public school; or2. Entering or inside any enclosure, field, or stadium where any athletic event sponsored or participated in by a public school is being held. <i>Education Code 37.122</i> [See also FNCF]
Fireworks	A person may not explode or ignite fireworks within 600 feet of any school unless the person receives authorization in writing from the school. <i>Occupations Code 2154.251(a)(1)</i>
Federal Gun-Free School Zones Act	It is unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone. “School zone” means in, or on the grounds of, a school; or within a distance of 1,000 feet from the grounds of a school. This prohibition does not apply to the possession of a firearm: <ol style="list-style-type: none">1. On private property not part of school grounds;2. If the individual possessing the firearm is licensed to do so by the state, and the law of the state requires that, before an individual obtains such a license, the law enforcement authorities of the state verify that the individual is qualified under law to receive the license;

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3. That is not loaded and in a locked container, or a locked fire-arms rack that is on a motor vehicle;
4. By an individual for use in a program approved by a school in the school zone;
5. By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;
6. By a law enforcement officer acting in his or her official capacity; or
7. That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

It is unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a school zone.

This prohibition does not apply to the discharge of a firearm:

1. On private property not part of school grounds;
2. As part of a program approved by a school in the school zone, by an individual who is participating in the program;
3. By an individual in accordance with a contract entered into between a school in a school zone and the individual or an employer of the individual; or
4. By a law enforcement officer acting in his or her official capacity.

18 U.S.C. 921(a)(25), .922(q)

**Possession of
Weapons**

A person commits a third degree felony if the person knowingly, intentionally, or recklessly possesses or goes with a firearm, location-restricted knife, club, or prohibited weapon [see FNCG]:

1. Onto the physical premises (a building or portion of a building) of a school;
2. Onto any grounds or into a building in which an activity sponsored by a school is being conducted; or
3. On a passenger transportation vehicle of a school.

This offense does not apply if the person is acting pursuant to written regulations or written authorization of a district.

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It is not a defense to prosecution that the person possessed a handgun and was licensed to carry a handgun.

Penal Code 46.03(a)(1), (f)

A person commits a third degree felony if the person intentionally, knowingly, or recklessly possesses or goes with a location-restricted knife on the premises where a high school sporting event or interscholastic event is taking place, unless the person is a participant in the event and a location-restricted knife is used in the event. [See FNCG] *Penal Code 46.03(a-1)*

Premises Defined "Premises," for purposes of this policy, means a building or a portion of a building. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area. *Penal Code 46.035(f)(3)*

Excepted Persons Penal Code 46.03 does not apply to:

1. Peace officers or special investigators regardless of whether engaged in the actual discharge of the officer's or investigator's duties;
2. Parole officers while engaged in the actual discharge of the officer's duties;
3. Community supervision and corrections department officers while engaged in the actual discharge of the officer's duties;
4. An active judicial officer who is licensed to carry a handgun;
5. An honorably retired peace officer, qualified retired law enforcement officer, federal criminal investigator, or former reserve law enforcement officer who holds a certificate of proficiency and is carrying a photo identification verifying that the officer or investigator qualifies for this exception;
6. The attorney general or a United States attorney, district attorney, criminal district attorney, county attorney, or municipal attorney who is licensed to carry a handgun;
7. An assistant United States attorney, assistant attorney general, assistant district attorney, assistant criminal district attorney, or assistant county attorney who is licensed to carry a handgun;
8. A bailiff designated by an active judicial officer who is licensed to carry a handgun and engaged in escorting the judicial officer;
9. A juvenile probation officer who is authorized to carry a firearm; or

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10. A person who is volunteer emergency services personnel if the person is carrying a handgun under the authority of Government Code, Chapter 411, Subchapter H; and engaged in providing emergency services.

Penal Code 46.15(a)

Transportation or
Storage of Firearm
in School Parking
Area

A district may not prohibit a person who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125 or Penal Code 46.03 or 46.035, or other law.

Education Code 37.0815

Volunteer
Emergency
Services Personnel

A district is not liable in a civil action arising from the discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Government Code, Chapter 411, Subchapter H.

The discharge of a handgun by an individual who is volunteer emergency services personnel and licensed to carry the handgun under Subchapter H, Chapter 411, Government Code, is outside the course and scope of the individual's duties as volunteer emergency services personnel.

The district does not waive immunity from suit or liability under the Texas Tort Claims Act or any other law.

"Volunteer emergency services personnel" includes a volunteer firefighter, an emergency medical services volunteer as defined by Health and Safety Code 773.003, and any individual who, as a volunteer, provides services for the benefit of the general public during emergency situations. The term does not include a peace officer or reserve law enforcement officer, as those terms are defined by Occupations Code 1701.001, who is performing law enforcement duties.

Civil Practice & Remedies Code 112.001; Penal Code 46.01(18)

Exhibition of Firearm

A person commits a third degree felony if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

1. Exhibits or uses a firearm:

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- a. In or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or
 - b. On a school bus being used to transport children to and from school-sponsored activities;
2. Threatens to exhibit or use a firearm in or on property described above or on a bus and was in possession of or had immediate access to the firearm.

A person commits a Class A misdemeanor if the person threatens to exhibit or use a firearm, but was not in possession of or did not have immediate access to the firearm.

Education Code 37.125

**Trespass—
Concealed Carry of
Handgun**

A license holder commits an offense if the license holder:

1. Carries a concealed handgun on the property of another without effective consent; and
2. Received notice that entry on the property by a license holder with a concealed handgun was forbidden.

An offense under Penal Code 30.06 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice that entry or remaining on the property with a concealed handgun was forbidden and subsequently failed to depart.

**Notice / Sign—
Concealed Carry of
Handgun**

For purposes of Penal Code 30.06, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

“Written communication” means:

1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun”; or
2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public.

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Exception	<p>It is an exception to Penal Code 30.06 that the property on which the license holder carries a concealed handgun is owned or leased by a district and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03 or 46.035.</p> <p><i>Penal Code 30.06</i> [See also FNCG]</p>
Unauthorized Notice	<p>A district may not provide notice, by a communication described by Penal Code 30.06 or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of Government Code Chapter 411 is prohibited from entering or remaining on a premises or other place owned or leased by the district unless license holders are prohibited from carrying a handgun on the premises or other place by Penal Code 46.03 or 46.035. <i>Gov't Code 411.209</i></p>
Trespass—Open Carry of Handgun	<p>A holder of a license to openly carry a handgun commits an offense if the license holder:</p> <ol style="list-style-type: none">1. Openly carries a handgun on property of another without effective consent; and2. Received notice that entry on the property by a license holder openly carrying a handgun was forbidden.
Notice / Sign—Open Carry of Handgun	<p>For purposes of Penal Code 30.07, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.</p> <p>“Written communication means”:</p> <ol style="list-style-type: none">1. A card or other document on which is written language identical to the following: “Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly”; or2. A sign posted on the property that includes the language described above in both English and Spanish, appears in contrasting colors with block letters at least one inch in height, and is displayed in a conspicuous manner clearly visible to the public at each entrance to the property. <p>An offense under Penal Code 30.07 is a Class C misdemeanor, except that the offense is a Class A misdemeanor if, after entering the property, the license holder was personally given the notice by oral communication that entry or remaining on the property with an</p>

COMMUNITY RELATIONS
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openly carried handgun was forbidden and subsequently failed to depart.

Exception

It is an exception to Penal Code 30.07 that the property on which the license holder openly carries the handgun is owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under Penal Code 46.03 or 46.035.

Penal Code 30.07

**Interscholastic
Events**

Unless authorized by law, a license holder commits a Class A misdemeanor if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, on the premises where a high school, collegiate, or professional sporting event or interscholastic event is taking place.

Penal Code 46.035(b)(2) does not apply if the license holder is a participant in the event and a handgun is used in the event.

Penal Code 46.035(b)(2)

Board Meetings

Unless authorized by law, a license holder commits a Class A misdemeanor if the license holder intentionally, knowingly, or recklessly carries a handgun, regardless of whether the handgun is concealed or carried in a shoulder or belt holster, in the room or rooms where a meeting of the board is held and if the meeting is an open meeting under the Open Meetings Act.

Penal Code 46.035(c) does not apply unless the license holder was given effective notice under Penal Code 30.06 or 30.07 [see Notice/Sign—Concealed Carry of Handgun and Notice/Sign—Open Carry of Handgun, above].

Penal Code 46.035(c), (i)

Board Authorization

A license holder does not commit a criminal offense under Penal Code 46.035 [see Interscholastic Events and Board Meetings, above] if the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization. *Att'y Gen. Op. GA-1051 (2014)* [See Handgun Licensees at CKE(LEGAL)]

COMMUNITY RELATIONS
CONDUCT ON SCHOOL PREMISES

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Campus and District administrators, as well as school resource officers and District police officers if applicable, may refuse to allow a person to enter or may eject a person from property under the District's control in accordance with law.

District personnel may request assistance from law enforcement in an emergency or when a person is engaging in behavior rising to the level of criminal conduct.

**Off-Campus
Activities**

Employees shall be designated to ensure appropriate conduct of participants and others attending a school-related activity at non-District or out-of-District facilities. Those so designated shall coordinate their efforts with persons in charge of the facilities.

Prohibitions

Tobacco and
E-Cigarettes

The District prohibits smoking and the use of tobacco products and e-cigarettes on District property, in District vehicles, or at school-related activities.

Weapons

The District prohibits the unlawful use, possession, or display of any firearm, location-restricted knife, club, or prohibited weapon, as defined at FNCG, on all District property and in District vehicles at all times. Violators shall be subject to prosecution to the fullest extent of the law.

Exceptions

No violation of this policy occurs when:

1. A Texas handgun license holder stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area owned or provided by the District, as long as the handgun or other firearm is not loaded and not in plain view; or
2. The use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities. [See FOD]

Commercial Signs	<p>A person commits an offense if the person erects or maintains a commercial sign or a sign in violation of Transportation Code Chapters 391 through 395 and the relevant provisions of the Administrative Code. <i>Transp. Code 391.003, .0031, .061, .067, 392.032, 393.005, 394.021; 43 TAC Chapter 21</i></p>
General Definitions	<p>"Commercial sign" means a sign that is:</p> <ol style="list-style-type: none">1. Intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company, except that the term does not include a sign that is leased to a business entity and located on the same property on which the business is located; or2. Located on property owned or leased for the primary purpose of displaying a sign. <p><i>Transp. Code 391.001(1-a)</i></p> <p>"Sign" means any structure, display, light, device, figure, painting, drawing, message, plaque, placard, poster, billboard, logo, or symbol that is designed, intended, or used to advertise or inform. <i>Transp. Code 391.001(11-a), 392.001, 393.001, 394.001, 395.002</i></p> <p>"Electronic sign" means a sign, display, or device that changes its message or copy by programmable electronic or mechanical processes. <i>43 TAC 21.251</i></p> <p>"Directional sign" means a sign that contains only a message that identifies an attraction or activity and provides directional information, such as mileage, route number, or exit number, useful to the traveler in locating the attraction or activity. <i>43 TAC 21.941</i></p>
Interstate or Primary System	<p>A district that wishes to erect or maintain outdoor advertising that is visible from the main-traveled way of the interstate or primary system shall comply with Transportation Code Chapter 391 and 43 Administrative Code Chapter 21, Subchapter I.</p> <p>"Interstate system" means that portion of the national system of interstate and defense highways that is located in this state and is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.</p> <p>"Primary system" means that portion of connected main highways located in this state that is designated officially by the Texas Transportation Commission and approved under Title 23, United States Code.</p> <p><i>Transp. Code 391.001</i></p>

COMMUNITY RELATIONS
ADVERTISING AND FUNDRAISING

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State Highway Right-of-Way	<p>A district that wishes to place or maintain a sign on a state highway right-of-way shall comply with Transportation Code Chapter 392.</p> <p>“State highway right-of-way” means the right-of-way of a highway designated as part of the state highway system. <i>Transp. Code 392.001</i></p>
Public Road	<p>A district that wishes to place a sign on the right-of-way of a public road shall comply with Transportation Code Chapter 393.</p>
Rural Road	<p>A district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a rural road shall comply with Transportation Code Chapter 394 and 43 Administrative Code Chapter 21, Subchapter K.</p> <p>“Rural road” means a road, street, way, or bridge:</p> <ol style="list-style-type: none">1. That is located in an unincorporated area;2. That is not privately owned or controlled;3. Any part of which is open to the public for vehicular traffic; and4. That is under the jurisdiction of the state or a political subdivision. <p><i>Transp. Code 394.002</i></p>
Toll Road	<p>A district that wishes to erect or maintain an outdoor sign that is visible from the main-traveled way of a toll road and erected for the purpose of having the message seen from the main-traveled way shall comply with any rules adopted by the governing body of the toll road authority under Transportation Code Chapter 395.</p> <p>This provision applies only to a toll road located in a county with a population of 3.3 million or more; or that is adjacent to a county with a population of 3.3 million or more and in which a municipality with a population of more than 60,000 is located. <i>Transp. Code 395.001</i></p>
Electronic Sign	<p>A district that wishes to erect an electronic sign shall comply with 43 Administrative Code Subchapter J.</p>
Directional Sign	<p>A district that wishes to erect a directional sign shall comply with 43 Administrative Code Subchapter Q.</p>
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>

A “qualified nonprofit organization” for purposes of the Charitable Raffle Enabling Act may conduct raffles in accordance with the Act to benefit a district or school. A parent-teacher organization may be qualified to hold such raffles if it meets the requirements of the Act. *Occupations Code 2002.003, 2002.051; Atty. Gen. Op. JM-1176 (1990)* [See also CDC]

Identification

A district may require a person who enters a district campus to display the person's driver's license or another form of identification containing the person's photograph issued by a governmental entity.

Visitor Database

A district may establish an electronic database for the purpose of storing information concerning visitors to district campuses. Information stored in the electronic database may be used only for the purpose of school district security and may not be sold or otherwise disseminated to a third party for any purpose.

Sex Offenders

A district may verify whether a visitor to a district campus is a sex offender registered with the computerized central database maintained by the Department of Public Safety as provided by Code of Criminal Procedure 62.005 or any other database accessible by the district.

A board shall adopt a policy regarding the action to be taken by the administration of a school campus when a visitor is identified as a sex offender.

Education Code 38.022

Notice of Entry onto
School Premises

"Premises" means a building or portion of a building and the grounds on which the building is located, including any public or private driveway, street, sidewalk or walkway, parking lot, or parking garage on the grounds.

"School" means a private or public elementary or secondary school or a day-care center.

A registered sex offender who enters the premises of any school in Texas during the standard operating hours of the school shall immediately notify the administrative office of the school of the person's presence on the premises of the school and the person's registration status. The office may provide a chaperon to accompany the person while the person is on the premises of the school.

These requirements do not apply to:

1. A student enrolled at the school;
2. A student from another school participating at an event at the school; or
3. A person who has entered into a written agreement with the school that exempts the person from these requirements.

Code of Crim. Proc. 62.064; Health and Safety Code 481.134

COMMUNITY RELATIONS
VISITORS

GKC
(LEGAL)

Ordinances in
General-Law
Municipalities

"Child safety zone" means premises where children commonly gather. The term includes a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children.

"Playground," "premises," "school," "video arcade facility," and "youth center" have the meanings assigned by Health and Safety Code 481.134.

"Registered sex offender" means an individual who is required to register as a sex offender under Code of Criminal Procedure, Chapter 62.

To provide for the public safety, the governing body of a general-law municipality by ordinance may restrict a registered sex offender from going in, on, or within a specified distance of a child safety zone in the municipality.

It is an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender was in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes.

The ordinance may establish a distance requirement at any distance of not more than 1,000 feet.

The ordinance shall establish procedures for a registered sex offender to apply for an exemption from the ordinance.

The ordinance must exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted. The exemption must apply only to areas necessary for the registered sex offender to have access to and to live in the residence, and the period the registered sex offender maintains residency in the residence.

Local Gov't Code 341.906

**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 institutions of higher education or to prospective employers of those students. *20 U.S.C. 7908(a)(3)*

Armed Services
Vocational Aptitude
Battery Test

Each school year each school district shall provide students in grades 10 through 12 an opportunity to take the Armed Services Vocational Aptitude Battery (ASVAB) test and consult with a military recruiter. [See EK] *Education Code 29.9015*

COMMUNITY RELATIONS
VISITORS ~~TO THE SCHOOLS~~

GKC
(LOCAL)

**Registered Sex
~~Offender~~Offenders
on a School
CampusDistrict
Premises**

The AISD welcomes visitors to all of our campuses and facilities.

Prominent notices shall be posted at each campus requiring all visitors to first report to the campus ~~main administrative~~ administrative office. This shall apply to parents, ~~Board members~~, volunteers, social service workers, invited speakers, maintenance and repair persons not employed by the District, vendors, 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 ~~classroom-school~~ educational/school environment.

[See BBE(LOCAL) for visits to District facilities by Board members.]

The Superintendent ~~and, working with~~ campus administrators, shall develop and implement procedures regarding a campus ~~visitor~~ visitors who ~~is registered~~ are identified as a sex ~~offender~~ offenders. These procedures shall address:

1. Parental rights;
2. Escort by District personnel;
3. Access to common areas of the campus;
4. Access to classrooms;
5. Drop off and release of students;
6. Eligibility to serve as volunteers; and
7. Any other relevant issues.

**Patriotic Society
Access to Students**

“Patriotic society” means a youth membership organization listed in Title 36 of the United States Code with an educational purpose that promotes patriotism and civic involvement.

At the beginning of each school year, the board shall adopt a policy to allow the principal of a campus to provide representatives of a patriotic society with the opportunity to speak to students during regular school hours about membership in the society and the ways in which membership may promote a student's educational interest and level of civic involvement, leading to the student's increased potential for self-improvement and ability to contribute to improving the student's school and community.

The board policy shall give a principal complete discretion over the specific date and time of the opportunity required to be provided, except that the policy shall allow the principal to limit the opportunity provided to a patriotic society to a single school day and any presentation made to students as a result of the opportunity to ten minutes in length.

Education Code 25.0822

[For provisions related to a patriotic society's access to school facilities, see GKD.]

A campus principal shall have the authority to offer a representative of a patriotic society an opportunity to speak to students during regular school hours about membership in the society.

The principal shall have discretion over the date and time of such visits and is authorized to limit this opportunity to a single school day and to limit a presentation by a patriotic society to ten minutes in length.

[For more information about patriotic societies, see GKD(LEGAL).]

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

GKG
(LEGAL)

A district shall develop a volunteer program. In developing the program, a district shall consider volunteers a resource that requires advance planning and preparation for effective use. If practicable, a district shall include volunteers in addition to paid staff in planning the implementation of the program. *Gov't Code 2109.003*

**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 a 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)

**Criminal History
Record**

A volunteer may not perform any volunteer duties until:

1. The volunteer has provided to a district a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government; and
2. The district has obtained from the Texas Department of Public Safety (DPS) all criminal history record information that relates to the volunteer. A district may obtain a volunteer's criminal history record information from any other law enforcement

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

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	agency, criminal justice agency, or private consumer reporting agency.
Applicability	The criminal history record review requirements apply to a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with a district or shared services arrangement.
Exception	<p>The criminal history record review requirements do not apply to a person who volunteers or is applying to volunteer with a district or shared services arrangement if the person:</p> <ol style="list-style-type: none">1. Is the parent, guardian, or grandparent of a child who is enrolled in the district for which the person volunteers or is applying to volunteer;2. Will be accompanied by a district employee while on a school campus; or3. Is volunteering for a single event on the school campus. <p>A district may obtain all criminal history record information that relates to an individual listed above.</p>
Costs	<p>A district may require a volunteer or volunteer applicant to pay any costs related to obtaining criminal history record information.</p> <p><i>Education Code 22.0835</i></p> <p>[See DBAA(LEGAL) for definitions and provisions regarding confidentiality, records retention, and criminal history record checks of employees.]</p>
Immunity	<p>A volunteer who is serving as a direct service volunteer in a 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.</p> <p>A “volunteer” is a person rendering services for or on behalf of a 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.</p> <p><i>Education Code 22.053</i></p>
Extracurricular Activities	<p>A person who volunteers to assist with an extracurricular activity is not liable for civil damages arising out of an act or omission relating to the requirements under Education Code 33.205 regarding safety precautions [see FM(LEGAL)] unless the act or omission is willfully or wantonly negligent. <i>Education Code 33.211</i></p>

COMMUNITY RELATIONS
SCHOOL VOLUNTEER PROGRAM

GKG
(LEGAL)

*Physical
Examinations*

Subject to Civil Practices and Remedies Code 91.003 (liability insurance requirements), a health-care practitioner who, without compensation or expectation of compensation, conducts a physical examination or medical screening for the purpose of determining the physical health and fitness of the patient to participate in a school-sponsored extracurricular or sporting activity is immune from civil liability for any act or omission resulting in the death of or injury to the patient if:

1. The health care practitioner was acting in good faith and in the course and scope of the health-care practitioner's duties;
2. The health-care practitioner commits the act or omission in the course of conducting the physical examination or medical screening of the patient;
3. The services provided to the patient are within the scope of the license of the health-care practitioner; and
4. Before the health-care practitioner conducts the physical examination or medical screening, the patient signs a written statement that acknowledges:
 - a. That the health-care practitioner is conducting a physical examination or medical screening that is not administered for or in expectation of compensation; and
 - b. The limitations on the recovery of damages from the health-care practitioner in connection with the physical examination or medical screening being performed.

If the patient is a minor or is otherwise legally incompetent, the patient's parent, managing conservator, legal guardian, or other person with legal responsibility for the care of the patient must sign the written statement.

Civil Practice & Remedies Code 91.002

Immunity for Shelter
Workers

A district volunteer is not civilly liable for an act performed in the discharge of duty if the person is performing an activity related to sheltering or housing individuals in connection with the evacuation of an area stricken or threatened by disaster. *Gov't Code 418.006*

**Training –
Concussion
Oversight Team**

A licensed health care professional who serves on a volunteer basis on a district's concussion oversight team [see FM] must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team. In addition, the professional shall, at least once every two years, take a course in the subject matter of concussions approved by the University Interscholastic League (UIL), the Texas Depart-

ment of Licensing and Regulation, or the appropriate licensing authority for the profession.

The professional must submit proof of timely completion of an approved course to the superintendent or designee. A licensed health-care professional who is not in compliance with these training requirements may not serve on a concussion oversight team in any capacity.

Education Code 38.154, .158

STATE AND LOCAL GOVERNMENTAL AUTHORITIES
LAW ENFORCEMENT AGENCIES

GRAA
(LEGAL)

**Notices to Law
Enforcement
Agencies**

A principal or designee shall notify local law enforcement if the principal has reasonable grounds to believe that any of the following activities occurred in school, on school property, or at a school-sponsored or school-related activity on or off school property, without regard to whether the activity is investigated by school security officers:

1. Conduct that may constitute an offense listed in Government Code 508.149; deadly conduct, as described by Penal Code 22.05; or a terroristic threat, as described by Penal Code 22.07. [See GRAA(EXHIBIT)]
2. The use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code 481.
3. The possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16). [See FNCG]
4. The possession of a weapon as defined by 18 U.S.C. Section 921, in accordance with the Gun-Free Schools Act. [See FOD]
5. Conduct that may constitute a criminal offense under Penal Code 71.02, Engaging in Organized Criminal Activity. [See GRAA(EXHIBIT)]
6. Conduct that may constitute a criminal offense for which a student may be expelled under Education Code 37.007(a), (d), or (e).

Notice is not required if the principal reasonably believes that the activity does not constitute a criminal offense.

The principal or designee shall provide the notice to the district police department (if one exists) and the police department of the municipality in which the school is located. If the school is not in a municipality, the principal or designee shall provide the notice to the sheriff of the county in which the school is located. The report shall include the name and address of each student the person believes may have participated in the activity.

**Notice to
Employees**

The principal or designee shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

Education Code 37.015, .007(e)

**Report of Conduct
Constituting Assault
or Harassment**

A principal or designee may make a report to any school district police department or the police department of the municipality in which the school is located or, if the school is not in a municipality,

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LAW ENFORCEMENT AGENCIES

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the sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes assault under Penal Code 22.01 or harassment with electronic communications under Penal Code 42.07(a)(7).

A person who makes a report may include the name and address of each student the person believes may have participated in the conduct.

Designee

The principal may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report.

Immunity

A person who voluntarily makes a report is immune from civil or criminal liability. A person who takes any action under this provision is immune from civil or criminal liability or disciplinary action resulting from that action.

This provision does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action.

District employees and volunteers are immune from suit resulting from an act under this provision, including an act under related policies and procedures.

An act by a district employee or volunteer under this provision, including an act under related policies and procedures, is the exercise of judgment or discretion on the part of the employee or volunteer and is not considered to be a ministerial act for purposes of liability of the district or the district's employees.

Education Code 37.0151

**Notices from Law
Enforcement
Agencies**

As described below, representatives of the juvenile justice system shall provide notice to a district when:

1. A student is arrested or referred to the juvenile board [see Arrest, below];
2. A student is convicted, or receives deferred prosecution or deferred adjudication [see Conviction or Adjudication, below];
3. A student was removed to a disciplinary alternative education program (DAEP) and the criminal case against the student is refused or the student is found not guilty [see Not Guilty/Charges Dropped, below]; or

STATE AND LOCAL GOVERNMENTAL AUTHORITIES
LAW ENFORCEMENT AGENCIES

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4. A student on parole, probation, or community supervision transfers into or reenrolls in a district [see Transfer Students, below].

Code of Criminal Procedure 15.27

Local law enforcement shall provide notice to the superintendent if a registered sex offender intends to reside in the district, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)* [See Registered Sex Offenders, below]

Reportable
Offenses

Code of Criminal Procedure 15.27 applies to the following offenses:

1. Any felony offense; and
2. The following misdemeanors:
 - a. An offense under Penal Code 20.02 (Unlawful Restraint), 21.08 (Indecent Exposure), 22.01 (Assault), 22.05 (Deadly Conduct), 22.07 (Terroristic Threat), or 71.02 (Engaging in Organized Criminal Activity);
 - b. The unlawful use, sale, or possession of a controlled substance, drug paraphernalia, or marijuana, as defined by Health and Safety Code Chapter 481; and
 - c. The unlawful possession of any of the weapons or devices listed in Penal Code 46.01(1)–(14) or (16), or a weapon listed as a prohibited weapon under Penal Code 46.05.

Code of Criminal Procedure 15.27(h)

Contents of Notice

Oral or written notice under Code of Criminal Procedure 15.27 must include all pertinent details of the offense or conduct, including details of any:

1. Assaultive behavior or other violence;
2. Weapons used in the commission of the offense or conduct; or
3. Weapons possessed during the commission of the offense or conduct.

Code of Criminal Procedure 15.27(k)

Electronic Notice

A person may substitute electronic notice for oral notice where oral notice is required by Code of Criminal Procedure 15.27. If electronic notice is used, any written notice required by article 15.27 is not required. *Code of Criminal Procedure 15.27(i)*

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Arrest	If a law enforcement agency arrests a person or refers a child to the juvenile board for an offense specified at Reportable Offenses, and the agency believes the person is enrolled as a student in a public school, the head of the agency or designee shall orally notify the superintendent or designee in the district in which the student is enrolled, or believed to be enrolled, of the arrest or referral. The notice shall be provided within 24 hours after the arrest or referral is made or before the next school day, whichever is earlier.
<i>Oral Notice</i>	
<i>Written Notice</i>	<p>Within seven days after oral notice is given, the head of the law enforcement agency or designee shall mail written notice to the superintendent or designee. The written notice shall include the facts in the oral notice, the name of the person who was orally notified, and the date and time of the oral notice.</p> <p>Both the oral and written notice shall contain sufficient details of the arrest or referral and the acts allegedly committed by the student to enable a superintendent or designee to determine whether there is a reasonable belief that the student has engaged in conduct defined as a felony offense by the Penal Code. The information in the notice shall be considered by a superintendent or designee in making such a determination.</p> <p><i>Code of Criminal Procedure 15.27(a)</i></p>
<i>Failure to Provide Notice to District</i>	<p>If the superintendent of a district in which a student is enrolled learns of a failure of the head of a law enforcement agency or designee to provide a notice under Code of Criminal Procedure 15.27(a), the superintendent or principal shall report the failure to the Commission on Law Enforcement Officer Standards and Education. <i>Code of Criminal Procedure 15.27(m)</i></p>
<i>Notice to Employees</i>	<p>A superintendent or designee shall immediately notify all instructional and support personnel who have responsibility for supervision of a student who has been arrested or taken into custody. All personnel shall keep the information received confidential.</p> <p>A superintendent or designee shall send to an employee having direct supervisory responsibility over the student the information in the confidential notice provided by the law enforcement agency.</p>
<i>Failure to Provide Notice to Employees</i>	<p>If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(a) or (a-1), the board shall report the failure to the State Board for Educator Certification (SBEC).</p> <p><i>Code of Criminal Procedure 15.27(a), (a-1), (l)</i></p>

STATE AND LOCAL GOVERNMENTAL AUTHORITIES
LAW ENFORCEMENT AGENCIES

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Conviction or Adjudication <i>Oral Notice</i>	On conviction, deferred prosecution, deferred adjudication, or adjudication of delinquent conduct of a student for an offense or for any conduct specified at Reportable Offenses, the office of the prosecuting attorney shall orally notify a superintendent or designee of the conviction or adjudication and whether the student is required to register as a sex offender. Oral notice must be given within 24 hours of the time of the order or before the next school day, whichever is earlier.
<i>Written Notice</i>	Within seven days after the date the oral notice is given, the office of the prosecuting attorney shall mail written notice, which must contain a statement of the offense of which the individual is convicted or on which the adjudication, deferred adjudication, or deferred prosecution is grounded and a statement of whether the student is required to register as a sex offender.
<i>Notice to Employees</i>	A superintendent or designee shall, within 24 hours of receiving notice from the office of the prosecuting attorney, or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.
<i>Failure to Provide Notice to Employees</i>	If a board learns of a failure by the superintendent or a principal to provide a notice required under Code of Criminal Procedure 15.27(b), the board shall report the failure to the SBEC. <i>Code of Criminal Procedure 15.27(b), (l)</i>
Not Guilty/Charges Dropped	The office of the prosecuting attorney or the office or official designated by the juvenile board shall notify the district that removed a student to a (DAEP) if: <ol style="list-style-type: none">1. Prosecution of the student's case was refused for lack of prosecutorial merit or insufficient evidence and no formal proceedings, deferred adjudication, or deferred prosecution will be initiated; or2. The court or jury found the student not guilty or made a finding the child did not engage in delinquent conduct or conduct indicating a need for supervision and the case was dismissed with prejudice. Notice shall be provided to the district within two working days.
<i>Review of Placement</i>	On receipt of the notice, the superintendent or designee shall review the student's placement in the DAEP [see FOC]. <i>Code of Criminal Procedure 15.27(g); Education Code 37.006(h)</i>
Transfer Students	If a juvenile justice agency has jurisdiction over a student who is arrested, referred, convicted, or adjudicated for a reportable offense and the student transfers from a school or is subsequently

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removed from a school and later returned to a school or district other than the one the student was enrolled in when the arrest, referral, conviction, or adjudication occurred, the juvenile justice agency shall notify the superintendent or designee of the district to which the student transfers or is returned.

The juvenile justice agency shall provide notice of an arrest or referral in a manner similar to that provided above, at Arrest. The juvenile justice agency shall provide notice of a conviction or delinquent adjudication in a manner similar to that provided above at Conviction or Adjudication. In either case, notice shall be provided within 24 hours of learning of the student's transfer or reenrollment, or before the next school day, whichever is earlier.

*Notice to
Employees*

The superintendent of the district to which the student transfers or is returned shall, within 24 hours of receiving notice or before the next school day, whichever is earlier, notify all instructional and support personnel who have regular contact with the student.

Code of Criminal Procedure 15.27(c)

**Registered Sex
Offenders**

The local law enforcement authority shall immediately provide notice to the superintendent of the district in which a person subject to registration as a sex offender intends to reside, by mail to the office of the superintendent, as set out below. *Code of Criminal Procedure 62.053(e), .053(f)*

A local law enforcement authority shall provide notice to a superintendent regarding a registered sex offender only if:

1. The victim was at the time of the offense a child younger than 17 years of age or a student enrolled in a public or private secondary school;
2. The person subject to registration is a student enrolled in a public or private secondary school; or
3. The basis on which the person is subject to registration is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Penal Code 43.25 (Sexual Performance by a Child) or 43.26 (Possession or Promotion of Child Pornography), or a substantially similar offense

A local law enforcement authority may not provide notice to a superintendent if the basis for the notice is a conviction, deferred adjudication, or adjudication of delinquent conduct for an offense under Section 25.02, Penal Code (Prohibited Sexual Conduct, relating to incest), or a substantially similar offense.

Code of Criminal Procedure 62.054

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Notice to
Employees

On receipt of the notice from law enforcement regarding a registered sex offender, a superintendent shall release the information in the notice to appropriate district personnel, including peace officers and security personnel, principals, nurses, and counselors.
Code of Criminal Procedure 62.053(e), .055(f)