

Accreditation

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

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

Statuses

The commissioner shall determine criteria for the following accreditation statuses:

1. Accredited;
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 State Board of Education that relate to:
 - (1) Reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;
 - (2) High school graduation requirements; or
 - (3) Extracurricular activities, student health and safety, purchasing, elementary class size limits, removal of a disruptive student from the classroom, at-risk programs, and prekindergarten programs;

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

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

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

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

For additional information on the commissioner process for assigning accreditation status, see 19 Administrative Code 97.1055.

Notice of Status

The commissioner shall notify a district if the district has received an accreditation status of accredited-warned or accredited-probation, or a campus's performance is below standard. *Education Code 39.052(e)*

*To Parents and
Property Owners*

A district assigned an accreditation status of accredited-warned, accredited-probation, or not accredited-revoked shall notify the parents of students enrolled in the district and property owners in the district as specified in 19 Administrative Code 97.1055. The district's notice must contain information about the accreditation 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 newspaper beginning the second week following assignment of the status; or
3. Not later than 30 calendar days after the status is assigned, be sent by first class mail addressed individually to each parent of a student enrolled in the district and each property owner in the district; or
4. Not later than 30 calendar days after the status is assigned, be presented as a discussion item in a public meeting of the board of trustees conducted at a time and location that allows parents of students enrolled in the district and property owners in the district to attend and provide public comment.

To TEA

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

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

19 TAC 97.1055(f)

**Performance
Indicators**

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

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

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

3. Informing parents and the community regarding campus and district performance.

Education Code 39.053(a-1)

*Achievement
Indicators*

Districts and campuses must be evaluated based on indicators of achievement grouped in three domains:

1. Student achievement domain;
2. School progress domain; and
3. Closing the gaps domain.

Education Code 39.053(c)

Performance on the achievement indicators in the three domains shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status. *Education Code 39.053(b)*

Each school district shall submit the data required for the indicators to the commissioner. *Education Code 39.053(i)*

**A–F Performance
Ratings**

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

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

An overall or domain performance rating of:

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

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

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

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

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

Local Accountability System

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

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;
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.

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

If a district has been approved under Education Code 39.0544 to assign campus performance ratings and the commissioner has not assigned a campus overall performance rating of D or F, the commissioner shall assign the campus an overall performance rating based on the district-assigned performance rating under the local accountability system. A reference in law to an acceptable rating or acceptable performance includes an overall domain performance rating of A, B, C, or D or performance that is exemplary, recognized, or acceptable performance, or performance that needs improvement. *Education Code 39.054(a)*

**Distinction
Designations for
Outstanding
Performance**

The commissioner shall award distinction designations for outstanding performance. A distinction designation awarded to a district or campus shall be referenced directly in connection with the

performance rating assigned to the district or campus and made publicly available together with the A–F performance ratings.

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

Education Code 39.201

Academic
Distinction

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

Campus Distinction

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

1. Improvement in student achievement;
2. Closing student achievement differentials; and
3. Academic achievement in English language arts, mathematics, science, or social studies.

Education Code 39.203

The commissioner may award a distinction designation for outstanding performance in advanced middle or junior high school student achievement. *Education Code 39.203(d)*

**Excellence
Exemptions**

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

An exemplary campus or district is not exempt from:

1. A prohibition on conduct that constitutes a criminal offense;
2. Requirements imposed by federal law or rule, including requirements for special education or bilingual education programs;
3. A requirement, restriction, or prohibition relating to:
 - a. Curriculum essential knowledge and skills or high school graduation requirements;
 - b. Public school accountability;
 - c. Extracurricular activities;
 - d. Health and safety;

- e. Purchasing;
- f. Elementary class size limits;
- g. Removal of a disruptive student from the classroom;
- h. At-risk programs;
- i. Prekindergarten programs;
- j. Rights and benefits of school employees;
- k. Special education programs; or
- l. Bilingual education programs.

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

Education Code 39.232

District Annual Report

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

Texas Academic Performance Report (TAPR)

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

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

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

Other Annual Report Information

The annual report must also include:

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

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

Education Code 39.306(a)

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

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

The report may include the following information:

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

Education Code 39.306(e)

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

Public Hearing

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

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

Publication	<p>The TAPR must be published within two weeks after the public hearing, in the same format as it was received from TEA. <i>19 TAC 61.1022(d)</i></p> <p>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(f)</i></p>
Report Uses	<p>The information in the annual report shall be a primary consideration in district and campus planning. It shall also be a primary consideration of the board in the evaluation of the performance of the superintendent, and of the superintendent in the evaluation of the performance of campus principals. <i>Education Code 39.307</i></p>
Campus Performance Report	<p>Each school year, TEA shall prepare and distribute to each district a report card for each campus. The campus report card distributed by TEA shall be termed the “school” report card (SRC). The intent of the SRC is to inform each student’s parents or guardians about the school’s performance and characteristics. The SRC will present the student, staff, financial, and performance information required by statute, as well as any explanations and additional information deemed appropriate to the intent of the report.</p>
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 in the notice specific information relating to access to online educational resources at the appropriate assessment instrument content level, including educational resources and assessment instrument questions and released answers. *Education Code 39.303*

Notice to Teachers and Students

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

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

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

Education Code 39.304

Quality of Learning Indicators

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

The quality of learning indicators must include:

1. The percentage of graduating students who meet the course requirements for the foundation high school program, the distinguished level of achievement under the foundation high school program, and each endorsement described by Education Code 28.025(c-1) [see EIF];
2. The results of the SAT, ACT, and certified workforce training programs;
3. For students who have failed to satisfy the state standard on an assessment, the performance of those students on subsequent assessments, aggregated by grade level and subject area;
4. For each campus, the number of students, disaggregated by major student subpopulations, who take courses under the foundation high school program and take additional courses to earn an endorsement, disaggregated by type of endorsement;
5. The percentage of students, aggregated by grade level, provided accelerated instruction under after unsatisfactory performance on a state assessment; the results of assessment instruments administered under the accelerated instruction program; the percentage of students promoted through the grade placement committee process; the subject of the assessment instrument on which each student failed to perform satisfactorily under each performance standard; and the performance of those students in the school year following that promotion on the state assessments;
6. The percentage of students of limited English proficiency exempted from the administration of an assessment;
7. The percentage of students in a special education program assessed through alternative assessment instruments;
8. The percentage of students who satisfy the college readiness measure;
9. The measure of progress toward dual language proficiency for students of limited English proficiency;
10. The percentage of students who are not educationally disadvantaged;
11. The percentage of students who enroll and begin instruction at an institution of higher education in the school year following high school graduation; and

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

Education Code 39.301

**High School
Allotment Annual
Performance Review**

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

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

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

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

1. State assessment results and other student performance data;
2. Standards for success and cost-effectiveness as established by the commissioner 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

**Performance-Based
Monitoring Analysis
System**

In accordance with Education Code 7.028(a), the purpose of the Performance-Based Monitoring Analysis System (PBMAS) is to report annually on the performance of districts in selected program areas: bilingual education/English as a Second Language, career and technical education, special education, and certain Title programs under federal law. The performance of a district is reported through indicators of student performance and program effectiveness and corresponding performance levels established by the commissioner. *19 TAC 97.1005; Education Code 7.028(a)*

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

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

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

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

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

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

The website must:

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

AIC
(LEGAL)

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**Interventions and
Sanctions for School
Districts**

Grounds for
Commissioner
Action

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

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

Education Code 39A.001

*Authorized
Commissioner
Actions*

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

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

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

Education Code 39A.002

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

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

19 TAC 97.1057(c), (e)

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

Conservator or
Management Team

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

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

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

The conservator or management team may:

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

2. Approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board.

The conservator or management team may not:

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

Education Code 39A.003

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

Board of Managers

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

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

Education Code 39A.004

Revocation of
Accreditation

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

1. Received an accreditation status of accredited-warned or accredited-probation;

2. Failed to satisfy any standard under Education Code 39.054(e); or
3. Failed to satisfy financial accountability standards as determined by commissioner rule.

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

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

Education Code 39A.005

Intervention to
Improve High
School Completion
Rate

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

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

Education Code 39A.007

**Campus Intervention
Team and Targeted
Improvement Plan**

Actions Based on
Campus
Performance

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

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

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

1. Order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board, the superintendent, and the campus principal shall appear

and explain the campus's low performance, lack of improvement, and plans for improvement; or

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

Education Code 39A.051

Texas
Accountability
Intervention System

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

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

19 TAC 97.1061

Campus
Intervention Team

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

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

Education Code 39A.052

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

19 TAC 97.1063

*On-Site Needs
Assessment*

A campus intervention team shall:

1. Conduct, with the involvement and advice of the school community partnership team, if applicable:
 - a. If the commissioner determines necessary, a comprehensive on-site needs assessment; or
 - b. A targeted on-site needs assessment relevant to an area of insufficient performance of the campus; and
2. Recommend appropriate actions as provided by Education Code 39A.054.

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

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

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

Education Code 39A.053

Recommendations

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

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

Education Code 39A.054

*Targeted
Improvement
Plan*

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

1. Assist the campus in developing a targeted improvement plan;
2. Conduct a public meeting at the campus with the campus principal, the members of the campus-level planning and decision-making committee, parents of students attending the campus, and community members residing in the district to review the campus performance rating and solicit input for the

development of the targeted improvement plan [see Notice of Public Meeting, below];

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

Education Code 39A.055

Notice of Public Meeting

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

Education Code 39A.056

Public Hearing

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

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

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

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

Education Code 39A.057

Submission to Commissioner

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

- Executing Plan
- In executing the targeted improvement plan, the campus intervention team shall, if appropriate:
1. Assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, and financial management;
 2. Provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and
 3. Require the district to develop a teacher recruitment and retention plan to address the qualifications and retention of the teachers at the campus.

Education Code 39A.059

- Continuing Duties of the Campus Intervention Team*
- For each year a campus is assigned an unacceptable performance rating, the campus intervention team shall:
1. Continue to work with the campus until the campus satisfies all the performance standards under Education Code 39.054(e) for a two-year period or the campus satisfies all performance standards for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement;

2. Assist in updating the targeted improvement plan to identify and analyze areas of growth and areas that require improvement; and
3. Submit each updated targeted improvement plan to the board.

Education Code 39A.060

- Needs Improvement Rating
- If a district or campus is assigned an overall or domain performance rating of D:
1. The commissioner shall order the district or campus to develop and implement a targeted improvement plan approved by the board; and
 2. The interventions and sanctions provided by Education Code, Chapter 39A based on failure to satisfy performance standards under Education Code 39.054(e) apply to the district or campus only as provided below.

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

1. An overall or domain performance rating of F; or
2. An overall performance rating of D as provided below.

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

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. <i>Education Code 39A.063</i>
Campus Turnaround Plan	If a campus has been identified as unacceptable for two consecutive school years, the commissioner shall order the campus to prepare and submit a campus turnaround plan.
Updated Targeted Improvement Plan	<p>A campus intervention team shall assist the campus in:</p> <ol style="list-style-type: none">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; and4. Executing the updated plan on approval by the commissioner. <p>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.</p> <p><i>Education Code 39A.101</i></p>
Public Notice	<p>Within 60 days of receiving a campus's preliminary accountability rating, the district must notify parents, community members, and stakeholders that the campus received an unacceptable rating for two consecutive years and request assistance in developing the campus turnaround plan in accordance with 19 Administrative Code 97.1064.</p> <p>Upon approval of the board, the district must submit the campus turnaround plan electronically to TEA by March 1 unless otherwise specified. A campus may implement, modify, or withdraw its campus turnaround plan with board approval if the campus receives an academically acceptable rating for the school year following the development of the campus turnaround plan.</p> <p><i>19 TAC 97.1064(d), (g)–(h); Education Code 39A.103–.104</i></p>
Required Contents	<p>A campus turnaround plan must include:</p> <ol style="list-style-type: none">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, amended former Education Code 39.107(b-1) to include the information provided at Subsection (6)]

Implementing
Entities

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

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

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

Education Code 39A.102, .108

<i>Effective Date</i>	<p>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></p>
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. 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. <i>Education Code 39.107 [Acts of the 85th Legislative Session, House Bill 2263, added Subsection (b-10) to former Education Code 39.107]</i></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 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 Subsection (b-11) to former Education Code 39.107]; 19 TAC 97.1065</i></p>
Implementation	<p>Following approval of a campus turnaround plan by the commissioner, the district, in consultation with the campus intervention</p>

team, may take any actions needed to prepare for the implementation of the plan. *Education Code 39A.108*

Assistance and
Partnerships

A district may:

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

Education Code 39A.109

Change in Campus
Performance Rating

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

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

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

Education Code 39A.110

Continued
Unacceptable
Performance Rating

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

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

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

*Parent Petition
for Action*

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

If the commissioner is presented, in the time and manner specified by commissioner rule, with a written petition signed by the parents of a majority of the students enrolled at a campus with an unacceptable performance rating for three consecutive school years,

specifying an authorized action that the parents request the commissioner to order, the commissioner shall order the specific action requested.

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

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

Repurposing of
Closed Campus

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

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**

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

Solicitation of
Proposals

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

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; 19 TAC 97.1067

*Extension of
Management
Contract*

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

*Evaluation of
Managing Entity*

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

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

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

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

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

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

Education Code 39A.155

*Cancellation of
Management
Contract*

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

Return of
Management to
District

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

Applicability of
Accountability
Provisions

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

Funding

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

Open Meetings and
Public Information

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

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

Education Code 39A.160

Board of Managers
General Powers
and Duties

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

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

Education Code 39A.201

Board of Managers
of District

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

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

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

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

Education Code 39A.202

Board of Managers
of Campus

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

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

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

approves the amendments, the board of trustees of the school district shall adopt the amendments.

Education Code 39A.203

Composition of
Board of Managers

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

Training of Board of
Managers

The commissioner must provide each individual appointed to a board of managers with training in effective leadership strategies. *Education Code 39A.205*

The training in effective leadership strategies shall be provided by TEA-approved authorized providers of board training to each individual appointed by the commissioner to a board of managers, and, following the expiration of the appointment of the board of managers, to the board of trustees of the school district. *19 TAC 97.1073(h)*

Compensation

The commissioner may authorize payment of a board of managers from TEA funds.

A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.

Education Code 39A.206

Replacement of
Member of Board of
Managers

The commissioner may at any time replace a member of a board of managers. The commissioner may adopt rules necessary to implement this section. *Education Code 39A.207*

Expiration of
Appointment

A board of managers shall, during the period of the appointment, order the election of members of the board of trustees of the school district in accordance with the law. The members of the board of trustees do not assume any powers or duties after the election until the appointment of the board of managers expires.

Not later than the second anniversary of the date the board of managers of a school district was appointed, the commissioner shall notify the board of managers and the board of trustees of the date on which the appointment of the board of managers will expire. Following each of the last three years of the period of the appointment, one-third of the members of the board of managers shall be replaced by the number of members of the board of trustees who were elected at an election that constitutes, as closely as possible, one-third of the membership of the board of trustees.

If, before the second anniversary of the date the board of managers of a school district was appointed, the commissioner determines, after receiving local feedback, that insufficient progress has been made toward improving the academic or financial performance of the district, the commissioner may extend the authority of the board of managers for a period of up to two additional years.

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

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

Education Code 39A.208; 19 TAC 97.1073

Removal of Board
of Managers

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

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

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

Education Code 39A.209; 19 TAC 97.1073

**Challenge of
Intervention or
Sanction**

Review of
Sanctions by State
Office of
Administrative
Hearings

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.

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

Notwithstanding other law:

1. The State Office of Administrative Hearings (SOAH) shall conduct an expedited review of a challenge;

2. The administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed;
3. The decision of the administrative law judge is final and may not be appealed; and
4. The decision of the administrative law judge may set an effective date for an action under this section.

Education Code 39A.301

Annual Review

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

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

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

Education Code 39A.901

Increasing Intensity

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

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

19 TAC 97.1070(a)–(b)

**Special
Accreditation
Investigations**

The commissioner may authorize a special accreditation investigation:

1. When excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;
2. When excessive numbers of allowable exemptions from the required state assessment are determined;
3. In response to complaints to TEA of alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

4. In response to established compliance reviews of the district's financial accounting practices and state and federal reporting requirements;
5. When extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Education Code 37.006 and 37.007, are determined;
6. In response to an allegation involving a conflict between members of the board or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by the Education Code. If TEA's findings indicate the board has observed a lawfully adopted policy, TEA may not substitute its judgment for that of the board;
7. When excessive numbers of students in special education programs are assessed through modified assessment instruments;
8. In response to an allegation regarding, or an analysis using a statistical method result indicating, a possible violation of an assessment instrument security procedure;
9. When a significant pattern of decreased academic performance has developed as a result of the promotion in the preceding two school years of students who did not perform satisfactorily on the state assessments;
10. When excessive numbers of students eligible to enroll fail to complete an Algebra II course or any other advanced course as determined by the commissioner;
11. When resource allocation practices indicate a potential for significant improvement in resource allocation;
12. When a disproportionate number of students of a particular demographic group is graduating with a particular endorsement;
13. When an excessive number of students is graduating with a particular endorsement;
14. When a school district for any reason fails to produce, at the request of TEA, evidence or an investigation report relating to an educator who is under investigation by the State Board for Educator Certification;
15. In response to a complaint with respect to alleged inaccurate data that is reported through PEIMS or through other reports required by state or federal law or rule or court order and that

is used by TEA to make a determination relating to public school accountability, including accreditation, under Education Code Chapter 39;

16. In response to repeated complaints concerning imposition of excessive paperwork requirements on classroom teachers; or
17. As the commissioner otherwise determines necessary.

Education Code 39.057(a)–(c)

TEA shall adopt written procedures for conducting special accreditation investigations, including procedures that allow TEA to obtain information from district employees in a manner that prevents a district or campus from screening the information. *Education Code 39.058(a); 19 TAC 102.1401*

Commissioner
Action

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

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

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

Education Code 39.057(d), (e)

**Miscellaneous
Provisions**

Acquisition of
Professional
Services

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

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

Education Code 39A.902

ACCOUNTABILITY
INTERVENTIONS AND SANCTIONS

AIC
(LEGAL)

Costs Paid by
District

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

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

Education Code 39A.903

Monitoring Reviews
and On-Site
Investigations

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

1. Compliance with federal law and regulations;
2. Financial accountability, including compliance with grant requirements; and
3. Data integrity for purposes of:
 - a. The Public Education Information Management System (PEIMS); and
 - b. Accountability under Education Code Chapter 39.

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

ACCOUNTABILITY
INTERVENTIONS AND SANCTIONS

AIC
(LEGAL)

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. <i>Education Code 39A.904</i>
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. <i>Education Code 39A.905</i>
Transitional Interventions and Sanctions	<p>For a campus that received an unacceptable performance rating for the 2013–14, 2014–15, and 2015–16 school years, the commissioner may apply the interventions and sanctions authorized by Chapter 39 as that chapter existed on January 1, 2015, to the campus.</p> <p>If a campus receives an unacceptable performance rating for the 2016–17 and 2017–18 school years, the commissioner shall apply the interventions and sanctions authorized when a campus has an unacceptable performance rating for three consecutive school years under current law.</p> <p>For a campus that received an acceptable performance rating for the 2013–14 school year and an unacceptable performance rating for the 2014–15 and 2015–16 school years, the commissioner shall apply interventions and sanctions in current law to the campus. If the campus receives an unacceptable performance rating for the 2016–17, 2017–18, and 2018–19 school years, the commissioner shall apply the interventions and sanctions authorized when a campus has an unacceptable performance rating for three consecutive school years under current law.</p> <p>These transition provisions expire September 1, 2020.</p> <p><i>Education Code 39A.906</i></p>
Special Program Performance: Intervention Stages	<p>The commissioner shall assign a district to an intervention stage based on performance levels under 19 Administrative Code 97.1005 (relating to Performance-Based Monitoring Analysis System) [see AIB] according to the criteria and requirements in 19 Administrative Code 97.1071.</p> <p>Intervention actions taken under this section are intended to assist the district in raising its performance and/or achieving compliance under 19 Administrative Code 97.1005 and do not preclude or substitute for a sanction under another provision of Chapter 97, Subchapter EE.</p> <p><i>19 TAC 97.1071</i></p>

Intervention Pause Except as otherwise provided by 19 Administrative Code 97.1062 and unless extended by the commissioner, TEA will cease to enforce the interventions under Education Code 39A.101-39A.111 until conclusion of the second consecutive school year of operation under:

1. A partnership as defined by 19 Administrative Code 97.1077(a)(2), (b), or (c) of this title [see ELA]; or
2. Designation as a mathematics innovation zone under Education Code 28.020 and applicable rules.

Any intervention or sanction not covered by the provision above shall continue.

If a campus ceases to qualify for the intervention pause at any point during a school year, TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

19 TAC 97.1062

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: The Every Student Succeeds Act (ESSA) amended federal accountability standards under the Elementary and Secondary Education Act (ESEA) of 1965. The ESSA requirements described in this policy do not represent a complete list of legal obligations. Districts and schools that receive Title I, Part A funds should carefully review federal and state requirements concerning use of those funds. [See EHBD and CBB]

District Plan

A district may receive a subgrant under Title I, Part A of the ESEA for any fiscal year only if the district has a plan approved by and on file with the Texas Education Agency (TEA) that:

1. Is developed with timely and meaningful consultation with teachers, principals, other school leaders, paraprofessionals, specialized instructional support personnel, charter school leaders (in a district that has charter schools), administrators (including administrators of programs described in other parts of this subchapter), other appropriate school personnel, and with parents of children in schools served under Title I, Part A; and
2. As appropriate, is coordinated with other programs described by 20 U.S.C. 6312(a).

20 U.S.C. 6312(a)(1)

Each district plan shall describe:

1. How the district will monitor students' progress in meeting the challenging state academic standards by developing and implementing a well-rounded program of instruction to meet the academic needs of all students, identifying students who may be at risk for academic failure, providing additional education assistance to individual students the district or school determines need help in meeting the challenging state academic standards, and identifying and implementing instructional and other strategies intended to strengthen academic programs and improve school conditions for student learning;
2. How the district will identify and address any disparities that result in low-income students and minority students being taught at higher rates than other students by ineffective, inexperienced, or out-of-field teachers;
3. How the district will carry out its responsibilities in comprehensive support and improvement plans and targeted support and improvement plans;

4. Poverty criteria to select eligible school attendance areas;
5. The nature of the programs to be conducted by the district's schools under 20 U.S.C. 6314 and 6315 (schoolwide programs and targeted assistance schools), and where appropriate, educational services outside such schools for children living in local institutions for neglected or delinquent children, and for neglected or delinquent children in community day-school programs;
6. The services the district will provide for homeless children and youths;
7. The strategy the district will use to implement effective parent and family engagement;
8. How the district will support, coordinate, and integrate services provided under Title I, Part A with early childhood education programs at the district or individual school level, including plans for the transition of participants in such programs to local elementary school programs, if applicable;
9. How teachers and school leaders, in consultation with parents, administrators, paraprofessionals, and specialized instructional support personnel, in schools operating a targeted assistance school program under 20 U.S.C. 6315, will identify the children most in need of services;
10. How the district will implement strategies to facilitate effective transition for students from middle grades to high school and from high school to postsecondary education;
11. How the district will support efforts to reduce the overuse of discipline practices that remove students from the classroom, which may include identifying and supporting schools with high rates of discipline, disaggregated by each of the subgroups of students as defined in 20 U.S.C. 6311(c)(2);
12. How the district will support programs that coordinate and integrate academic and career and technical education and work-based learning opportunities, if appropriate; and
13. Any other information on how the district proposes to use funds to meet the purposes of Part A and that the district determines appropriate to provide, which may include how the district will assist schools in identifying and serving gifted and talented students and assist schools in developing effective school library programs.

20 U.S.C. 6312(b)

Each district plan shall provide assurances that the district will:

1. Ensure that migratory and formerly migratory children who are eligible to receive services under Part A are selected to receive such services on the same basis as other children who are selected to receive services under Part A;
2. Provide services to eligible children attending private elementary schools and secondary schools in accordance with 20 U.S.C. 6320, and timely and meaningful consultation with private school officials regarding such services [see EHBD];
3. Participate, if selected, in the National Assessment of Educational Progress (NAEP) in reading and mathematics in grades 4 and 8;
4. Coordinate and integrate services under Part A with other educational services at the district or school level, such as services for children with disabilities, migratory children, American Indian children, and homeless children and youth, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the instructional program;
5. Collaborate with the state or local child welfare agency to:
 - a. 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 point of contact for the district [see FFC]; and
 - b. Develop and implement clear written procedures governing how transportation to maintain foster care children in their schools of origin when in their best interest will be provided, arranged, and funded for the duration of the time in foster care [see CNA and FD];
6. Ensure all teachers and paraprofessionals working in a program supported with funds under Part A meet applicable state certification and licensure requirements, including any requirements for certification obtained through alternative routes to certification; and
7. Ensure that early childhood education services to low-income children comply with performance standards under the Head Start Act, in cases of districts that choose to use funds under Part A to provide early childhood education services to low income children below the age of compulsory school attendance.

20 U.S.C. 6312(c)

Annual Review

A district receiving federal funds under Title I, Part A shall periodically review and, as necessary, revise its plan. *20 U.S.C. 6312(a)(5)*

School Support and Improvement

Identification of Schools

At least once every three school years, based on a system of meaningful differentiation as described by 20 U.S.C. 6311 and agency determined methodology, TEA shall identify one statewide category of schools for comprehensive support and improvement. *20 U.S.C. 6311(c)(4)(D)(i)*

Comprehensive Support and Improvement

TEA shall notify each district of any school that is identified for comprehensive support and improvement.

Upon receiving notification, the district shall, for each identified school and in partnership with stakeholders (including principals and other school leaders, teachers, and parents), locally develop and implement a comprehensive support and improvement plan for the school to improve student outcomes that:

1. Is informed by all indicators described in the accountability system including student performance against state-determined long-term goals;
2. Includes evidence-based interventions;
3. Is based on a school-level needs assessment;
4. Identifies resource inequities, which may include a review of district- and school-level budgeting, to be addressed through implementation of such comprehensive support and improvement plan;
5. Is approved by the school, district, and TEA; and
6. Is monitored and periodically reviewed by TEA, upon approval and implementation.

20 U.S.C. 6311(d)(1)

Option to Transfer

A district may provide all students enrolled in a school identified by TEA for comprehensive support and improvement with the option to transfer to another public school served by the district. [See FDB] *20 U.S.C. 6311(d)(1)(D)*

Targeted Support and Improvement

TEA shall notify each district of any school served by the district in which any subgroup of students is consistently underperforming as described by the indicators in the state's accountability system. TEA will also ensure the district provides notification to such school with respect to which subgroup or subgroups of students are consistently underperforming in the state's accountability system.

Each school receiving notification described above, in partnership with stakeholders (including principals and other school leaders, teachers, and parents), shall develop and implement a school-level targeted support and improvement plan to improve student outcomes based on the indicators in the statewide accountability system, for each subgroup of students that was the subject of the notification.

The plan shall be informed by all indicators described in the state accountability system, including student performance against long-term goals; include evidence-based interventions; be approved by the district prior to implementation; be monitored, upon submission and implementation by the district; and result in additional action following unsuccessful implementation of such a plan after a number of years determined by the district.

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

*Additional
Targeted Support*

A targeted support and improvement plan, as described above, that is developed and implemented in any school receiving a notification under additional targeted support shall also identify resource inequities (which may include a review of district- and school-level budgeting), to be addressed through implementation of such plan.
20 U.S.C. 6311(d)(2)(C)

Continued Support

TEA shall establish statewide exit criteria for schools identified for comprehensive support and improvement, which if not satisfied within a state-determined number of years, shall result in more rigorous state-determined action, such as the implementation of interventions. Schools that have been identified for additional targeted support that have not satisfied TEA exit criteria within a state-determined number of years shall be identified by TEA for comprehensive support and improvement, as described above. *20 U.S.C. 6311(d)(3)(A)*

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Election Order

The board shall order an election. An election to be held on a uniform election date shall be ordered not later than the 78th day before election day. *Election Code 3.004, .005*

Each election order must state:

1. The date of the election;
2. The offices or measures to be voted on;
3. The early voting clerk's official mailing address;
4. The location of the main early voting polling place;
5. The dates and hours for early voting; and
6. The dates and hours of any Saturday and Sunday early voting.

Election Code 3.006, 83.010, 85.004, .007

A board shall preserve the election order for the period for preserving the precinct election records. The date and nature of each election shall be entered in the official records of the board. For an election on a measure, the entry must include a description of the measure. *Election Code 3.008*

Failure to Order an Election

Failure to order a general election does not affect the validity of the election. *Election Code 3.007*

Election Notice

Contents

Notice of the election must state:

1. The nature and date of the election;
2. The location of each polling place;
3. The hours the polls will be open;
4. The early voting clerk's official mailing address;
5. The location of the main early voting polling place; and
6. The dates and hours for early voting, including the dates and hours of any Saturday and Sunday early voting.

Election Code 4.004(a), 83.010, 85.004, .007

Notice of Special Election	The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on. <i>Election Code 4.004(b)</i>
Publication	Notice of the election shall be published at least once, not earlier than the 30th day or later than the tenth day before election day, in a newspaper published within the district's boundaries or in a newspaper of general circulation in the district if none is published within the district's boundaries. The board shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. <i>Election Code 4.003(a)(1), (c), .005(a)</i>
Posting	<p>In addition to the notice described above, not later than the 21st day before election day, the district shall post a copy of the notice on the bulletin board used for posting notices of the meetings of the board. The notice must remain posted continuously through election day. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the board after the last posting is made. <i>Election Code 4.003(b), .005(b)</i></p> <p>A district that maintains a website must post the notice described above on the internet website of the district. <i>Election Code 85.007(d)</i></p>
Notice to County Clerk and Voter Registrar	The board shall deliver notice of the election to the county clerk and voter registrar of each county in which the district is located not later than the 60th day before election day. <i>Election Code 4.008(a)</i>
Notice to Election Judge	<p>Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the board shall deliver to the presiding judge of each election precinct in which the election is to be held in the district a written notice of:</p> <ol style="list-style-type: none">1. The nature and date of the election;2. The location of the polling place for the precinct served by the judge;3. The hours that the polls will be open;4. The judge's duty to hold the election in the precinct specified by the notice; and5. The maximum number of clerks that the judge may appoint for the election. <p><i>Election Code 4.007</i></p>

Failure to Give
Notice of Election

Failure to give notice of a general election does not affect the validity of the election. *Election Code 4.006*

Filing Information

Notice to
Candidates

A district shall post notice of the dates of the filing period in a public place in a building in which the district has an office not later than the 30th day before the first day on which a candidate may file an application for a place on the ballot. *Election Code 141.040*

Application

A candidate application for a place on the ballot must:

1. Be in writing;
2. Be signed and sworn to before a person authorized to administer an oath in this state by the candidate and indicate the date that the candidate swears to the application;
3. Be timely filed with the appropriate authority; and
4. Include all statutorily required information.

Election Code 31.0021, 141.031, .039

Deadline

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline.

An application must be filed not later than 5:00 p.m. of the 78th day before the date of the election for an election to be held on a uniform election date.

Education Code 11.055(a); Election Code 144.005(a), (d)

Write-in Candidate

A declaration of write-in candidacy must be filed not later than 5:00 p.m. of the 74th day before election day for an election to be held on a uniform election date. *Education Code 11.056(b); Election Code 146.054*

Special Election

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or
2. 5:00 p.m. of the 40th day before election day if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

Exception

For a special election to be held on the date of the general election for state and county officers (the first Tuesday after the first Monday in November in even-numbered years under Election Code 41.002), the day of the filing deadline is 6 p.m. of the 75th day before election day.

<i>Write-in Candidate</i>	<p>A declaration of write-in candidacy for a special election must be filed not later than the filing deadline.</p> <p><i>Election Code 201.054</i></p>
Delivery or Submission of Documents	<p>Under the Election Code, delivery, submission, or filing of an application, notice, report, or other document or paper with an employee of the district at the district's usual place for conducting official business constitutes filing with the district. The district may accept the document or paper at a place other than the district's usual place for conducting official business.</p> <p>A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.</p> <p><i>Election Code 1.007</i></p>
Election of Unopposed Candidate	<p>The board may declare each unopposed candidate elected to office in accordance with the provisions below. <i>Election Code 2.053(a)</i></p> <p>A special election is considered to be a separate election with a separate ballot from a general election for board members or another special election held at the same time. <i>Election Code 2.051(a)</i></p>
Single-Member Districts	<p>If any members of a board are elected from single-member districts, the procedures to declare unopposed candidates elected apply to the election in a particular single-member district if each candidate for an office that is to appear on the ballot in that single-member district is unopposed and no opposed at-large race is to appear on the ballot. <i>Election Code 2.051(b)</i></p>
Procedure for Canceling Election	<p>The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted. The certification shall be delivered to the board as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.</p> <p>A certification may be made following the filing of a withdrawal request by a candidate after the deadline prescribed by Election Code 145.092 if:</p> <ol style="list-style-type: none">1. The withdrawal request is valid except for the untimely filing;2. Ballots have not been prepared; and3. The other conditions for certification are met.

A certification under these circumstances shall be delivered to the board as soon as possible.

Election Code 2.052

On receipt of the certification, the board by order may declare each unopposed candidate elected to office. If a declaration is made, no election is held.

If no election is to be held by the district on election day, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.

The ballots used at a separate election held at the same time as an election that would have been held if the candidates were not declared elected shall include the offices and names of the candidates declared elected listed separately after the measures or contested races in the separate election under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

Election Code 2.053

[See BBBB regarding issuance of a certificate of election to an unopposed candidate declared elected and qualification for office.]

Ballot

The ballot shall be prepared in accordance with Election Code Chapter 52.

Drawing

The district shall conduct a drawing to determine the order of the candidates' names in an election at which the names of more than one candidate for the same office are to appear on the ballot. The district shall post notice of the date, hour, and place of the drawing. The notice must remain posted in the district's office continuously for 72 hours immediately preceding the scheduled drawing. The district shall mail written notice of the date, hour, and place of the drawing to each candidate not later than the fourth day before the date of the drawing. Each candidate affected by a drawing is entitled to be present or have a representative present at the drawing.
Election Code 52.093-.094

Ballots for an election by position must clearly show the position for which each person is a candidate. A board shall arrange by lot the names of the candidates for each position. *Education Code 11.058(g)*

**Election Services
Contract**

The county election officer, as defined by Election Code 31.091(1), may contract with the board of a district situated wholly or partly in

the county served by the officer to perform election services, as provided by Election Code Chapter 31, Subchapter D, in any one or more elections ordered by the board.

If requested to do so by a district, the county elections administrator, as defined under Election Code Chapter 31, Subchapter B, shall enter into a contract to furnish the election services requested in accordance with a cost schedule agreed on by the contracting parties. A county elections administrator is not required to enter into a contract to furnish elections services for an election held on the first Saturday in May in an even-numbered year.

Election Code 31.092, .093, 41.001(d)

Election Judges and Clerks

By written order, a board shall appoint a presiding election judge and an alternate presiding judge for each election precinct in which an election is held. A board shall prescribe the maximum number of clerks that each presiding judge may appoint for each election. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. *Election Code 32.001(a), .008, .033*

Polling Places

A board shall designate polling places for election day and early voting. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. *Election Code 43.004, .034, Ch. 85 (regarding early voting by personal appearance)*

In an election held on a uniform election date, a district shall use the regular county election precincts and shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the district.

Exception for May Election

A district is not required to use the county election precincts for an election held on the May uniform election date if the district:

1. Conducts early voting by personal appearance:
 - a. At 75 percent or more of its permanent or temporary branch polling places on the same days and during the same hours as voting is conducted at the main early voting place; and
 - b. At each remaining polling place for at least two consecutive days of voting during the early voting period, and for at least eight hours on each day; or
2. Has not established a permanent or temporary branch early voting polling place.

Election Code 42.002(a)(5), (c), .0621, 43.004(b)

Electioneering	<p>A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.</p> <p>“Electioneering” includes the posting, use, or distribution of political signs or literature. The term does not include the distribution of a notice of a party convention authorized under Election Code 172.1114.</p>
Voting Period	<p>“Voting period” means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.</p>
Early Voting Period	<p>“Early voting period” means the period prescribed by Election Code 85.001.</p> <p>A district that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting periods, as applicable, prohibit electioneering on the building’s premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.</p> <p><i>Election Code 61.003, 85.036</i></p>
Early Voting	<p>In each election, early voting shall be conducted by personal appearance at an early voting polling place and by mail, in accordance with Election Code Title 7, Chapters 81–114. <i>Election Code 81.001</i></p>
Conducting Elections	<p>Elections shall be conducted in accordance with Election Code Title 6, Chapters 61–68.</p>
Bilingual Materials	<p>Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions. <i>Election Code 272.002</i></p>
Spanish	
Other Languages	<p>If the director of the census determines that a district must provide election materials in a language other than English or Spanish, the district shall provide election materials in that language in the same manner in which the district would be required to provide materials in Spanish, to the extent applicable. <i>Election Code 272.011; 52 U.S.C. 10503</i></p>

Voting Systems

A voting system shall be adopted and utilized in accordance with Election Code Title 8.

Accessible Voting
Stations

Except as provided below, each polling place must provide at least one voting station that complies with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) and its subsequent amendments, Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) and its subsequent amendments, and the requirements for accessibility under 52 U.S.C. Section 21081(a)(3) [formerly 42 U.S.C. Section 15481(a)(3)] and its subsequent amendments, and that provides a practical and effective means for voters with physical disabilities to cast a secret ballot.
Election Code 61.012

*Electronic Voting
System
Exceptions*

For an election other than an election of a district that is held jointly with another election in which a federal office appears on the ballot, a district is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the district is located in a county that meets certain population and other requirements set forth in Election Code 61.013(a). A district that intends to use this provision to provide fewer voting stations that meet the requirements for accessibility than required must provide notice under Election Code 61.013(d). *Election Code 61.013*

Electioneering

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

Political Advertising

An officer or employee of a district may not knowingly spend or authorize the spending of public funds for the purpose of political advertising. This does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

An officer or employee of a district may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution for an offense under these provisions or the imposition of a civil penalty for conduct under these provisions that the officer or employee reasonably relied on a court order, or an interpretation of these provisions in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the board that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure does or does not comply with these provisions.

Election Code 255.003 [See CPAB regarding use of the internal mail system for political advertising.]

Definition

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

1. In return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television;
2. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
3. Appears on an internet website.

Election Code 251.001(16); 1 TAC 20.1(13)(A)

“Political advertising” does not include an individual communication made by email, but does include mass emails involving an expenditure of funds beyond the basic cost of hardware, messaging software, and bandwidth. *1 TAC 20.1(13)(B)*

Newsletters

A newsletter of a public officer of a district is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2” x 11” or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2” x 11”; and
3. When viewed as a whole and in the proper context:
 - a. Is informational rather than self-promotional;
 - b. Does not advocate passage or defeat of a measure; and
 - c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

Disclosure
Statement

A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

1. That it is political advertising; and
2. The full name of the:
 - a. Person who paid for the political advertising;
 - b. Political committee authorizing the political advertising; or
 - c. Candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under Election Code Title 15 shall be deemed to contain express advocacy.

These requirements do not apply to tickets or invitations to political fundraising events; campaign buttons, pins, hats, or similar campaign materials; or circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.

Election Code 255.001(a), (b), (d)

A required disclosure statement must contain the words “political advertising” or any recognizable abbreviation and comply with 1 Administrative Code 26.1. 1 TAC 26.1

Note: For specific information regarding political advertising and campaign communications by candidates, including offenses, see Election Code 255.001–.007.

Nepotism

A candidate may not take affirmative action to influence a district employee or current trustee regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE] This prohibition does not apply to a candidate’s actions taken regarding a bona fide class or category of employees or prospective employees. *Gov’t Code 573.042*

Board Authority

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

The board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551 (Open Meetings Act), 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
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.

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.

Confidential
Information

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 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]

Report of Requests

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 the Texas Education Agency 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]

Offenses Regarding
Records and
Information

A person commits an offense if the person:

1. Willfully destroys, mutilates, removes without permission as provided by Government Code Chapter 552 (the Public Information Act), or alters public information; or
2. Distributes information considered confidential under the terms of Government Code Chapter 552.

Gov't Code 552.351, .352

[For information regarding the offenses of destruction or alienation of record and tampering with governmental record, see CPC(LEGAL). For information regarding misuse of official information, see BBFB(LEGAL).]

**Visits to District
Facility**

A district shall create a policy on visits to a district campus or facility by a member of the board. *Education Code 11.1512(g)*

**Protections for
Legislative Activity**

A local officer, including a school 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 public in accordance with the Public Information Chapter of the Government Code. [See GBA]

Limitations

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.

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.

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]

Requests for
Records

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.

In accordance with law, the District shall track and report any requests under this provision, including the cost of responding to one

BOARD MEMBERS
AUTHORITY

BBE
(LOCAL)

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 records or reports that are confidential or otherwise not subject to public disclosure [see GBA], the Superintendent or other District employee shall advise the Board member of the responsibility to comply with confidentiality requirements and the District's information security controls.

**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 procedures outlined in the Board handbook for visits to District facilities. [See also GKC]

The Board shall retain an attorney or attorneys, as necessary, to serve as the District's legal counsel and representative in matters requiring legal services. Services to be performed and reasonable fees and expenses to be paid by the District shall be set forth in writing between the Board and the attorney or attorneys.

Individual Board members shall channel legal inquiries through the Superintendent, Board President, or Board's designee, as appropriate, when seeking advice or information from the District's legal counsel.

A staff request for legal advice from the District's legal counsel must be submitted through the Superintendent.

Advice from legal counsel shall be reported to the Board upon request of the Board or when deemed necessary by the Superintendent, Board President, or Board's designee.

**School Health
Advisory Council**

A board shall establish a local School Health Advisory Council (SHAC) to assist a district in ensuring that local community values are reflected in the district's health education instruction. *Education Code 28.004(a)* [See EHAA regarding duties of the SHAC.]

The SHAC shall meet at least four times each year. *Education Code 28.004(d-1)*

Composition

A board shall appoint at least five members to the SHAC. A majority of members must be parents of students enrolled in the district and must not be employed by the district. One of those members shall serve as chair or co-chair of the SHAC.

A board may also appoint one or more public school teachers, public school administrators, district students, health-care professionals, members of the business community, law enforcement representatives, senior citizens, clergy, representatives of nonprofit health organizations, representatives of local domestic violence programs, or representatives of another group.

Education Code 28.004(d)

Physical Activity
and Fitness
Planning
Subcommittee

The SHAC shall establish a physical activity and fitness planning subcommittee to consider issues relating to student physical activity and fitness and make policy recommendations to increase physical activity and improve fitness among students. *Education Code 28.004(l-1)*

Annual Report

In addition to its other duties, the SHAC shall submit to the board, at least annually, a written report that includes:

1. Any SHAC recommendation concerning the district's health education curriculum and instruction or related matters that the SHAC has not previously submitted to the board;
2. Any suggested modification to a SHAC recommendation previously submitted to the board;
3. A detailed explanation of the SHAC's activities during the period between the date of the current report and the date of the last prior written report; and
4. Any recommendations made by the physical activity and fitness planning subcommittee.

Education Code 28.004(m)

Changes in
Curriculum

A district must consider the recommendations of the local SHAC before changing the district's health education curriculum or instruction. *Education Code 28.004(b)*

Public Statement

A district shall publish in the student handbook and post on the district's internet website, if the district has an internet website, a statement of:

1. District policies adopted to ensure that elementary school, middle school, and junior high school students engage in at least the amount and level of physical activity required by Education Code 28.002(l) [see EHAB and EHAC];
2. The number of times during the preceding year the SHAC has met;
3. Whether the district has adopted and enforces policies to ensure compliance with the Texas Education Agency's vending machine and food service guidelines for restricting student access to vending machines;
4. Whether the district has adopted and enforces policies and procedures that prescribe penalties for the use of e-cigarettes, as defined at Education Code 38.006, and tobacco products by students and others on school campuses or at school-sponsored or school-related activities [see DH and GKA]; and
5. Notice to parents that they can request in writing their child's physical fitness assessment results at the end of the school year [see FFAA].

Education Code 28.004(k)

Waivers

Except as provided at Restrictions, a district or campus may apply to the commissioner of education for a waiver of a requirement, restriction, or prohibition imposed by the Education Code or rule of the State Board of Education or commissioner. An application must include:

1. A written plan approved by the board that states the achievement objectives of the campus or district and the inhibition imposed on those objectives by the requirement, restriction, or prohibition; and
2. Written comments from the campus-level or district-level committee established under Education Code 11.251.

Education Code 7.056(a), (b)

Submission and Approval

A campus or district seeking a waiver must submit a written application to the commissioner not later than the 31st day before the campus or district intends to take action requiring a waiver. If the commissioner objects to an application, the commissioner must notify the campus or district in writing that the application is denied not later than the 30th day after the date on which the application is received. If the commissioner does not notify the campus or district of an objection within that time, the application is considered granted. *Education Code 7.056(b), (c)*

Duration

A waiver is effective for the period stated in the application, which may not exceed three years. A campus or district for which a requirement, restriction, or prohibition is waived for a period of three years may receive an exemption from that requirement, restriction, or prohibition at the end of that period if the campus or district has fulfilled the achievement objectives stated in the application. The exemption remains in effect until the commissioner determines that achievement levels of the campus or district have declined. *Education Code 7.056(d)*

Restrictions

Except as provided at Student Achievement Improvement Plan, a campus or district may not receive an exemption or waiver from a:

1. Prohibition on conduct that constitutes a criminal offense;
2. Requirement imposed by federal law or rule, including a requirement for special education or bilingual education programs; or
3. Requirement, restriction, or prohibition relating to:
 - a. Essential knowledge or skills under Education Code 28.002, or high school graduation requirements under Education Code 28.025;

- b. Public school accountability as provided by Education Code Chapter 39, Subchapters B, C, D, and J, and Chapter 39A;
- c. Extracurricular activities under Education Code 33.081 or participation in a University Interscholastic League area, regional, or state competition under Education Code 33.0812;
- d. Health and safety under Education Code Chapter 38;
- e. Purchasing under Education Code Chapter 44, Subchapter B;
- f. Elementary school class size limits, except as provided by Education Code 25.112;
- g. Removal of a disruptive student from the classroom under Education Code Chapter 37, Subchapter A;
- h. At-risk programs under Education Code Chapter 29, Subchapter C;
- i. Prekindergarten programs under Education Code Chapter 29, Subchapter E;
- j. Educator rights and benefits under Education Code Chapter 21, Subchapters A, C, D, E, F, G, and I, and Chapter 22, Subchapter A;
- k. Special education programs under Education Code Chapter 29, Subchapter A;
- l. Bilingual education programs under Education Code Chapter 29, Subchapter B; or
- m. Requirements for the first day of instruction under Education Code 25.0811.

Education Code 7.056(e)

*Student
Achievement
Improvement
Plan*

A district or campus that is required to develop and implement a student achievement improvement plan under Chapter 39A, Subchapter A, or Section 39A.051 [see AIC(LEGAL)] may receive an exemption or waiver under these provisions from any law or rule other than:

- 1. A prohibition on conduct that constitutes a criminal offense;
- 2. A requirement imposed by federal law or rule;
- 3. A requirement, restriction, or prohibition imposed by state law or rule relating to:

- a. Public school accountability under Education Code Chapter 39, Subchapters B, C, D, and J, and Chapter 39A; or
 - b. Educator rights and benefits under Education Code Chapter 21, Subchapters A, C, D, E, F, G, and I, and Chapter 22, Subchapter A; or
4. Selection of instructional materials under Education Code Chapter 31.

Education Code 7.056(f)

**Employment and
Evaluation**

The board shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that the board employs and evaluates the superintendent. *Education Code 11.1513(a)(1)* [See DC]

Appraisal Process

A board shall appraise a superintendent annually using either:

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

Education Code 21.354(c)

In addition to other procedures and criteria determined by the board, the commissioner's recommended appraisal process and criteria shall include, at a minimum, an annual evaluation of the superintendent and a student performance domain. Completion of the Lone Star Governance superintendent evaluation may satisfy these requirements. *19 TAC 150.1031(b)-(c)*

Annual
Performance Report

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

**Penalty for
Noncompliance**

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

Confidentiality

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

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

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

Education Code 21.355

SUPERINTENDENT
EVALUATION

BJCD
(LOCAL)

Written Evaluation

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

The Board shall furnish the Superintendent with a copy of the completed evaluation and shall discuss its conclusions with the Superintendent in a closed meeting, unless the Superintendent requests that the discussion be open.

Informal Evaluation

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

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

**Retirement and
Insurance
Contributions**

Under the Texas Public School Retired Employees Group Benefits Act, Insurance Code Chapter 1575, a district that applies for money provided by the United States or a privately sponsored source shall, if any of the money will pay part or all of an active employee's salary, also apply for any legally available money to pay state contributions required by Insurance Code Chapter 1575, Subchapter E. *Insurance Code 1575.252*

Such district must comply with the requirements of Insurance Code Chapter 1575, Subchapter F. *Insurance Code 1575.252(2)–.257*

Under the Teacher Retirement System, Government Code, Title 8, Subtitle C, if a district applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the district shall apply for any legally available money to pay state contributions required by Government Code 825.404 or 830.201. *Gov't Code 825.406(a)*

Such district must comply with the requirements of Government Code 825.406.

Block Grant Funds

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

**Education
Department General
Administrative
Regulations
(EDGAR)**

Note: For information regarding procurement under state law, see the CH policy series regarding Purchasing and Acquisition and the CV series regarding Facilities Construction.

For additional legal requirements applicable to school nutrition procurement, see COA.

EDGAR means the Education Department General Administrative Regulations (34 C.F.R. 75, 76, 77, 79, 81, 82, 84, 86, 97, 98, and 99). *34 C.F.R. 77.1(c)*

Uniform Guidance
(2 C.F.R. 200)

The Department of Education (DOE) adopts the Office of Management and Budget (OMB) Guidance in 2 C.F.R. Part 200 Uniform Guidance, except for 2 C.F.R. 200.102(a) and 2 C.F.R. 200.207(a). Thus, 2 C.F.R. Chapter XXXIV, Part 3474 gives regulatory effect to the OMB guidance and supplements the guidance as needed for the DOE. *2 C.F.R. 3474.1*

The Uniform Guidance establishes uniform administrative requirements, cost principles, and audit requirements for federal awards to non-federal entities, including school districts. *2 C.F.R. 200.64(j), .69, .100*

Note: The Uniform Guidance applies to all new grant awards and non-competing continuations (NCCs) made on or after December 26, 2014 (see 2 C.F.R. 200.110).

For more information on EDGAR, the Uniform Guidance, and the federal regulations that apply to federal education grant awards, visit TEA's [EDGAR Materials and Resources](#)¹ and the DOE's [EDGAR website](#),² [Uniform Guidance website](#),³ and [FAQs](#).⁴

*General
Compliance*

A district is responsible for complying with all requirements of the federal award. *2 C.F.R. 200.300(b)*

*Disclosures
Conflicts*

A district must disclose in writing any potential conflict of interest to the federal awarding agency (e.g., DOE) or pass-through entity (e.g., TEA) in accordance with applicable federal awarding agency policy. *2 C.F.R. 200.112*

Crimes

A district must disclose, in a timely manner, in writing to the federal awarding agency or pass-through entity all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the federal award. Failure to make required disclosures can result in any of the remedies described in 2 C.F.R. 200.338 (Remedies for Noncompliance), including suspension or debarment. *2 C.F.R. 200.113*

*Procurement
Standards
District
Procedures*

The district must use its own documented procurement procedures [see below at Competition] which reflect applicable state, local, and tribal laws and regulations, provided that the procurements conform to applicable federal law and the standards identified in the Uniform Guidance.

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

Oversight	The district must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.
Conflicts of Interest	The district must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award, and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a real or apparent conflict of interest. A conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization that employs or is about to employ any of these parties, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the district must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, districts may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the district. [See BBFA, CAA(LOCAL), CB(LOCAL), DBD]
Records	The district must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. [See Pre-procurement Review and Contract Cost and Price, below] <i>2 C.F.R. 200.318</i>
<i>Financial Management</i>	The district's financial management systems, including records documenting compliance with federal statutes, regulations, and the terms and conditions of the federal award, must be sufficient to permit the preparation of reports required by general and program-specific terms and conditions; and the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award. The district's financial management system must comply with 2 C.F.R. 200.302(b). <i>2 C.F.R. 200.302 [see also 2 C.F.R. 200.333 (Retention Requirements for Records), .334 (Requests for Transfer of Records), .335 (Methods for Collection, Transmission and Storage of Information),</i>

.336 (Access to Records), and .337 (Restrictions on Public Access to Records)]

Internal Controls The district must:

1. Establish and maintain effective internal control over the federal award that provides reasonable assurance that the district is managing the award in compliance with federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in “Standards for Internal Control in the Federal Government” issued by the Comptroller General of the United States or the “Internal Control Integrated Framework” issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).
2. Comply with federal statutes, regulations, and the terms and conditions of the award.
3. Evaluate and monitor the district’s compliance with statutes, regulations and the terms and conditions of federal awards.
4. Take prompt action when instances of noncompliance are identified including noncompliance identified in audit findings.
5. Take reasonable measures to safeguard protected personally identifiable information and other information the federal awarding agency or pass-through entity designates as sensitive or the district considers sensitive consistent with applicable federal, state, local, and tribal laws regarding privacy and obligations of confidentiality.

2 C.F.R. 200.303

“Internal controls” means a process, implemented by a district, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:

1. Effectiveness and efficiency of operations;
2. Reliability of reporting for internal and external use; and
3. Compliance with applicable laws and regulations.

2 C.F.R. 200.61

Competition

All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of 2 C.F.R. 200.319. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work,

or invitations for bids or requests for proposals must be excluded from competing for such procurements.

The district must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable federal statutes expressly mandate or encourage geographic preference. Nothing in this provision preempts state licensing laws. When contracting for architectural and engineering services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

The district must have written procedures for procurement transactions. These procedures must ensure that all solicitations meet the requirements of 2 C.F.R. 200.319(c). [See Procurement Standards, above]

The district must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the district must not preclude potential bidders from qualifying during the solicitation period.

2 C.F.R. 200.319

*Procurement
Methods*

The district must use one of the following methods of procurement.
2 C.F.R. 200.320

Note: For information on the amounts of the micro-purchase threshold and the simplified acquisition threshold, see [OMB Memorandum M-18-18](#),⁵ TEA's [To the Administrator Addressed letter](#)⁶ (August 28, 2018), and [New TEA Guidance on Micro-Purchase Flexibility Under EDGAR](#).⁷ For information regarding these thresholds and school nutrition purchases, see the Texas Department of Agriculture (TDA) Food and Nutrition Division's [Administrator's Reference Manual](#),⁸ Section 17.

Micro-
Purchases

Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold. To the extent practicable, the district must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the district considers the price to be reasonable.
2 C.F.R. 200.320(a)

“Micro-purchase” means a purchase of supplies or services using simplified acquisition procedures, the aggregate amount of which does not exceed the micro-purchase threshold. Micro-purchase procedures comprise a subset of a district's small purchase procedures. The district uses such procedures in order to expedite the completion of its lowest-dollar small purchase transactions and minimize the associated administrative burden and cost. The micro-purchase threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1 Definitions. *2 C.F.R. 200.67*

Small
Purchases

Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. *2 C.F.R. 200.320(b)*

*Simplified
Acquisition
Threshold*

“Simplified acquisition threshold” means the dollar amount below which a district may purchase property or services using small purchase methods. Districts adopt small purchase procedures in order to expedite the purchase of items costing less than the simplified acquisition threshold. The simplified acquisition threshold is set by the Federal Acquisition Regulation at 48 C.F.R. Subpart 2.1 Definitions and in accordance with 41 U.S.C. 1908. *2 C.F.R. 200.88*

Sealed Bids

Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions set out below apply.

In order for sealed bidding to be feasible, the following conditions should be present:

1. A complete, adequate, and realistic specification or purchase description is available;
2. Two or more responsible bidders are willing and able to compete effectively for the business; and
3. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If sealed bids are used, the following requirements apply:

1. Bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the

date set for opening the bids, for local governments, the invitation for bids must be publicly advertised;

2. The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
3. All bids will be opened at the time and place prescribed in the invitation for bids, and for local governments, the bids must be opened publicly;
4. A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
5. Any or all bids may be rejected if there is a sound documented reason.

2 C.F.R. 200.320(c)

Competitive
Proposals

The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:

1. Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
2. Proposals must be solicited from an adequate number of qualified sources;
3. The district must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
4. Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
5. The district may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is se-

lected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.

2 C.F.R. 200.320(d)

Sole Source

Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:

1. The item is available only from a single source;
2. The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
3. The federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-federal entity; or
4. After solicitation of a number of sources, competition is determined inadequate.

2 C.F.R. 200.320(f)

Cooperative
Purchasing

To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the federal government, the district is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. *2 C.F.R. 200.318(e)*

Affirmative Steps

The district must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
6. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) above.

2 C.F.R. 200.321

*Pre-procurement
Review*

The district must make available upon request, for the federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

1. The district's procurement procedures or operation fails to comply with the procurement standards in 2 C.F.R. Part 200;
2. The procurement is expected to exceed the simplified acquisition threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;
3. The procurement, which is expected to exceed the simplified acquisition threshold, specifies a "brand name" product;
4. The proposed contract is more than the simplified acquisition threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or
5. A proposed contract modification changes the scope of a contract or increases the contract amount by more than the simplified acquisition threshold.

2 C.F.R. 200.324(b)

*Contract Cost
and Price*

The district must perform a cost or price analysis in connection with every procurement action in excess of the simplified acquisition threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the district must make independent estimates before receiving bids or proposals.

The district must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the

work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

Costs or prices based on estimated costs for contracts under the federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the district under 2 C.F.R. Part 200, Subpart E—Cost Principles. The district may reference its own cost principles that comply with the federal cost principles.

The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

2 C.F.R. 200.323

Contract Provisions

The district's contracts must contain the applicable provisions described in 2 C.F.R. Part 200, Appendix II—Contract Provisions for non-Federal Entity Contracts Under Federal Awards. *2 C.F.R. 200.326*

Suspension and Debarment

Non-federal entities are subject to non-procurement debarment and suspension regulations at 2 C.F.R. Part 180. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities. *2 C.F.R. 200.213*

Remedies for Noncompliance

If a district fails to comply with federal statutes, regulations, or the terms and conditions of a federal award, the federal awarding agency or pass-through entity may impose additional conditions, as described in 2 C.F.R. 200.207 (Specific Conditions). If the federal awarding agency or pass-through entity determines that non-compliance cannot be remedied by imposing additional conditions, the federal awarding agency or pass-through entity may take one or more of the following actions, as appropriate in the circumstances:

1. Temporarily withhold cash payments pending correction of the deficiency by the district or more severe enforcement action by the federal awarding agency or pass-through entity.
2. Disallow (that is, deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance.
3. Wholly or partly suspend or terminate the federal award.

4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and federal awarding agency regulations (or in the case of a pass-through entity, recommend such a proceeding be initiated by a federal awarding agency).
5. Withhold further federal awards for the project or program.
6. Take other remedies that may be legally available.

2 C.F.R. 200.338

Travel Costs

Travel costs are the expenses for transportation, lodging, subsistence, and related items incurred by employees who are in travel status on official business of the district. Such costs may be charged on an actual cost basis, on a per diem or mileage basis in lieu of actual costs incurred, or on a combination of the two, provided the method used is applied to an entire trip and not to selected days of the trip, and results in charges consistent with those normally allowed in like circumstances in the district's non-federally funded activities and in accordance with the district's written travel reimbursement policies.

In the absence of an acceptable, written district policy regarding travel costs, the rates and amounts established under 5 U.S.C. 5701-11 (Travel and Subsistence Expenses; Mileage Allowances), or by the administrator of general services, or by the president (or his or her designee) pursuant to any provisions of such subchapter must apply to travel under federal awards [48 C.F.R. 31.205-46(a)].

2 C.F.R. 200.474(a), (d)

Property Standards

Federally Owned Property

Title to federally owned property remains vested in the federal government. The district must submit annually an inventory listing of federally owned property in its custody to the federal awarding agency. Upon completion of the federal award or when the property is no longer needed, the district must report the property to the federal awarding agency for further federal agency utilization.

"Exempt federally owned property" means property acquired under a federal award where the federal awarding agency has chosen to vest title to the property to the district without further obligation to the federal government, based upon the explicit terms and conditions of the federal award.

2 C.F.R. 200.312(a), (c)

Property Trust Relationship

Real property, equipment, and intangible property that are acquired or improved with a federal award must be held in trust by the district as trustee for the beneficiaries of the project or program under

which the property was acquired or improved. The federal awarding agency may require the district to record liens or other appropriate notices of record to indicate that personal or real property has been acquired or improved with a federal award and that use and disposition conditions apply to the property. *2 C.F.R. 200.316*

Real Property

Subject to the obligations and conditions set forth in 2 C.F.R. 200.311, title to real property acquired or improved under a federal award will vest upon acquisition in the district.

Except as otherwise provided by federal statutes or by the federal awarding agency, real property will be used for the originally authorized purpose as long as needed for that purpose, during which time the district must not dispose of or encumber its title or other interests.

When real property is no longer needed for the originally authorized purpose, the district must obtain disposition instructions from the federal awarding agency or pass-through entity. The instructions must provide for one of the following alternatives:

1. Retain title after compensating the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(1).
2. Sell the property and compensate the federal awarding agency an amount determined under 2 C.F.R. 200.311(c)(2).
3. Transfer title to the federal awarding agency or to a third party designated/approved by the federal awarding agency. The district is entitled to be paid an amount calculated by applying the district's percentage of participation in the purchase of the real property (and cost of any improvements) to the current fair market value of the property.

2 C.F.R. 200.311

Equipment

Title and Use

Subject to the obligations and conditions set forth in 2 C.F.R. 200.313, title to equipment acquired under a federal award will vest upon acquisition in the district. Unless a statute specifically authorizes the federal agency to vest title in the district without further obligation to the federal government, and the federal agency elects to do so, the title must be a conditional title. Title must vest in the district subject to the following conditions:

1. Use the equipment for the authorized purposes of the project during the period of performance, or until the property is no longer needed for the purposes of the project.
2. Not encumber the property without approval of the federal awarding agency or pass-through entity.

3. Use and dispose of the property in accordance with the provisions below.

Equipment must be used by the district in the program or project for which it was acquired in accordance with 2 C.F.R. 200.313(c).

Procedures for managing equipment (including replacement equipment), whether acquired in whole or in part under a federal award, until disposition takes place will, as a minimum, meet the requirements of 2 C.F.R. 200.313(d).

Disposition

If the district is authorized or required to sell the property, proper sales procedures must be established to ensure the highest possible return.

When original or replacement equipment acquired under a federal award is no longer needed for the original project or program or for other activities currently or previously supported by a federal awarding agency, except as otherwise provided in federal statutes, regulations, or federal awarding agency disposition instructions, the district must request disposition instructions from the federal awarding agency if required by the terms and conditions of the federal award. Disposition of the equipment will be made as prescribed in 2 C.F.R. 200.313(e), in accordance with federal awarding agency disposition instructions.

2 C.F.R. 200.313

Supplies

Title to supplies will vest in the district upon acquisition. If there is a residual inventory of unused supplies exceeding \$5,000 in total aggregate value upon termination or completion of the project or program and the supplies are not needed for any other federal award, the district must retain the supplies for use on other activities or sell them, but must, in either case, compensate the federal government for its share. The amount of compensation must be computed in the same manner as for equipment under 2 C.F.R. 200.313(e)(2). *2 C.F.R. 200.314(a)*

Intangible
Property

Title to intangible property acquired under a federal award vests upon acquisition in the district. The district must use that property for the originally-authorized purpose, and must not encumber the property without approval of the federal awarding agency. When no longer needed for the originally authorized purpose, disposition of the intangible property must occur in accordance with the provisions in 2 C.F.R. 200.313(e). *2 C.F.R. 200.315(a)*

Direct Grant
Programs

The regulations in 34 C.F.R. Part 75 apply to each direct grant program of the DOE. *34 C.F.R. 75.1*

STATE AND FEDERAL REVENUE SOURCES
FEDERAL

CBB
(LEGAL)

State-Administered Programs	The regulations in 34 C.F.R. Part 76 apply to each state-administered program of the DOE. <i>34 C.F.R. 76.1</i>
General Education Provision Act	The regulations in 34 C.F.R. Part 81 govern the enforcement of legal requirements under applicable programs administered by the DOE and implement Part E of the General Education Provisions Act (GEPA). <i>34 C.F.R. 81.1</i>

¹ TEA EDGAR Materials and Resources:
https://tea.texas.gov/Finance_and_Grants/Grants/EDGAR_Materials_and_Resources/

² DOE EDGAR website:
<https://www2.ed.gov/policy/fund/reg/edgarReg/edgar.html>

³ DOE Uniform Guidance website:
<https://www2.ed.gov/policy/fund/guid/uniform-guidance/index.html>

⁴ DOE Uniform Guidance FAQs:
<https://www2.ed.gov/policy/fund/guid/uniform-guidance/edfaqs1216.pdf>

⁵ OMB Memorandum M-18-18: <https://www.whitehouse.gov/wp-content/uploads/2018/06/M-18-18.pdf>

⁶ TEA *To the Administrator Addressed* letter (August 28, 2018):
https://tea.texas.gov/interiorpage_wide.aspx?id=51539625165

⁷ New TEA Guidance on Micro-Purchase Flexibility Under EDGAR:
https://tea.texas.gov/About_TEA/News_and_Multimedia/Correspondence/TAA_Letters/New_TEA_Guidance_on_Micro-Purchase_Flexibility_Under_EDGAR/

⁸ TDA Food and Nutrition Division's *Administrator's Reference Manual*:
<http://squaremeals.org/Publications/Handbooks.aspx>

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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

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

OTHER REVENUES
INVESTMENTS

CDA
(LEGAL)

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 rule, order, ordinance, or resolution, as appropriate, a written investment policy regarding the investment of its funds and funds under its control. The investment policies must primarily emphasize safety of principal and liquidity and must address investment diversification, yield, and maturity and the quality and capability of investment management. The policies must include:

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

Gov’t Code 2256.005(a), (b)

Annual Review

The board shall review its investment policy and investment strategies not less than annually. The board shall adopt a written instrument by rule, order, ordinance, or resolution stating that it has reviewed the investment policy and investment strategies and that

the written instrument so adopted shall record any changes made to either the investment policy or investment strategies. *Gov't Code 2256.005(e)*

Annual Audit

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

Investment
Strategies

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

1. Understanding of the suitability of the investment to the financial requirements of the district;
2. Preservation and safety of principal;
3. Liquidity;
4. Marketability of the investment if the need arises to liquidate the investment before maturity;
5. Diversification of the investment portfolio; and
6. Yield.

Gov't Code 2256.005(d)

Investment Officer

A district shall designate by rule, order, ordinance, or resolution, as appropriate, one or more officers or employees as investment officer(s) to be responsible for the investment of its funds consistent with the investment policy adopted by the board. If the board has contracted with another investing entity to invest its funds, the investment officer of the other investing entity is considered to be the investment officer of the contracting board's district. In the administration of the duties of an investment officer, the person designated as investment officer shall exercise the judgment and care, under prevailing circumstances, that a prudent person would exercise in the management of the person's own affairs, but the board retains the ultimate responsibility as fiduciaries of the assets of the district. Unless authorized by law, a person may not deposit, withdraw, transfer, or manage in any other manner the funds of the district. Authority granted to a person to invest the district's funds is effective until rescinded by the district or until termination of the person's employment by a district, or for an investment management firm, until the expiration of the contract with the district. *Gov't Code 2256.005(f)*

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

Investment Training
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:

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

Gov't Code 2256.006

Personal Interest

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

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

Gov't Code 2256.005(i)

Quarterly Reports

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

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

3. Contain a summary statement of each pooled fund group that states the:
 - a. Beginning market value for the reporting period;
 - b. Ending market value for the period; and
 - c. Fully accrued interest for the reporting period;
4. State the book value and market value of each separately invested asset at the end of the reporting period by the type of asset and fund type invested;
5. State the maturity date of each separately invested asset that has a maturity date;
6. State the account or fund or pooled group fund in the district for which each individual investment was acquired; and
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 years. A

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

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

Obligations of
Governmental
Entities

The following are authorized investments:

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

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

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

Gov't Code 2256.009(a)

*Unauthorized
Obligations*

The following investments are not authorized:

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

Gov't Code 2256.009(b)

*Certificates of
Deposit and Share
Certificates*

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

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

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

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 2256.016 (investment pools);
4. The terms of a loan require that the securities being held as collateral be pledged to the district, held in the district's name,

and deposited at the time the investment is made with the district or with a third party selected by or approved by the district; and

5. A loan is placed through a primary government securities dealer, as defined by 5 C.F.R. Section 6801.102(f), as that 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:
 - a. One year or more and is invested exclusively in obligations approved by the Public Funds Investment Act, or
 - b. Less than one year and the investment portfolio is limited to investment grade securities, excluding asset-backed securities.

Gov't Code 2256.014(b)

Limitations

A district is not authorized to:

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

Gov't Code 2256.014(c)

Guaranteed
Investment
Contracts

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

1. Has a defined termination date;

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

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

To be eligible as an authorized investment:

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

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

Gov't Code 2256.015

Investment Pools

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

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

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

Corporate Bonds

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

A district is not authorized to:

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

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

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

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

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

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

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 below) offering to engage in an investment transaction with a district. The qualified representative of the business organization offering to engage in an investment transaction with a district shall execute a written instrument in a form acceptable to the district and the business organization substantially to the effect that the business organization has:

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

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

Gov’t Code 2256.005(k)–(l)

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Nothing in this section relieves the district of the responsibility for monitoring investments made by the district to determine that they are in compliance with the investment policy.

Business
Organization

For purposes of the provisions at Sellers of Investments above, "business organization" means an investment pool or investment management firm under contract with a district to invest or manage the district's investment portfolio that has accepted authority granted by the district under the contract to exercise investment discretion in regard to the district's funds.

Gov't Code 2256.005(k)

Donations

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

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

**Electronic Funds
Transfer**

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

Note: For legal requirements applicable to the disposition of real property acquired with federal funds, see CBB.

Sale or Exchange of Real Property

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

Publication of Notice and Bidding Requirements

Except for the types of land and interests described at Exceptions, below, before land owned by a district may be sold or exchanged for other land, notice to the general public of the offer of the land for sale or exchange must be published in a newspaper of general circulation in either the county in which the land is located or, if there is no such newspaper, in an adjoining county. The notice must include a description of the land, including its location, and the procedure by which sealed bids to purchase the land or offers to exchange the land may be submitted. The notice must be published on two separate dates and the sale or exchange may not be made until after the 14th day after the date of the second publication. Local Government Code 272.001 does not require the board to accept any bid or offer or to complete a sale or exchange. *Local Gov't Code 272.001(a), (d)*

Open-Enrollment Charter School Offer

The board of a district that intends to sell, lease, or allow use for a purpose other than a district purpose of an unused or underused district facility must give each open-enrollment charter school located wholly or partly within the boundaries of the district the opportunity to make an offer to purchase, lease, or use the facility, as applicable, in response to any terms established by the board, before offering the facility for sale or lease or to any other specific entity. The board is not required to accept an offer made by an open-enrollment charter school. *Education Code 11.1542*

Exceptions
Generally

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

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1. Narrow strips of land, or land that because of its shape, lack of access to public roads, or small area cannot be used independently under its current zoning or under applicable subdivision or other development control ordinances;
2. Streets or alleys, owned in fee or used by easement;
3. Land or a real property interest originally acquired for streets, rights-of-way, or easements that the district chooses to exchange for other land to be used for streets, rights-of-way, easements, or other public purposes, including transactions partly for cash;
4. Land that the district wants to have developed by contract with an independent foundation;
5. A real property interest conveyed to a governmental entity that has the power of eminent domain; or
6. The land or interests described by items 1 and 2, above, may be sold to abutting property owners:
 - a. In the same subdivision if the land has been subdivided; or
 - b. In proportion to their abutting ownership, and the division between owners must be made in an equitable manner.

Local Gov't Code 272.001(b)–(c)

*Higher Education
Institutions*

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

*Other Political
Subdivisions*

A district may donate or sell for less than fair market value and without complying with the notice and bidding requirements a designated parcel of land or an interest in real property to another political subdivision if:

1. The land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling district;
2. The donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and

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CDB
(LEGAL)

3. The title and right to possession of the land or interest revert to the donating or selling district if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose.

Local Gov't Code 272.001(l)

Sale of Instructional Facility Financed with State Allotment

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

Lease of Property to a Governmental Entity

To promote a public purpose of the district, a district may:

1. Lease property owned by the district to another political subdivision or an agency of the state or federal government; or
2. Make an agreement to provide office space in property owned by the district to the other political subdivision or agency.

The district:

1. Shall determine the terms of the lease or agreement so as to promote and maintain the public purpose;
2. May provide for the lease of the property or provision of the office space at less than fair market value; and
3. Is not required to comply with any competitive purchasing procedure or any notice and publication requirement imposed by Local Government Code Chapter 272 or other law.

Local Gov't Code 272.005

Sale or Lease of Minerals

Minerals in land belonging to a 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(a)-(b)*

After the board determines that it is advisable to lease land belonging to the district, it shall give notice of its intention to lease the land. The notice shall be published once a week for three consecutive weeks in a newspaper published in the county and with general circulation in the county, and shall:

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

Natural Resources Code 71.005

After adoption of a resolution authorizing sale, the board president may execute an oil or gas lease or sell, exchange, or convey the minerals. The mineral deed or lease must recite the approval of the resolution of the board authorizing the sale. *Education Code 11.153(c)*

**Donation of Former
School Campus**

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

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

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

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

Education Code 11.1541(a)–(b)

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Note: Regarding disposal of school buses, see CNB. Regarding disposal of school-owned personal property, see CI. Regarding geospatial data products, see CQA.

**Public Facility
Corporations**

“Public facility” means any real, personal, or mixed property, or an interest in property devoted or to be devoted to public use, and authorized to be financed, refinanced, or provided by district obligations or bonds issued under the Public Facility Corporation Act (Local Government Code Chapter 303).

A district may create one or more nonmember, nonstock, nonprofit public facility corporations to:

1. Issue bonds under the Public Facility Corporation Act, including bonds to purchase district obligations;
2. Finance public facilities on behalf of the district; or
3. Loan the proceeds of the obligations to other entities to accomplish the purposes of the district.

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

A board that determines that it is in the public interest and to the benefit of its residents and the citizens of this state that a corporation be created to finance, refinance, or provide the costs of district public facilities may by resolution stating that determination:

1. Authorize and approve the creation of a corporation to act on behalf of the district; and
2. Approve proposed articles of incorporation for the corporation.

Local Gov’t Code 303.003, .021, .023

**Public and Private
Facilities and
Infrastructure
Partnerships**

“Responsible governmental entity” means a governmental entity that has the power to develop or operate an applicable qualifying project.

“Governmental entity” means a political subdivision of this state that elects to operate under Government Code Chapter 2267 by the adoption of a resolution by the governing body of the political subdivision.

“Qualifying project” means any ferry, mass transit facility, vehicle parking facility, port facility, power generation facility, fuel supply facility, oil or gas pipeline, water supply facility, public work, waste treatment facility, hospital, school, medical or nursing care facility, recreational facility, public building, technology facility, or other similar facility currently available or to be made available to a governmental entity for public use, including any structure, parking area, appurtenance, and other property required to operate the structure

or facility and any technology infrastructure installed in the structure or facility that is essential to the project's purpose; or any improvements necessary or desirable to real property owned by a governmental entity.

Gov't Code 2267.001(5), (10), (11)

Before requesting or considering a proposal for a qualifying project, a responsible governmental entity must adopt and make publicly available guidelines that enable the governmental entity to comply with Chapter 2267. The guidelines must be reasonable, encourage competition, and guide the selection of projects under the purview of the responsible governmental entity, and must comply with the requirements of Government Code 2267.052. *Gov't Code 2267.052*

A responsible governmental entity may request proposals or invite bids from persons for the development or operation of a qualifying project. A responsible governmental entity shall evaluate proposals and approve a qualifying project in accordance with Government Code 2267.053. *Gov't Code 2267.053*

Income Tax	Except as otherwise provided in 26 U.S.C. 3402, every employer making payment of wages shall deduct and withhold upon such wages a tax determined in accordance with tables or computational procedures prescribed by the Secretary of the Treasury. <i>26 U.S.C. 3401–3402</i>
Medicare Tax	The tax imposed by 26 U.S.C. 3101(b) shall be collected by the employer of the taxpayer hired after March 31, 1986, by deducting the amount of the tax from the wages as and when paid. <i>26 U.S.C. 3102(a), 3121(u)</i>
Teacher Retirement System	<p>Each payroll period, each employer shall deduct from the compensation of each member employed by the employer the amount required by Government Code 825.402. <i>Gov't Code 825.403</i></p> <p>Each employer shall pick up the employee contribution required of each of its employees by Government Code 825.403. Employers shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system. <i>Gov't Code 825.409(a)</i></p>
Retired School Employees Group Insurance Fund	<p>The employer of an active employee shall monthly:</p> <ol style="list-style-type: none">1. Deduct the employee's contribution from the employee's salary and remit the contribution to the Teacher Retirement System of Texas (TRS) in the manner required by TRS; or2. Assume and pay the total contributions due from its active employees. <p>“Active employee” means a contributing member of the TRS who is employed by a public school and is not entitled to coverage under a plan provided under Insurance Code Chapter 1551 (Texas Employees Group Benefits Act) or 1601 (State University Employees Uniform Insurance Benefits Act).</p> <p><i>Insurance Code 1575.002(1), (7), .203(b)</i></p>
Child Support Payments	An employer shall begin to withhold income in accordance with an order or writ of withholding issued under Family Code Chapter 158 not later than the first pay period following the date on which the order or writ was delivered to the employer and shall continue to withhold income as required by the order or writ as long as the obligor is employed by the employer. The employer shall remit the

amount to be withheld to the person or office named in the order or writ on each pay date. The payment must include the date on which the withholding occurred.

An employer may deduct an administrative fee of not more than \$10 from the obligor's disposable earnings in addition to the amount to be withheld as child support.

Family Code 158.202–.204

**Spousal
Maintenance**

An employer shall begin to withhold income in accordance with an order or writ of withholding issued under Family Code Chapter 8 not later than the first pay period after the date the order or writ was delivered to the employer. The employer shall continue to withhold income as required by the order or writ as long as the obligor is employed by the employer. The employer shall remit to the person or office named in the order or writ of withholding the amount of income withheld from an obligor on each pay date. The remittance must include the date on which the withholding occurred.

An employer may deduct an administrative fee of not more than \$5 each month from the obligor's disposable earnings in addition to the amount withheld as spousal maintenance.

Family Code 8.202–.204

Professional Dues

A district employee is entitled to have an amount deducted from the employee's salary for membership fees or dues to a professional organization. The employee must:

1. File with the district a signed written request identifying the organization and specifying the number of pay periods per year the deductions are to be made; and
2. Inform the district of the total amount of the fees and dues for each year or have the organization notify the district of the amount.

The district shall deduct the total amount of the fees or dues for a year in equal amounts per pay period for the number of periods specified by the employee. The deductions shall be made until the employee requests in writing that the deductions be discontinued.

The district may charge an administrative fee for making the deduction. A fee imposed may not exceed either the actual administrative cost of making the deduction or the lowest fee the district charges for similar salary deductions, whichever is less.

Education Code 22.001 [But see Atty. Gen. Op. No. GA-774 (2010) (The legislature has not expressly authorized school districts to process payroll deductions for contributions to political committees.)]

Social Security	The tax imposed by 26 U.S.C. 3101(a) shall be collected by the employer of designated taxpayers by deducting the amount of the tax from the wages as and when paid. <i>26 U.S.C. 3101–3102, 3121(b)(7)(E); 26 C.F.R. 31.3121(b)(7)-2</i>
Federal Education Loans	An employer shall pay to the U.S. Secretary of Education or the guaranty agency as directed in a withholding order issued in an action to recover delinquent federal education loan payments. <i>20 U.S.C. 1095a(a)(6)</i>
Prepaid Higher Education Tuition Program	An employee of a district may make payments under a prepaid tuition contract by payroll deductions made by the appropriate officer of the district. <i>Education Code 54.626(c)</i>
Higher Education Savings Plan	An employee of a district may make contributions to a higher education savings trust account established under the higher education savings plan by payroll deductions made by the appropriate officer of the district. <i>Education Code 54.701(10), .708(a)</i>
Assignments	<p>An employee's assignment, pledge, or transfer, as security for indebtedness, of any interest in or part of the employee's salary or wages then due or that may become due under an existing contract of employment is enforceable only:</p> <ol style="list-style-type: none">1. If before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer written approval is obtained in accordance with the policy of the employing district; and2. To the extent that the indebtedness it secures is a valid and enforceable obligation. <p>A district shall honor an assignment, pledge, or transfer fulfilling the conditions above without incurring any liability to the employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument constitutes payment to or for the account of the assignor, pledgor, or transferor. An assignment, pledge, or transfer is enforceable only to the extent of salary due or that may become due during continuation of the assignor's employment as a school employee.</p> <p><i>Education Code 22.002</i></p>
Insurance	A district may withhold from an employee's salary contributions for participation in approved insurance programs. <i>Insurance Code 1579.253; Education Code 22.005 [See CRD]</i>
Deferred Compensation	A district may enter into a salary reduction agreement to reduce an employee's salary for the purpose of making direct contributions to

or purchases of a qualified investment product only if the qualified investment product is an eligible qualified investment and is registered with TRS under V.A.T.S. Article 6228a-5, Section 8A. To the greatest degree possible, employers of employees who participate in the program offered under this section shall require that contributions to eligible qualified investments be made by automatic payroll deduction and deposited directly in the investment accounts. *Art. 6228a-5, Secs. 4(7), 5(a), (f) V.A. T.S.*

A district may contract with an employee for the deferment of any part of the employee's compensation. To participate in a deferred compensation plan, an employee must consent in the contract to automatic payroll deductions in an amount equal to the deferred amount. *Gov't Code 609.007(a), (c)* [See CRG]

Cafeteria Plans

A district shall withhold from an employee's salary amounts designated by the employee for participation in the district's cafeteria plan authorized under 26 U.S.C. 125.

"Cafeteria plan" means a written plan under which all participants are employees, and the participants may choose among two or more benefits consisting of cash and qualified benefits.

26 U.S.C. 125

Administrative Fee

A district that is required by state or federal law to deduct from the current wages of an employee an amount garnished under a withholding order may deduct monthly an administrative fee from the employee's disposable earnings in addition to the amount required to be withheld under the withholding order. This does not apply to income withholding under Family Code Chapter 158. [See Child Support Payments, above]

The administrative fee may not exceed the lesser of:

1. The actual administrative cost incurred by the district in complying with the withholding order; or
2. \$10.

Civil Practice and Remedies Code 63.006

Child Care

The board may authorize a district employee to enter into an agreement with the district to reduce the periodic compensation paid the employee by the district by an amount to be paid for child care expenses. *Gov't Code 610.021(a)*

SCHOOL PROPERTIES DISPOSAL

CI
(LOCAL)

The Superintendent is authorized to declare District materials, equipment, personal property such as vehicles, and supplies to be unnecessary and shall dispose of unnecessary materials, equipment, personal property such as vehicles, and supplies for fair market value. If the unnecessary property has no value, the Superintendent may dispose of such property according to administrative discretion.

Instructional materials shall be disposed of in accordance with law.
[See CMD(LEGAL)]

Property obtained with federal funds or as federal surplus shall be managed in accordance with federal law.

Safety Standards

A district shall meet or exceed the safety standards for school buses established by the Department of Public Safety (DPS), with the advice of the Texas Education Agency (TEA). A district that fails or refuses to meet these safety standards for school buses is ineligible to share in the transportation allotment until the first anniversary of the date the district begins complying with the safety standards. *Education Code 34.002; Transp. Code 547.102; 37 TAC 14.51–.52*

Student Safety
Prohibitions

A district may not require or allow a child to stand on a moving bus or passenger van. *Education Code 34.004*

An operator of a school bus, while operating the bus, shall prohibit a passenger from:

1. Standing in the bus; or
2. Sitting:
 - a. On the floor of the bus, or
 - b. In any location on the bus that is not designed as a seat.

Transp. Code 545.426

Seat Belts
*Required on
Buses*

A bus, including a school bus, a school activity bus, multifunction school activity bus, or school-chartered bus, operated by or contracted for use by a district for the transportation of schoolchildren shall be equipped with a three-point seat belt for each passenger, including the operator. This requirement does not apply to:

1. A bus purchased by a school district that is a model year 2017 or earlier; or
2. A bus purchased by a school district that is a model year 2018 or later if the board:
 - a. Determines that the district's budget does not permit the district to purchase a bus that is equipped with the required seat belts; and
 - b. Votes to approve that determination in a public meeting.

Transp. Code 547.701(e)

*Student
Requirement*

A district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students. *Education Code 34.013*

Donations

A board shall consider any offer made by a person to donate three-point seat belts or money for the purchase of three-point seat belts for a district's school buses. A board may accept or decline the offer after adequate consideration.

A board may acknowledge a person who donates three-point seat belts or money for the purchase of three-point seat belts for a school bus by displaying a small, discreet sign on the side or back of the bus recognizing the person who made the donation. The sign may not serve as an advertisement for the person who made the donation.

Education Code 34.014

**School Bus
Emergency
Evacuation Training**

Pursuant to the safety standards established by DPS under Education Code 34.002, each school district may conduct a training session for students and teachers concerning procedures for evacuating a school bus during an emergency. A district that chooses to conduct a training session is encouraged to conduct the school bus emergency evacuation training session in the fall of the school year. "Fall" is defined as July 1 to December 31. The district is also encouraged to structure the training session so that the session applies to school bus passengers, a portion of the session occurs on a school bus, and the session lasts for at least one hour.

The training must be based on the recommendations of the most recent edition of the National School Transportation Specifications and Procedures, as adopted by the National Congress on School Transportation, or a similar school transportation safety manual.

Immediately before each field trip involving transportation by school bus, a district is encouraged to review school bus emergency evacuation procedures with the school bus passengers, including a demonstration of the school bus emergency exits and the safe manner to exit.

Not later than the 30th day after the date that a school district completes a training session, the district shall provide DPS with a record certifying the district's completion of the training.

Note: The [Reporting of School Bus Evacuation Training form](#)¹ is available on the DPS website.

Education Code 34.0021; 37 TAC 14.54

**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)*

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

For information regarding offenses pertaining to firearms on buses, see GKA(LEGAL).

Accident Reports

Notice to DPS

A district shall provide DPS written notification of any accident directly or indirectly involving a school bus operated by or for the district that bears advertising or another paid announcement. *37 TAC 14.65(a)(2)*

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

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

37 TAC 14.65(c)

Notices to DPS may be delivered by facsimile, electronic mail, or mailed to School Bus Transportation, Texas Department of Public Safety, P.O. Box 4087, Austin, TX 78773-0525. *37 TAC 14.65(d)*

Notice to TEA

A district shall report annually to TEA the number of accidents in which its buses were involved in the past year in a manner prescribed by the commissioner of education. A district shall file the annual report to TEA only in the period beginning July 1 and ending July 31 and shall include the following information in the report:

1. The total number of bus accidents;
2. The date each accident occurred;
3. The type of bus, as specified in 19 Administrative Code 61.1028(a), involved in each accident;
4. Whether the bus involved in each accident was equipped with seat belts and, if so, the type of seat belts;
5. The number of students and adults involved in each accident;
6. The number and types of injuries that were sustained by the bus passengers in each accident; and
7. Whether the injured passengers in each accident were wearing seat belts at the time of the accident and, if so, the type of seat belts.

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>

Food Donation

The Superintendent shall be authorized to develop regulations for the District to donate or otherwise dispose of leftover 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 an unlimited time. The Superintendent shall develop administrative regulations for this grace period to address the District's processes for:

1. Parent notification during the grace period, including a schedule for repayment;
2. Minimizing overt identification of the student; and
3. Identifying students who may qualify for free or reduced-meal programs, and assisting their families with the application process during registration.

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 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: For additional legal requirements applicable to purchases with federal funds, including 2 C.F.R. 200, see CBB.

For more information on U.S. Department of Agriculture (USDA) procurement requirements, see the Texas Department of Agriculture's (TDA) [Food and Nutrition Division Administrator's Reference Manual](#),¹ Section 17.

Definitions

For purposes of this policy, "2 C.F.R. part 200" means the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards published by the Office of Management and Budget (OMB). The part reference covers applicable: Acronyms and Definitions (subpart A), General Provisions (subpart B), Post Federal Award Requirements (subpart D), Cost Principles (subpart E), and Audit Requirements (subpart F). [Note: Pre-Federal Award Requirements and Contents of Federal Awards (subpart C) does not apply to the National School Lunch Program]. *7 C.F.R. 210.2, 220.2*

School Food Authority

"School food authority" (SFA) means the governing body that is responsible for the administration of one or more schools and has the legal authority to operate the program therein or be otherwise approved by the USDA Food and Nutrition Service (FNS) to operate the program.

Program

"Program" means the National School Lunch Program (NSLP) and the Commodity School Program or the School Breakfast Program (SBP), as applicable.

Nonprofit School Food Service

"Nonprofit School Food Service" means all food service operations conducted by the SFA principally for the benefit of school children, all the revenue from which is used solely for the operation or improvement of such food services.

Nonprofit School Food Service Account

"Nonprofit School Food Service Account" means the restricted account in which all the revenue from all food service operations conducted by the SFA principally for the benefit of school children is retained and used only for the operation or improvement of the nonprofit school food service.

Cost Reimbursable Contract

"Cost reimbursable contract" means a contract that provides for payment of incurred costs to the extent prescribed in the contract, with or without a fixed fee.

7 C.F.R. 210.2, 220.2

Administration

The SFA shall be responsible for the administration of the program in schools. *7 C.F.R. 210.3*

**Nonprofit School
Food Service**

National School
Lunch Program

The SFA shall maintain a nonprofit school food service. Revenues received by the nonprofit school food service are to be used only for the operation or improvement of such food service, except that such revenues shall not be used to purchase land or buildings, unless otherwise approved by FNS, or to construct buildings. Expenditures of nonprofit school food service revenues shall be in accordance with the financial management system established by the TDA under 7 C.F.R. 210.19(a). *7 C.F.R. 210.14(a)*

School Breakfast
Program

Pursuant to required written agreements, the SFA shall, with respect to participating schools under its jurisdiction maintain a nonprofit school food service. In accordance with the financial management system established under 7 C.F.R. 220.13(i), use all revenues received by such food service only for the operation or improvement of that food service. Revenues received by the nonprofit school food service shall not be used to purchase land or buildings or to construct buildings. *7 C.F.R. 220.7(e)(1)(i)–(iii)*

**Food Service
Management
Companies**

An SFA may contract with a food service management company to manage its food service operation in one or more of its schools. However, no school or SFA may contract with a food service management company to operate an a la carte food service unless the company agrees to offer free, reduced price and paid reimbursable lunches to all eligible children. Any SFA that employs a food service management company in the operation of its nonprofit school food service shall comply with the requirements of 7 C.F.R. 210.16 (NSLP) or 7 C.F.R. 220.7(d) (SBP). *7 C.F.R. 210.16, 220.7*

Note: For more information on contracts regarding consultants, food service management companies (FSMC), and vended meals, see TDA's [Food and Nutrition Division Administrator's Reference Manual](#),² Section 22.

**USDA Procurement
Requirements**

District
Procurement
Procedures

The SFA shall comply with requirements of 7 C.F.R. Part 210 (NSLP), Part 220 (SBP), and 2 C.F.R. Part 200, subpart D and USDA implementing regulations 2 C.F.R. Part 400 and Part 415, as applicable, which implement the applicable requirements, concerning procurement of all goods and services with nonprofit school food service account funds. *7 C.F.R. 210.21(a), 220.16(a)*

An SFA may use its own procurement procedures which reflect applicable state and local laws and regulations, provided that procurements made with nonprofit school food service account funds adhere to the standards set forth in 7 C.F.R. Part 210 and in 2 C.F.R. Part 200, Subpart D, as applicable. SFA procedures must

include a written code of standards of conduct meeting the minimum standards of 2 C.F.R. 200.318, as applicable. [See CBB(LEGAL) at Procurement Standards]

*Pre-issuance
Review*

TDA may impose a pre-issuance review requirement on an SFA's proposed procurement. The SFA must make available, upon request by TDA, its procurement documents, including but not limited to solicitation documents, specifications, evaluation criteria, procurement procedures, proposed contracts and contract terms. The SFA shall comply with TDA requests for changes to procurement procedures and solicitation and contract documents to ensure that, to TDA's satisfaction, such procedures and documents reflect applicable procurement and contract requirements and the requirements of 7 C.F.R. Part 210.

*Prohibited
Expenditures—
Noncompliant
Procurement*

No expenditure may be made from the nonprofit school food service account for any cost resulting from a procurement failing to meet the requirements of 7 C.F.R. Part 210 (NSLP) or Part 220 (SBP).

7 C.F.R. 210.21(c), 220.16(c)

Conflicts of Interest

A district must disclose in writing any potential conflicts of interest to the USDA awarding agency or pass-through entity (e.g., TDA).

The district must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees in the selection, award and administration of federal awards. No employee, officer or agent may participate in the selection, award, or administration of a federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a non-federal entity considered for a federal award. The district may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the district.

2 C.F.R. 400.2

**Cost Reimbursable
Contracts**

The SFA must include the provisions specified in 7 C.F.R. 210.21(f)(1) (NSLP) or 220.16(e)(1) (SBP) in all cost reimbursable contracts, including contracts with cost reimbursable provisions, and in solicitation documents prepared to obtain offers for such contracts.

Prohibited
Expenditures—
Noncompliant
Contract

No expenditure may be made from the nonprofit school food service account for any cost resulting from a cost reimbursable contract that fails to include the requirements of 7 C.F.R. 210.21 (NSLP) or 220.16 (SBP), nor may any expenditure be made from the nonprofit school food service account that permits or results in the contractor receiving payments in excess of the contractor's actual, net allowable costs.

7 C.F.R. 210.21(f), 220.16(e)

Buy American

Domestic
Commodity or
Product

“Domestic commodity or product” means an agricultural commodity that is produced in the United States, and a food product that is processed in the United States substantially using agricultural commodities that are produced in the United States.

Requirement

The USDA shall require that an SFA purchase, to the maximum extent practicable, domestic commodities or products.

7 C.F.R. 210.21(d), 220.16(d)

**Optional Geographic
Preference**

An SFA participating in the program may apply a geographic preference when procuring unprocessed locally grown or locally raised agricultural products. When utilizing the geographic preference to procure such products, the SFA making the purchase has the discretion to determine the local area to which the geographic preference option will be applied.

For the purpose of applying the optional geographic procurement preference, “unprocessed locally grown or locally raised agricultural products” means only those agricultural products that retain their inherent character. The effects of the following food handling and preservation techniques shall not be considered as changing an agricultural product into a product of a different kind or character: cooling; refrigerating; freezing; size adjustment made by peeling, slicing, dicing, cutting, chopping, shucking, and grinding; forming ground products into patties without any additives or fillers; drying/dehydration; washing; packaging (such as placing eggs in cartons), vacuum packing and bagging (such as placing vegetables in bags or combining two or more types of vegetables or fruits in a single package); the addition of ascorbic acid or other preservatives to prevent oxidation of produce; butchering livestock and poultry; cleaning fish; and the pasteurization of milk.

7 C.F.R. 210.21(g), 220.16(f)

Sale of Milk

An SFA participating in the program, or a person approved by a school participating in the program, must not directly or indirectly restrict the sale or marketing of fluid milk (as described in 7 C.F.R. 210.10(d)(4)) at any time or in any place on school premises or at any school-sponsored event. *7 C.F.R. 210.21(e)*

Dairy Products

A district may not purchase milk, cream, butter, cheese, or a product consisting largely of one or more of those items that has been imported from outside the United States. This provision does not apply to the purchase of milk powder if domestic milk powder is not readily available in the normal course of business. *Health & Safety Code 435.021*

Imported Beef

A district may not purchase beef or a product consisting substantially of beef that has been imported from outside the United States. *Agriculture Code 150.012*

¹ TDA's Food and Nutrition Division *Administrator's Reference Manual*:
<http://squaremeals.org/Publications/Handbooks.aspx>

² TDA's Food and Nutrition Division *Administrator's Reference Manual*:
<http://squaremeals.org/Publications/Handbooks.aspx>

Procurement

The Superintendent shall oversee the use of federal child nutrition funds to procure appropriate goods and services necessary for providing food service to students and shall develop and enforce financial management systems, internal control procedures, procurement procedures, and other administrative procedures as needed to comply with all state and federal requirements for use of these funds.

[See CO(LEGAL) and COA(LEGAL)]

Geographic Preference

The Board delegates to the Superintendent the authority to determine whether the District will apply a geographic preference when procuring unprocessed, locally grown or locally raised agricultural products and to:

1. Specify the types of products for which any geographic preference will be applied; and
2. Define the geographic area to be preferred for each applicable product.

**Free and
Reduced-Price Meals**

The school food authority (SFA) shall ensure that lunches and meal supplements are made available free or at a reduced-price to all children who are determined by the SFA to be eligible for such benefits. The determination of a child's eligibility for free or reduced-price lunches and meal supplements is to be made in accordance with 7 C.F.R. part 245. 7 C.F.R. 210.23(a) [For information regarding participation in the School Breakfast Program (SBP), see 7 C.F.R. 220.7 and School Meals Program Options, below.]

[For the definition of "school food authority," see COA(LEGAL).]

Eligibility Appeals

Each local educational agency (LEA) of a school participating in the National School Lunch Program (NSLP), SBP, or the Special Milk Program (7 C.F.R. Part 215) or of a commodity-only school shall establish a hearing procedure under which:

1. A family can appeal from a decision made by the LEA with respect to an application the family has made for free or reduced-price meals or for free milk, and
2. The LEA can challenge the continued eligibility of any child for a free or reduced-price meal or for free milk. The hearing procedure shall provide for both the family and the local educational agency:
 - a. A simple, publicly announced method to make an oral or written request for a hearing;
 - b. An opportunity to be assisted or represented by an attorney or other person;
 - c. An opportunity to examine, prior to and during the hearing, any documents and records presented to support the decision under appeal;
 - d. That the hearing shall be held with reasonable promptness and convenience, and that adequate notice shall be given as to the time and place of the hearing;
 - e. An opportunity to present oral or documentary evidence and arguments supporting a position without undue interference;
 - f. An opportunity to question or refute any testimony or other evidence and to confront and cross-examine any adverse witnesses;
 - g. That the hearing shall be conducted and the decision made by a hearing official who did not participate in

- making the decision under appeal or in any previously held conference;
- h. That the decision of the hearing official shall be based on the oral and documentary evidence presented at the hearing and made a part of the hearing record;
 - i. That the parties concerned and any designated representative shall be notified in writing of the decision of the hearing official;
 - j. That a written record shall be prepared with respect to each hearing, which shall include the challenge or the decision under appeal, any documentary evidence and a summary of any oral testimony presented at the hearing, the decision of the hearing official, including the reasons therefor, and a copy of the notification to the parties concerned of the decision of the hearing official; and
 - k. That the written record of each hearing shall be preserved for a period of three years and shall be available for examination by the parties concerned or their representatives at any reasonable time and place during that period.

7 C.F.R. 245.7

“Local Educational Agency”

“Local educational agency” means a public board of education legally constituted within a state for administrative control or direction of public elementary schools or secondary schools in a school district. *7 C.F.R. 245.2*

Claims for Reimbursement

Internal Controls

The school food authority shall establish internal controls which ensure the accuracy of meal counts prior to the submission of the monthly claim for reimbursement under the NSLP or the SBP, as applicable. At a minimum, these internal controls shall include an on-site review of the meal counting and claiming system employed by each school within the jurisdiction of the SFA; comparisons of daily free, reduced-price, and paid meal counts against data which will assist in the identification of meal counts in excess of the number of free, reduced-price, and paid meals served each day to children eligible for such meals; and a system for following up on those meal counts which suggest the likelihood of meal counting problems. *7 C.F.R. 210.8(a), 220.11(a)*

On-Site Reviews

Every school year, each SFA with more than one school shall perform no less than one on-site review of the counting and claiming system and the readily observable general areas of review cited under *7 C.F.R. 210.18(h)* [regarding general areas of review by the Texas Department of Agriculture (TDA)] for each school under its

jurisdiction under the NSLP, and for a minimum of 50 percent of schools under its jurisdiction with every school being reviewed at least once every two years under the SBP.

The on-site review shall take place prior to February 1 of each school year. Further, if the review discloses problems with a school's meal counting or claiming procedures or general review areas, the SFA shall ensure that the school implements corrective action and, within 45 days of the review, conduct a follow-up on-site review to determine that the corrective action resolved the problems. Each on-site review shall ensure that the school's claim is based on the counting system and that the counting system, as implemented, yields the actual number of reimbursable free, reduced price, and paid meals, respectively, served for each day of operation.

7 C.F.R. 210.8(a)(1), 220.11(d)(1)

**Nondiscrimination
and Confidentiality**

Nondiscrimination

In the operation of the program, no child shall be denied benefits or be otherwise discriminated against because of race, color, national origin, age, sex, or disability. SFAs shall comply with the requirements of:

1. Title VI of the Civil Rights Act of 1964,
2. Title IX of the Education Amendments of 1972,
3. Section 504 of the Rehabilitation Act of 1973,
4. The Age Discrimination Act of 1975,
5. The U.S. Department of Agriculture (USDA) regulations on nondiscrimination (7 C.F.R. parts 15, 15a, and 15b), and
6. Food and Nutrition Service (FNS) Instruction 113-1.

7 C.F.R. 210.23(b)

Note: [FNS Instruction 113-1](#), USDA [posters](#) and [nondiscrimination statement](#) for use by SFAs for all FNS programs, and other information may be found on the [USDA FNS Civil Rights](#) website. For information on handling civil rights complaints, see TDA's [Food and Nutrition Division Administrator's Reference Manual](#),¹ Section 19.

SFAs participating in the NSLP, SBP, Special Milk Program, or commodity-only schools shall take all actions that are necessary to ensure compliance with the following nondiscrimination practices for children eligible to receive free and reduced-price meals or free milk:

1. The names of the children shall not be published, posted or announced in any manner;
2. There shall be no overt identification of any of the children by the use of special tokens or tickets or by any other means;
3. The children shall not be required to work for their meals or milk;
4. The children shall not be required to use a separate dining area, go through a separate serving line, enter the dining area through a separate entrance or consume their meals or milk at a different time; and
5. When more than one lunch or breakfast or type of milk is offered which meets the requirements prescribed in applicable federal regulations, the children shall have the same choice of meals or milk that is available to those children who pay the full price for their meal or milk.

7 C.F.R. 245.8

Confidentiality

The use or disclosure of any information obtained from an application for free or reduced-price meals, or from a state or local agency referred to in 7 U.S.C. 1758(b)(3)(F), (4), or (5) shall be limited in accordance with section 9 of the Richard B. Russell National School Lunch Act. *42 U.S.C. 1758(b)(6); 7 C.F.R. 245.6(f)–(j)*

*Unauthorized
Disclosure or
Misuse of
Information*

In accordance with section 9(b)(6)(C) of the Richard B. Russell National School Lunch Act (42 U.S.C. 1758(b)(6)(C)), any individual who publishes, divulges, discloses, or makes known in any manner, or to any extent not authorized by statute or this section, any information obtained under this section will be fined not more than \$1,000 or imprisoned for up to one year, or both. *7 C.F.R. 245.6(k)*

Note: For more information regarding confidentiality and disclosure of information, see the TDA's [Food and Nutrition Division Administrator's Reference Manual](#),² Section 16.

**School Meals
Program Options**

If at least ten percent of the students enrolled in one or more schools in a district are eligible for free or reduced-price breakfasts under the national school breakfast program provided for by the Child Nutrition Act of 1966 (42 U.S.C. 1773), the board shall either:

1. Participate in the national program and extend its benefits to all eligible students in the school or schools; or
2. Develop and implement a locally funded program to provide free meals, including breakfast and lunch, to each student eligible for free meals under federal law and reduced-price

meals, including breakfast and lunch, to each student eligible for reduced-price meals under federal law, provided that the reduced price may not exceed the maximum allowable rate under federal law.

A district is permitted to participate in the national program at one or more campuses in the district and provide a locally funded program at one or more other campuses in the district.

Free Breakfast

A campus participating in the national school breakfast program or providing a locally funded program in which 80 percent or more of the students qualify under the national program for a free or reduced-price breakfast shall offer a free breakfast to each student.

Waiver

The commissioner of education shall grant a waiver of the free breakfast requirement, not to exceed one year, to a campus if the board votes to request the waiver at the board's annual meeting to discuss and adopt the budget and the proposed tax rate under Education Code 44.044. Before voting to request a waiver, the board shall list the waiver as a separate item for consideration on the meeting's agenda and provide an opportunity for public comment regarding the waiver at the meeting.

Education Code 33.901

Summer Nutrition Program

Unless the Texas Department of Agriculture (TDA) grants a district a waiver, a district in which 50 percent or more of the students are eligible to participate in the national free or reduced-price lunch program under 42 U.S.C. Section 1751 et seq. shall provide or arrange for the provision of a summer nutrition program for at least 30 days during the period in which district schools are recessed for the summer. *Agriculture Code 12.0029(b)*

"Summer nutrition program" means the Summer Food Service Program under 42 U.S.C. 1761. The term includes the seamless summer option under 42 U.S.C. 1761(a)(8). *Agriculture Code 12.0029(a)(2)*

Notice from TDA

Not later than October 31 of each year, TDA shall notify each qualifying district of the district's responsibility concerning provision of a summer nutrition program during the next period in which school is recessed for the summer. *Agriculture Code 12.0029(c)*

Notice to TDA

Each district that receives a notice from TDA shall, not later than January 31 of the year following the year in which the notice was received, inform TDA in writing that the district intends to provide or arrange for the provision of a summer nutrition program during the next period in which district schools are recessed for the summer; or request in writing that TDA grant the district a waiver of the requirement. *Agriculture Code 12.0029(e)*

<i>Required Documentation</i>	A district that arranges for the provision of a summer nutrition program must enter into an agreement to partner or collaborate with a local governmental entity, educational institution, or private non-profit organization to ensure meal service for children in the district's attendance area and must provide TDA with written documentation of the arrangement no later than April 1 of each year. <i>4 TAC 25.601(b)</i>
Waiver	<p>Not later than November 30 of each year, the board of a district that intends to request a waiver must send written notice of the district's intention to the district's local school health advisory council. The notice must include an explanation of the district's reason for requesting a waiver of the requirement. <i>Agriculture Code 12.0029(d)</i></p> <p>TDA may grant a district a one-year waiver of the requirement to provide or arrange for the provision of a summer nutrition program only if:</p> <ol style="list-style-type: none">1. The district has worked with the TDA field offices to identify another possible provider for the program in the district, and the district provides documentation, verified by TDA, showing that:<ol style="list-style-type: none">a. There are fewer than 100 children in the district currently eligible for the national free or reduced-price lunch program;b. Transportation to enable district students to participate in the program is an insurmountable obstacle to the district's ability to provide or arrange for the provision of the program despite consultation by the district with public transit providers;c. The district is unable to provide or arrange for the provision of a program due to renovation or construction of district facilities and the unavailability of an appropriate alternate provider or site; ord. The district is unable to provide or arrange for the provision of a program due to another specified extenuating circumstance and the unavailability of an appropriate alternate provider or site; or2. The cost to the district to provide or arrange for provision of a program would be cost-prohibitive, as determined by TDA using the criteria and methodology established by TDA rule. <p><i>Agriculture Code 12.0029(f); 4 TAC 25.601(d), (e)</i></p>

*Alternate
Provider*

If a district has requested a waiver and has been unable to provide to TDA a list of possible providers for the summer nutrition program, the TDA field offices shall continue to attempt to identify an alternate provider for the district's summer nutrition program. *Agriculture Code 12.0029(i)*

**Community
Eligibility Provision**

The community eligibility provision (CEP) is an alternative reimbursement option for eligible high-poverty districts. Each CEP cycle lasts up to four years before the LEA or school is required to recalculate their reimbursement rate. LEAs and schools have the option to recalculate sooner, if desired. An LEA may elect this provision for all of its schools, a group of schools, or an individual school. Participating LEAs must offer free breakfasts and lunches for the length of their CEP cycle, not to exceed four successive years, to all children attending participating schools and receive meal reimbursement based on claiming percentages, as described in 7 C.F.R. 245.9(f)(4)(v). 7 C.F.R. 245.9(f); 42 U.S.C. 1759a(a)(1)(F)

To be eligible to participate in the CEP, an LEA, group of schools, or school must:

1. Have an identified student percentage of at least 40 percent, as of April 1 of the school year prior to participating in the CEP, unless otherwise specified by the USDA Food and Nutrition Service (FNS). Individual schools participating in a group may have less than 40 percent identified students, provided that the average identified student percentage for the group is at least 40 percent.
2. Participate in the NSLP and SBP for the duration of the four-year cycle. Schools that operate on a limited schedule, where it is not operationally feasible to offer both lunch and breakfast, may elect CEP with FNS approval.
3. Comply with the procedures and requirements specified in 7 C.F.R. 245.9(f)(4) to participate in the CEP.

7 C.F.R. 245.9(f)(3)

[For information on other special assistance certification and reimbursement alternatives, see 7 C.F.R. 245.9.]

¹ TDA's Food and Nutrition Division *Administrator's Reference Manual*:
<http://squaremeals.org/Publications/Handbooks.aspx>

² TDA's Food and Nutrition Division *Administrator's Reference Manual*:
<http://squaremeals.org/Publications/Handbooks.aspx>

Eligibility Appeals

The District shall provide a hearing process in compliance with U.S. Department of Agriculture (USDA) requirements for disputes about a student's eligibility for free or reduced-price meal programs. A parent or student may appeal the decision of the hearing official in accordance with FNG(LOCAL).

**Civil Rights
Complaints**

A person alleging discrimination in school meal programs based on race, color, national origin, sex, age, or disability shall be informed of the procedures and right to file a complaint with the Texas Department of Agriculture (TDA) Food and Nutrition office and the USDA. Complaints received by District personnel shall be forwarded to TDA.

Definitions

Custodian	“Custodian” means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.
Essential Record	“Essential record” means any district record necessary to the resumption or continuation of district operations in an emergency or disaster, to the re-creation of the legal and financial status of the district, or to the protection and fulfillment of obligations to the people of the state.
Local Government Record	“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a district or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include: <ol style="list-style-type: none">1. Extra identical copies of documents created only for convenience of reference or research by district officers or employees;2. Notes, journals, diaries, and similar documents created by a district officer or employee for his or her own personal convenience;3. Blank forms, stocks of publications, and library and museum materials acquired solely for the purposes of reference or display; or4. Copies of documents in any media furnished to the public under the Open Records Act or other state law.
Permanent Record	“Permanent record” or “record of permanent value” means any local government record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission (TSLAC) is given as permanent.
Records Control Schedule	“Records control schedule” means a document prepared by or under the authority of a records management officer listing the records maintained by a district, their retention periods, and other records disposition information that the records management program in each district may require.
Records Management	“Records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes

the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records
Management
Officer

“Records management officer” means the person identified under Local Government Code 203.025 as the records management officer. [See Designation, below]

Records Retention
Schedule

“Records retention schedule” means a document issued by TSLAC under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

Retention Period

“Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Local Gov’t Code 201.003

**Board’s
Responsibilities**

In implementing the Local Government Records Act (Local Government Code Title 6, Subtitle C), a board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all district records;
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;
3. Facilitate the creation and maintenance of district records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the district and designed to furnish the information necessary to protect the legal and financial rights of the district, the state, and persons affected by the district’s activities;
4. Facilitate the identification and preservation of district records that are of permanent value;
5. Facilitate the identification and protection of essential district records; and
6. Cooperate with TSLAC in its conduct of statewide records management surveys.

Local Gov’t Code 203.021

**Custodians of
Records**

In implementing the Local Government Records Act, district custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by a district for the efficient and economical management of records and in carrying out the requirements of the Local Government Records Act;
2. Adequately document the transaction of district business and the services, programs, and duties for which they and their staff are responsible; and
3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records only in accordance with the policies and procedures of the district's records management program and the requirements of the Local Government Records Act and rules adopted under it.

Local Gov't Code 203.022

**Records
Management Officer**

A board shall designate an individual or an office or position as the records management officer for the district.

Designation

The name, office, or position of the records management officer shall be entered into the minutes of the board and filed by the records management officer with the director and librarian of TSLAC within 30 days after the date of the designation.

Any subsequent designations of a new individual or a new office or position shall be entered into the minutes and reported to TSLAC in the same manner as the original designation.

If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with TSLAC within 30 days after the date of assuming the office or position.

Local Gov't Code 203.025

Duties

In implementing the Local Government Records Act, the records management officer shall:

1. Assist in establishing and developing policies and procedures for a district's records management program;
2. Administer the records management program and provide assistance to the custodians in order to reduce costs and improve record-keeping efficiency;

3. In cooperation with the custodians of records, prepare and file records control schedules, amended schedules, and lists of obsolete records, as required by the Local Government Records Act;
4. In cooperation with the custodians of records, prepare or direct the preparation of requests for authorization to destroy records, when such requests are required under the Local Government Records Act;
5. In cooperation with the custodians of records, identify and take adequate steps to preserve district records of permanent value;
6. In cooperation with the custodians of records, identify and take adequate steps to protect essential district records;
7. In cooperation with the custodians of records, ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out in accordance with a district's records management program and the requirements of the Local Government Records Act and rules adopted under it;
8. Disseminate to the board and custodians of records information concerning state laws, administrative rules, and government policies relating to a district's records; and
9. In cooperation with the custodians of records, establish procedures to ensure that the handling of records is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Local Gov't Code 203.023

**Records
Management
Program**

A board by ordinance or order shall establish a records management program to be administered by the records management officer. The ordinance or order must provide methods and procedures to enable the board, custodians, and the records management officer to fulfill the statutory duties and responsibilities concerning management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of the Local Government Records Act and rules adopted under it. A copy of the ordinance or order must be filed by the records management officer with TSLAC within 30 days after the date of its adoption. *Local Gov't Code 203.026(a)-(c)*

**Records Control
Schedules**

The records management officer shall prepare and file with TSLAC a records control schedule listing the following records and establishing a retention period for:

1. All records created or received by the district;
2. Any record no longer created or received by the district that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has not expired; and
3. Any record no longer created or received by the district that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has expired but which will not be destroyed.

In lieu of filing a records control schedule, the records management officer may file with TSLAC a written certification of compliance that the district has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by TSLAC.

The board shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the district as it considers necessary.

Local Gov't Code 203.041

Retention Periods

A retention period for each record on the records control schedule shall be determined by the board or under its direction. A retention period may not be less than a retention period prescribed by state or federal law, regulation, or rule of court; or a retention period for the record established on a records retention schedule issued by TSLAC. *Local Gov't Code 203.042*

TSLAC Retention
Schedules

TSLAC has adopted the following retention schedules, among others: Local Schedule GR—Records Common to All Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule SD—Records for Public School Districts. These schedules establish mandatory minimum retention periods for the records listed. *13 TAC 7.125*

Note: [Local government records retention schedules](#)¹ are available on the TSLAC website.

TSLAC Review

If the director and librarian of TSLAC or designee accepts the records control schedule, amended schedule, written certification of

compliance, or amended certification for filing, the acceptable records control schedule may be used as the basis for the destruction of records listed on it without additional notice from the director and librarian.

If the director and librarian or designee rejects the records control schedule, amended schedule, written certification of compliance, or amended certification for filing, the reasons for the rejection shall be stated in writing within a reasonable time to the records management officer and the schedule, amended schedule, written certification, or amended certification shall be corrected and resubmitted.

Local Gov't Code 203.043(a), (b)

**Destruction of
Records**

A district record may be intentionally destroyed under any of the following conditions:

1. The record is listed on a records control schedule filed with TSLAC and either its retention period has expired or it has been microfilmed or electronically stored in accordance with legal requirements;
2. The record appears on a list of obsolete records approved by TSLAC;
3. A destruction request is filed with and approved by TSLAC for a record not listed on an approved control schedule;
4. A court issues an expunction order for the destruction or obliteration of the records, pursuant to state law; and
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by TSLAC.

Local Gov't Code 202.001

Exceptions

A district record the subject matter of which is known by the custodian to be the subject of litigation may not be destroyed until the litigation is settled. A district record that is subject to a request under the Texas Public Information Act, Chapter 552, Government Code, may not be destroyed until the request is resolved. *Local Gov't Code 202.002*

A district shall not destroy a student's education record, as defined by the Family Educational Rights and Privacy Act, if there is an outstanding request to inspect and review the record. *34 C.F.R. 99.10(e)* [See FL]

Recordkeeping	As a board may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. <i>Local Gov't Code 203.046</i>
Preservation of Records	Permanent records shall be stored under conditions that meet the requirements of 13 Administrative Code 7.164.
Permanent Records	
Microfilming	District records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204, Local Government Code and rules adopted by TSLAC. <i>Local Gov't Code 204.002</i>
Electronic Storage	District record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205, Local Government Code and rules adopted by TSLAC. <i>Local Gov't Code 205.002</i>
Records Offenses	A board member or district employee commits an offense if the board member or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C (regarding local government records) or rules adopted under it by destroying or alienating a local government record in contravention of Local Government Code Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). <i>Local Gov't Code 202.008</i>
Destruction or Alienation of Record	
Tampering with Governmental Record	A person commits an offense if the person: <ol style="list-style-type: none">1. Knowingly makes a false entry in, or false alteration of, a governmental record;2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;5. Makes, presents, or uses a governmental record with knowledge of its falsity; or6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an exception to the application of item 3, above, that the governmental record is destroyed pursuant to legal authorization or transferred under Government Code 441.204. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Local Government Code Title 6, Subtitle C.

Penal Code 37.10

Federal
Investigations

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. *18 U.S.C. 1519*

¹ Local Government Retention Schedules: <https://www.tsl.texas.gov/slr/recordspubs/localretention.html>

**Commercial
Insurance Plans**

A district may procure contracts with any insurance company authorized to do business in Texas to insure its employees under a policy of group health, accident, accidental death and dismemberment, disability income replacement and hospital, surgical, and/or medical expense insurance or a group contract providing for annuities. Dependents of employees may be insured under group policies which provide hospital, surgical, and/or medical expense insurance. *Insurance Code 3.51, Sec. 1*

Exception

A district that is participating in the uniform group coverage program established under Insurance Code Article 3.50-7 (now Insurance Code Chapter 1579) may not procure or renew health insurance contracts under Insurance Code Article 3.51 after the date on which uniform group coverage is implemented. *Insurance Code 3.51, Sec. 3(a)* [See CRD]

Premium Payments

Districts procuring policies insuring their employees under Insurance Code Article 3.51, Section 1 may pay all or any portion of the premiums on such policies from local funds of the district, but in no event shall any part of such premiums be paid from funds paid such districts by the state. *Insurance Code 3.51, Sec. 1(b)*

The insureds' contributions to the premiums for such insurance or annuities may be deducted by the employer from the insureds' salaries when authorized in writing by the respective employees. *Insurance Code 3.51, Sec. 1(a)*

Self-Insurance Fund

A district may establish a self-insurance fund to protect the district and its officers, employees, and agents from any insurable risk or hazard. A district may issue public securities and use the proceeds for all or part of the fund, or use any money available to the district for the fund.

The district may purchase reinsurance for a risk covered through the fund. Any law or regulation requiring insurance may be satisfied by coverage provided through the fund. Any law or regulation requiring a certificate of insurance or an insurance agent's signature, countersignature, or approval may be satisfied by a certificate of coverage issued on behalf of the district demonstrating that coverage is provided through the self-insurance fund.

Gov't Code 2259.031

"Public security" means an obligation authorized to be issued under Government Code Chapter 2259, including a bond, certificate, or note. *Gov't Code 2259.001(3)*

**Designated Broker of
Record**

A district may not use a designated broker of record to purchase insurance contracts with premiums of an aggregate value of \$50,000 or more for each 12-month period. If a district expends less than

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\$50,000, in the aggregate, on insurance premiums for each 12-month period, the district may use a designated broker of record to purchase insurance contracts, but the board shall ensure that the use of a designated broker of record is in the district's best interest and select a designated broker of record in a manner it determines is consistent with good business management. *Atty. Gen. Op. JC-0205 (2000)*

[For information regarding procurement requirements, see CH.]

**Risk-Retention
Groups**

A district may become a member of a risk retention group formed under the Liability Risk Retention Act of 1986 (15 U.S.C. 3901) to obtain insurance against an insurable risk. *Gov't Code 2259.061*

A district is an “employer” under the provisions of the Texas Unemployment Compensation Act (Labor Code Subtitle A). *Labor Code 201.026*

Reasonable Assurance

Benefits are not payable to an individual based on services performed for an educational institution:

1. In an instructional, research, or principal administrative capacity for a week beginning during the period between two successive academic years or terms or under an agreement providing for a similar period between two regular but not successive terms if:
 - a. The individual performed the services in the first of the academic years or terms; and
 - b. There is a contract or reasonable assurance that the individual will perform services in that capacity for any educational institution in the second of the academic years or terms.
2. In a capacity other than a capacity described above for a week that begins during a period between two successive academic years or terms if:
 - a. The individual performed the services in the first of the academic years or terms; and
 - b. There is a reasonable assurance that the individual will perform the services in the second of the academic years or terms.
3. For a week that begins during an established and customary vacation period or holiday recess if:
 - a. The individual performed the services in the period immediately before the vacation period or holiday recess; and
 - b. There is a reasonable assurance that the individual will perform the services in the period immediately following the vacation period or holiday recess.

Labor Code 207.041

Options

Taxing Employer

A district shall pay a contribution in accordance with Labor Code Chapter 204, Subchapter F, and rules adopted by the Texas Workforce Commission (TWC) on wages paid for employment during each year or portion of the year in which the district is subject to that subtitle. *Labor Code 204.101*

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Reimbursing
Employer

A district may elect to pay reimbursements for benefits instead of contributions. *Labor Code 205.001*

Group Account

On approval of an application submitted by two or more reimbursing employers, the commission shall establish a group account for the employers to share the cost of benefits that are attributable to service in the employ of the employers. *Labor Code 205.021*

**Initial Claim and
Response**

A district that receives a notice of the filing of an initial claim for unemployment benefits shall notify the TWC promptly of any facts known to the district that may adversely affect the claimant's right to benefits or affect a charge to the district's account.

The district's notification must include sufficient factual information to allow the TWC to make a determination regarding the claimant's entitlement to benefits.

A district that does not mail or otherwise deliver the notification to TWC within 14 days after the date notice of the claim was mailed waives all rights in connection with the claim, including rights the district may have under Labor Code Chapter 204, Subchapter B, other than rights relating to a clerical or machine error as to the amount of the district's chargeback or maximum potential chargeback in connection with the claim for benefits.

Labor Code 208.004(a)-(b)

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)

COMPENSATION AND BENEFITS
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(LEGAL)

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.

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

	<p>employee at the school at which the employee formerly taught or was assigned.</p>
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>

COMPENSATION AND BENEFITS
LEAVES AND ABSENCES

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Coordination with
Workers'
Compensation
Benefits

Notwithstanding any other law, assault leave benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so the employee's total compensation from temporary income benefits and assault leave benefits will equal 100 percent of the employee's weekly rate of pay.

Education Code 22.003(b)–(c-1)

**Religious
Observances**

A district shall reasonably accommodate an employee's request to be absent from duty in order to participate in religious observances and practices, so long as it does not cause undue hardship on the conduct of district business. Such absence shall be without pay unless applicable paid leave is available. *42 U.S.C. 2000e(j), 2000e-2(a); Ansonia Bd. of Educ. v. Philbrook, 479 U.S. 60, (1986); Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties, 735 F.2d 388 (10th Cir. 1984)*

**Compliance with a
Subpoena**

An employer may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. *Labor Code 52.051(a)*

Note: A Texas federal court held that by omitting any reference to governmental entities from Labor Code 52.051, the state legislature intended to exclude governmental entities from the definition of "employer" contained within that section. Therefore, the statute did not waive a county's governmental immunity from liability for claims of retaliatory discharge of an employee for complying with a subpoena. *Alcala v. Texas Webb County, 620 F. Supp. 2d 795 (S.D. Tex. 2009)*

Jury Duty

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a district shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. *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, holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

An employer commits an unlawful employment practice under Labor Code, Chapter 21 if:

1. The employer administers a leave policy under which an employee is entitled to personal leave to care for or otherwise assist the employee's sick child; and
2. The leave policy does not treat in the same manner as an employee's biological or adopted minor child any foster child of the employee who:
 - a. Resides in the same household as the employee; and
 - b. Is under the conservatorship of the Texas Department of Family and Protective Services.

Labor Code 21.0595

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc.*, 2001 U.S. Dist LEXIS 12332 (N. D. Tex. 2001) (Family and Medical Leave Act case); *Specialty Retailers v. DeMoranville*, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); *Continental Coffee Products Co. v. Cazarez*, 937 S.W.2d 444 (Tex. 1996) (workers' compensation claim); *Gonzalez v. El Paso Natural Gas Co.*, 40 F.E.P. Cases (BNA) 353 (Tex. App.—El Paso 1986, no pet.) (sex discrimination case)

[Some employees may have protected status even after the expiration of all other leave. See DAA.]

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-RI-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

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 ten calendar days after the next board meeting.

19 TAC 249.14(j)

Good Cause

SBEC may consider the following factors when an educator is reported to have abandoned a contract in violation of Education Code 21.105(c), 21.160(c), or 21.210(c):

1. Serious illness or health condition of the educator or close family member of the educator;
2. Relocation to a new city as a result of change in employer of the educator's spouse or partner who resides with the educator; or
3. Significant change in the educator's family needs that requires the educator to relocate or to devote more time than allowed by current employment.

Mitigating Factors

SBEC may consider the following factors when seeking, proposing, or making a decision regarding an educator who has abandoned a contract in violation of Education Code 21.105(c), 21.160(c), or 21.210(c):

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1. Educator gave written notice to school district 30 days or more in advance of the first day of instruction for which the educator will not be present;
2. Educator assisted school district in finding a replacement educator to fill the position;
3. Educator continued to work until the school district hired a replacement educator;
4. Educator assisted in training the replacement educator;
5. Educator showed good faith in communications and negotiations with school district; or
6. Educator provided lesson plans for classes following educator's resignation.

19 TAC 249.17(d)

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

A person who serves as a principal in a district, including a district of innovation, must notify the superintendent, and may be subject to sanctions for failure to do so, 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); 19 TAC 249.14(e)*

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**Parental Consent
Not Required**

An employee of a 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 under Education Code 29.022. *Education Code 26.009(b)*

**Video Surveillance of
Special Education
Settings**

In order to promote student safety, on receipt of an authorized written request, a district shall provide equipment, including a video camera, to the campus in the district specified in the request.

**Classroom or Other
Setting**

A campus 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.

Education Code 29.022(a)

Definitions

Incident

"Incident" means an event or circumstance that:

1. Involves alleged "abuse" or "neglect," as described in Family Code 261.001, of a student by a staff member of the district or alleged "physical abuse" or "sexual abuse," as described in Family Code 261.410, of a student by another student; and
2. Allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301 is conducted.

*Other Special
Education Setting*

"Other special education setting" means a classroom on a separate campus (i.e., a campus that serves only students who receive special education and related services) of a district—including a room attached to the classroom or setting used for time-out—in which a

majority of the students in regular attendance are provided special education and related services, are assigned to the setting for at least 50 percent of the instructional day, and have one of the following instructional arrangements/settings described in the student attendance accounting handbook:

1. Residential care and treatment facility—separate campus; or
2. Off home campus—separate campus.

Parent

“Parent” means a person described in Education Code 26.002, whose child receives special education and related services in one or more self-contained classrooms or other special education settings. “Parent” also means a student who receives special education and related services in one or more self-contained classrooms or other special education settings and 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.

School Business Day

“School business day” means a day that campus or district administrative offices are open.

Self-contained Classroom

“Self-contained classroom” means a classroom on a regular campus (i.e., a campus that serves students in general education and students in special education), including a room attached to the classroom used for time-out, but not including a classroom that is a resource room instructional arrangement under Education Code 42.151, in which a majority of the students in regular attendance are provided special education and related services for at least 50 percent of the instructional day and have one of the following instructional arrangements/settings described in the student attendance accounting handbook:

1. Self-contained (mild/moderate/severe) regular campus;
2. Full-time early childhood (preschool program for children with disabilities) special education setting;
3. Residential care and treatment facility—self-contained (mild/moderate/severe) regular campus;
4. Residential care and treatment facility—full-time early childhood special education setting;
5. Off home campus—self-contained (mild/moderate/severe) regular campus; or
6. Off home campus—full-time early childhood special education setting.

<i>Staff Member</i>	“Staff member” means a teacher, a related service provider, a paraprofessional, a counselor, or an educational aide assigned to work in the self-contained classroom or other special education setting.
<i>Time-out</i>	“Time-out” has the meaning assigned by Education Code 37.0021.
<i>Video Camera</i>	“Video camera” means a video surveillance camera with audio recording capabilities.
<i>Video Equipment</i>	“Video equipment” means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by Education Code 29.022 and 19 Administrative Code 103.1301. “Video equipment” also means any technology and equipment needed to store and access video recordings as required. <i>19 TAC 103.1301(b); Education Code 29.022</i>
<i>Administrative Coordinator</i>	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. <i>Education Code 29.022(a-2)</i>
<i>Authorized Requestors</i>	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: <ol style="list-style-type: none">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; and4. A staff member assigned to work with one or more children receiving special education services for the campus at which the staff member works. <i>Education Code 29.022(a-1)</i>
<i>Processing the Request</i>	A written request must be submitted and acted on as follows: <ol style="list-style-type: none">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 campus 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.

Education Code 29.022(a-3)–(b)

Video Camera
Coverage

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.

Education Code 29.022(c)–(c-1)

Written Notice

Before a campus activates a video camera in a classroom or special education setting, the campus shall provide written notice of the placement to all campus 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 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.

Education Code 29.022(b), (d)

Retention Period	<p>A district shall retain video recorded from a video camera for at least three months after the date the video was recorded.</p> <p>If a person requests to view a video recording from a video camera, a 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 campus shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.</p> <p><i>Education Code 29.022(e)–(e-1)</i></p>
Gifts, Grants, and Donations	<p>A district may solicit and accept gifts, grants, and donations from any person to implement the requirements of Education Code 29.022 and 19 Administrative Code 103.1301. A district is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement these requirements. <i>19 TAC 103.1301(d)</i></p>
No Waiver of Immunity	<p>The requirements described by Education Code 29.022 do not:</p> <ol style="list-style-type: none">1. Waive any immunity from liability of a district, or of district officers or employees; or2. Create any liability for a cause of action against a district or against district officers or employees.
No Monitoring	<p>A district may not:</p> <ol style="list-style-type: none">1. Allow regular or continual monitoring of video recorded under Education Code 29.022; or2. Use video for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services. <p><i>Education Code 29.022(g)–(h)</i></p>
Confidentiality	<p>A video recording of a student made under this provision is confidential and may not be released or viewed except as provided below.</p>
<i>Limited Release</i>	<p>A district shall release a recording for viewing by:</p> <ol style="list-style-type: none">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 campus, 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 commissioners 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.

Education Code 29.022(i)–(i-1); 19 TAC 103.1301(h)–(i)

Duty to Report

If a person described by item 4 or 5, above, views a video recording and has cause to believe that the recording documents possible abuse or neglect of a child under Family Code Chapter 261, the person must submit a report to the Texas Department of Family and Protective Services or other authority in accordance with the local policy adopted under 19 Administrative Code 61.1051 (relating to Reporting Child Abuse and Neglect) and Family Code Chapter 261 [see FFG].

19 TAC 103.1301(j); Education Code 29.022(j)

*Use in
Disciplinary
Actions Against
District Personnel*

If a person described by items 3, 4, or 5, above, views the recording and believes that it documents a possible violation of district or campus policy, the person may allow access to the recording to appropriate legal and human resources personnel of the district to the extent not limited by the Family Educational Rights and Privacy Act (FERPA) or other law. A recording believed to document a possible violation of district policy relating to the neglect or abuse of a student may be used in a disciplinary action against district personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the recording. A recording believed to document a possible violation of district policy relating to the neglect or abuse of a student must be released for viewing by the district employee who is the subject of the disciplinary action at the request of the employee. *19 TAC 103.1301(k)*

<i>Federal Law / FERPA</i>	19 Administrative Code 103.1301(j) (regarding child abuse reporting) and (k) (regarding disciplinary actions against personnel) do not limit the access of a student's parent to a record regarding the student under FERPA or other law. To the extent any provisions in Education Code 29.022 and 19 Administrative Code 103.1301 conflict with FERPA or other federal law, federal law prevails. 19 TAC 103.1301(l)
District Policy	<p>A district must adopt written policies relating to the placement, operation, and maintenance of video cameras under Education Code 29.022 and 19 Administrative Code 103.1301. At a minimum, the policies must include:</p> <ol style="list-style-type: none">1. A statement that video surveillance is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings;2. Information on how a person may appeal an action by the district that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeal and expedited review processes under 19 Administrative Code 103.1303 of this title (relating to Commissioner's Review of Actions Concerning Video Cameras in Special Education Settings) and the appeals process under Education Code 7.057;3. A requirement that the district provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under Education Code 29.022(a-3) (at Limited Release, above) that authorizes the request or states the reason for denying the request;4. Except as provided by item 6 of this provision, a requirement that a campus begin operation of a video camera in compliance with this provision 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 Texas Education Agency (TEA) grants an extension of time;5. A provision permitting the parent of a student whose admission, review, and dismissal (ARD) 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:<ol style="list-style-type: none">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 ARD committee;
6. A requirement that, if a request is made by a parent in compliance with item 5 of this provision, unless TEA grants an extension of time, a campus begins operation of a video camera in compliance with this provision 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;
7. The procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;
8. The procedures for providing advanced written notice to the campus staff and the parents of the students assigned to a self-contained classroom or other special education setting that video and audio surveillance will be conducted or cease in the classroom or setting, including procedures for notice, in compliance with Education Code 29.022(b), of the opportunity to request continued video and audio surveillance if video and audio surveillance will otherwise cease;
9. A requirement that video cameras be operated at all times during the instructional day when one or more students are present in a self-contained classroom or other special education setting in which video cameras are placed;
10. A statement regarding the personnel who will have access to video equipment or video recordings for purposes of operating and maintaining the equipment or recordings;
11. A requirement that a campus continue to operate and maintain any video camera placed in a self-contained classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in Education Code 29.022(a), for the remainder of the school year in which the campus received the request, unless the requester withdraws the request in writing;
12. A requirement that video cameras placed in a self-contained classroom or other special education setting be capable of recording video and audio of all areas of the classroom or setting, except that no visual monitoring of bathrooms and areas in which a student's clothes are changed may occur. Incidental visual coverage of the inside of a bathroom or any area of the classroom or other special education setting in which a

student's clothes are changed is permitted only to the extent that such coverage is the result of the layout of the classroom or setting. Audio recording of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is required;

13. A statement that video recordings must be retained for at least three months after the date the video was recorded and that video recordings will be maintained in accordance with the requirements of Education Code 29.022(e-1), when applicable;
14. A statement that the regular or continual monitoring of video is prohibited and that video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety;
15. At the district's discretion, a requirement that campuses post a notice at the entrance of any self-contained classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting;
16. The procedures for reporting an allegation to the district that an incident occurred in a self-contained classroom or other special education setting in which video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301 is conducted;
17. The local grievance procedures for filing a complaint alleging violations of Education Code 29.022, and/or 19 Administrative Code 103.1301; and
18. A statement that video recordings made under Education Code 29.022 and 19 Administrative Code 103.1301 are confidential and a description of the limited circumstances under which the recordings may be viewed.

19 TAC 103.1301(g)

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.

Education Code 29.022(s)–(t)

Exclusions	A district is not required to provide video equipment to a campus of another district or charter school or to a nonpublic school. <i>19 TAC 103.1301(c)</i>
Dispute Resolution	The special education dispute resolution procedures in 34 Code of Federal Regulations 300.151–.153 and 300.504–.515 do not apply to complaints alleging that a district has failed to comply with Education Code 29.022 and 19 Administrative Code 103.1301. Complaints alleging violations of those sections must be addressed through the district’s local grievance procedures or other dispute resolution channels. <i>19 TAC 103.1301(e)</i>
Denial of Request	The following standards and procedures apply to a denial of a request for placement of a video camera under Education Code 29.022(a), or to the denial of a request to release a video or to view a video made under Education Code 29.022(i) or (l)(2).
<i>Exhaustion of Administrative Remedies</i>	Once a request for placement of a video camera or a request to release a video is administratively denied, the requester must exhaust administrative remedies through the district’s grievance process even if the requester opts for the expedited review process. However, a district, parent, staff member, or administrator may request an expedited review even before the local remedies are exhausted. After local remedies are exhausted by filing a grievance with the board and obtaining a board determination, the requester may appeal the denial to the commissioner of education under Education Code 7.057 by filing a petition for review.
<i>Proper Request</i>	In a case where there is a denial of a request for the placement of a video camera, the commissioner will determine whether the person requesting placement is a person allowed to request placement under Education Code 29.022(a-1) (see Limited Release, above) and whether the requester made a proper request under Education Code 29.022(a-3) (see Processing the Request, above).
<i>Cost</i>	The commissioner will not consider the cost to the district of installing cameras or releasing video.
<i>Release Determination</i>	In a case where there is a denial of a request to release a video, the commissioner will determine whether the requester is a person allowed to receive a video under Education Code 29.022(i) (described at Limited Release, above).

*Timelines for
Petition for
Review*

The following timelines are established for filing a petition for review:

1. A petition for review shall be filed with the commissioner within ten calendar days of the decision of the board denying the request being first communicated to the requester or requester's counsel, whichever occurs first. The petition for review shall be made in accordance with 19 Administrative Code 157.1073(c) (relating to hearings brought under Education Code 7.057) and may include a request for expedited review.
2. The district's answer and local record shall comply with 19 Administrative Code 157.1052(b) and (c) and 19 Administrative Code 157.1073(d) and shall be filed with the commissioner within ten calendar days of the district receiving notification from the commissioner of the appeal.
3. The procedures specified in 19 Administrative Code 157.1059; .1061; and .1073(e)–(h), (j), and (k) apply to a case brought to the commissioner under this section.

*Expedited
Review*

A request for expedited review is governed by the following.

1. The expedited review process is designed to allow a requester to promptly receive a preliminary judgment from the commissioner as to a decision to deny a request for the installation of cameras or a decision to deny a request to release a video while at the same time respecting the school grievance process. The expedited review process does not apply to a request to only view a video. Invoking the expedited review process results in a prompt initial determination. However, the final commissioner's determination is to be based on a substantial evidence review of the district's grievance record. This allows for a full record to be developed at the district level and does not require the requester and the district to make an evidentiary record before TEA in Austin, Texas. Because the requirements of Education Code 7.057 are met when the board's decision is heard by the commissioner, an appeal to district court is allowed under Education Code 7.057(d). Education Code 29.022 does not by itself allow an appeal to district court.
2. A district, parent, staff member, or administrator may request an expedited review. Any request for an expedited review shall include the names, telephone numbers, and addresses of all interested parties to the request. "Interested parties" are all persons who brought the grievance, all persons who have

testified or provided written statements as part of the grievance process, and the district. The request for expedited review shall specify whether the district denied a request for the placement of a video camera or the district denied a request to release a video and briefly describe why that decision is either correct or incorrect.

3. A request for expedited review shall be filed with the commissioner no earlier than 14 business days after a request for placement of a video camera or a request to release a video is administratively denied under Education Code 29.022(i) or (l)(2) (see Limited Release and Process, above), and no later than the fifth business day after a board resolves a grievance as to a request for placement of a video camera or a request to release a video. A request for expedited review shall be filed with the commissioner by U.S. Mail, facsimile, hand-delivery, or by a commercial delivery service.
4. Whenever an interested party files a document with the commissioner, with the exception of the request for expedited review, the interested party shall send the same document to all other interested parties by the same method that the document was sent to the commissioner. Hand-delivery of the document by the next day may be substituted for service by facsimile delivery.
5. If a request for expedited review is timely filed, the commissioner will establish a briefing schedule and will send to all interested parties a notice that an expedited review has been filed, which will include relevant statutes and rules. Any interested party who knows of any additional interested parties who have not been notified will promptly inform the commissioner in writing.
6. All briefing shall clearly state the facts relied upon. Documents relevant to the issues presented may be attached to a brief. All briefing shall provide the reasons why the commissioner should or should not grant the request for expedited review. Citations to statutes, rules, commissioner decisions, and case law are important to identify the legal basis for the claims made.
7. All interested parties who are in favor of granting the request for expedited review shall file briefing at the time specified for the requester of the expedited review.
8. All interested parties who are opposed to granting the request for expedited review shall file briefing at the same time.

9. Briefing is not limited to the issues specifically raised in the pleadings in the case. However, no new arguments may be raised in the reply briefs. Reply briefs may contain new citations to the record and legal authority as to issues previously raised.
10. A preliminary judgment shall be issued based on the briefing of the interested parties. The preliminary judgment will be sent to the requestor, the district, and all interested parties. If it is determined that a district is not likely to prevail on the issue of a request for the placement of video cameras or the issue of a request to view a video under full review, the district will fully comply with Education Code 29.022.
11. After a preliminary judgment is made, a final judgment will be made in accordance with the procedures set forth in 19 Administrative Code 103.1303(b)(1)–(5) (the Denial of Request Review process).

19 TAC 103.1303(b)

Extension of Time

A request by a district for an extension of time to begin the operation of a video camera under Education Code 29.022 shall be made and decided using the following procedures.

Request

Any request by a district for an extension of time to begin the operation of a video camera shall be filed with the commissioner prior to the 45th school business day after a request to begin operating a video camera is received. However, a district should request an extension of time as soon as it determines that an extension of time should be filed.

A request for an extension of time to begin the operation of a video camera shall specify why an extension of time should be granted. The request shall include affidavits supporting any factual claims made in the request and reference any legal authority as to why the request should be granted. The request may include a request for expedited review. The request shall name the individual who requested the installation of cameras and provide the individual's address and telephone number. Immediately following the individual's address and telephone number there shall appear in bold type: "You have been identified as the individual who requested the operation of a video camera that is the subject of this request to the commissioner of education to extend the statutory timeline. You may, but are not required to, participate in the proceedings before the commissioner concerning the school district's request for an extension of time. It is entirely up to you whether and to what extent you wish to participate in these proceedings. The procedures

governing these proceedings are found at 19 Texas Administrative Code 103.1303(c) and Texas Education Code 29.022.”

A request for an extension of time to begin the operation of a video camera shall list the names, telephone numbers, and addresses of all interested parties to the request. All interested parties include all parents of students in the classroom or other special education setting for which a video camera has been requested and all staff who provided services in a classroom for which a video camera has been requested.

Filing Documents All documents in a case shall be filed with the Division of Hearings and Appeals, Texas Education Agency, 1701 N. Congress Ave., Austin, Texas 78701, facsimile number (512) 475-3662. Documents can be filed by mail, delivery, or facsimile. All documents must be actually received by the Division of Hearings and Appeals by the date specified in this section. The mailbox rule does not apply to filings in a case filed under this subsection. Filing by facsimile is strongly encouraged.

All filings in a case shall be sent to the district, the individual who initially requested the installation of the cameras, and all interested parties who have filed a request to receive documents filed in the case by the same method as the request is filed with the commissioner. Due to the requirements of FERPA, the names, telephone numbers, and addresses of parents and other publicly identifiable student information may not be given to the interested parties. The copies of the filings sent to interested parties shall be redacted to remove all personally identifiable student information.

Filing Responses Any response to a request for an extension of time to begin the operation of a video camera shall be filed with the commissioner by an interested party within ten calendar days of the filing of the request. If no response to the request is timely filed, the commissioner shall issue a final decision within 20 calendar days of the filing of the request.

A response to a request for an extension of time to begin the operation of a video camera shall specify why an extension of time should or should not be granted. The response shall include affidavits concerning any factual claims made in the request and reference any legal authority as to why the request should or should not be granted. The response may include a request for expedited review.

Expedited Review A request for expedited review must be filed with the commissioner within ten calendar days of the filing of the request for an extension of time to begin the operation of a video camera. If a request for expedited review is made, all interested parties shall be notified

that they have been identified as interested parties in the request for an extension of time to begin the operation of a video camera. In particular, the interested parties will be informed that it is their choice whether to participate in the proceedings before the commissioner, that it is entirely up to them to determine to what extent they wish to participate in the proceedings, that the procedures governing these proceedings are found in 19 Administrative Code 103.1303 and Education Code 29.022, and that upon their written request filed with the commissioner they will be sent all filings in this case.

If a request for an expedited review is not made, the commissioner shall issue a final decision within 45 calendar days of the filing of the request for an extension of time to begin the operation of a video camera, unless the commissioner determines that an evidentiary hearing would be helpful in deciding the issues raised. If the commissioner decides to hold an evidentiary hearing, the commissioner shall establish the timelines and procedures to be used. Whether to conduct the hearing by telephone or other electronic methods will be considered.

If a request for expedited review is made, the following procedures shall be followed:

1. Any reply by the district to any response to the request shall be filed with the commissioner within 25 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
2. A preliminary judgment shall be made by the commissioner within 35 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
3. Any interested party or the district may file objections to the preliminary judgment within 40 calendar days of the filing of the request for an extension of time to begin the operation of a video camera.
4. Any reply to an objection to a preliminary judgment must be filed within 45 calendar days of the filing of a request for an extension of time to begin the operation of a video camera.
5. The commissioner shall issue a final decision within 55 calendar days of the filing of the request for an extension of time to begin the operation of a video camera, unless the commissioner determines that an evidentiary hearing would be helpful in deciding the issues raised. If the commissioner decides to hold an evidentiary hearing, the commissioner shall estab-

lish the timelines and procedures to be used. Whether to conduct the hearing by telephone or other electronic methods will be considered.

*Commissioner
Consideration*

In making either a preliminary judgment or a final judgment under this subsection, the commissioner will consider whether granting the requested extension is reasonable considering all factors, including contracting statutes, architectural and structural issues, and the difference in costs to the district if a moderate extension of time is granted.

No Appeal

A commissioner's final decision under this provision is not subject to appeal.

19 TAC 103.1303(c)

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 in writing 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 requester 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 one or more 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 requester withdraws the request in writing and no request is submitted to continue the surveillance. Before a camera is deactivated, 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 discontinued in the classroom and of the opportunity to request continued video and audio 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 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 released 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 Texas Education Agency 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 2–4, 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 and 19 Administrative Code 103.1303. A parent, staff member, or District administrator may request an expedited review in accordance with 19 Administrative Code 103.1303.

**Career and
Technology Program**

Each public school student shall master the basic skills and knowledge necessary for managing the dual roles of family member and wage earner and for gaining entry-level employment in a high-skill, high-wage job or continuing the student's education at the post-secondary level. *Education Code 29.181.*

The board may conduct and supervise career and technology classes and other educational programs for students and for other persons of all ages and spend local maintenance funds for the cost of those classes and programs. In developing a career and technology program, the board shall consider the state plan for career and technology education. *Education Code 29.183 [See EEL]*

**Distinguished
Achievement in
Career and
Technology
Education**

The board may develop and offer a program that provides a rigorous course of study consistent with the required curriculum [see EHAA] and under which a student may:

1. Receive specific education in a career and technology profession that leads to postsecondary education or meets or exceeds business or industry standards;
2. Obtain from a district an award for distinguished achievement in career and technology education and a stamp or other notation on the student's transcript that indicates receipt of the award.

An award granted under this section is not in lieu of a diploma or certificate of coursework completion. [See EI]

In developing the program, the board shall consider the state plan for career and technology education. The board must submit the proposed program to the commissioner of education in accordance with criteria established by the commissioner.

Contracts with
Other Entities

The board may contract with an entity listed in Education Code 29.184(a) [see EEL] for assistance in developing the program or providing instruction to district students participating in the program. The board may also contract with a local business or a local institution of higher education for assistance in developing or operating a career and technology education program. A program may provide education in areas of technology unique to the local area.

Education Code 29.187

Insurance

The board may provide insurance to protect a business that contracts with a district under this provision. [See CRB] *Education Code 29.191*

Applicability

The following provisions apply only to districts receiving federal career and technical education funds. *19 TAC 75.1021*

Federal CTE Funding	<p>An eligible secondary entity seeking financial assistance under the Carl D. Perkins Act of 2006 shall submit a local plan to the Texas Education Agency (TEA) as described in 20 U.S.C. 2354, in accordance with requirements established by TEA. Each eligible recipient that receives funding under the Carl D. Perkins Act of 2006 shall use the funds to improve career and technical education programs in compliance with 20 U.S.C. 2355. <i>19 TAC 75.1022</i></p> <p>For information regarding federal career and technical funds under the “Strengthening Career and Technical Education for the 21st Century Act” (the reauthorization of the Carl D. Perkins Act of 2006), see 20 U.S.C. 2301 et seq.</p>
Program Evaluation	<p>A district shall annually evaluate its career and technical education programs. <i>19 TAC 75.1025</i></p>
Special Populations	<p>Members of special populations shall be provided career and technical services in accordance with all applicable federal and state laws, regulations, and rules. <i>19 TAC 75.1023(a)</i></p>
<i>Definition</i>	<p>For purposes of this section, a “member of a special population” includes:</p> <ol style="list-style-type: none">1. An individual with a disability [see EHBAB];2. An individual from an economically disadvantaged family, including low-income youth and adults;3. An individual preparing for nontraditional fields;4. A single parent, including a single pregnant woman;5. An out-of-workforce individual;6. An English learner;7. A homeless individual described in Section 725 of the McKinney-Vento Homeless Assistance Act;8. Youth who are in, or have aged out of, the foster care system; and9. Youth with a parent who is a member of the armed forces and is on active duty. <p><i>20 U.S.C. 2302(29)</i></p>
Students with Disabilities	<p>A student with a disability shall be provided career and technical education in accordance with all applicable federal law and regulations including the Individuals with Disabilities Education Act (IDEA) of 2004 and its implementing regulations, state statutes, and rules of the SBOE and the commissioner.</p>

A student with a disability shall be instructed in accordance with the student's individualized education program (IEP), in the least restrictive environment, as determined by the admission, review, and dismissal (ARD) committee. If a student with a disability is unable to receive a free appropriate public education (educational benefit) in a regular career and technical education program, using supplementary aids and services, the student may be served in separate programs designed to address the student's occupational/training needs, such as career and technical education for students with disabilities (CTED). [See EHBA]

A student with a disability identified in accordance with IDEA of 2004 is an eligible participant in career and technical education when the following requirements are met:

1. The ARD committee shall include a representative from career and technical education, preferably the teacher, when considering initial or continued placement of a student in career and technical education program;
2. Planning for the student shall be coordinated among career and technical education, special education, and state rehabilitation agencies and should include a coherent sequence of courses;
3. A district shall monitor to determine if the instruction being provided a student with a disability in career and technical education classes is consistent with the student's IEP;
4. A district shall provide supplementary services that each student with a disability needs to successfully complete a career and technical education program, such as curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices;
5. A district shall help fulfill the transitional service requirements of the IDEA of 2004 and implementing regulations, state statutes, and rules of the commissioner for each student with a disability who is completing a coherent sequence of career and technical education courses; and
6. When determining placement in a career and technical education classroom, the ARD committee shall consider a student's graduation plan, the content of the individual transition plan, the IEP, and classroom supports. Enrollment numbers should not create a harmful effect on student learning for a student with or without disabilities in accordance with the provisions in the IDEA of 2004 and its implementing regulations.

19 TAC 75.1023

Student
Organizations

A district may use federal career and technical education funds to provide opportunities for student participation in approved student leadership organizations and assist career and technical student organizations in accordance with all applicable federal and state laws, rules, and regulations. A student shall not, however, be required to join a career and technical student organization. Student participation in career and technical student organizations shall be governed in accordance with 19 Administrative Code Chapter 76 (relating to extracurricular activities).

The following career and technical student organizations are recognized by the U.S. Department of Education and TEA:

1. Business Professionals of America (BPA);
2. DECA;
3. Future Business Leaders of America (FBLA);
4. FFA;
5. Family, Career, and Community Leaders of America (FCCLA);
6. Health Occupations Students of America (HOSA);
7. Technology Student Association (TSA); and
8. Skills USA.

19 TAC 75.1024 [See FM]

Adult Education	A district must provide an adult education program designed to meet the education and training needs of adults to the extent possible using available public and private resources. Bilingual education must be used to instruct students who do not function satisfactorily in English whenever it is appropriate for those students' optimum development. <i>Labor Code 315.003</i>
Essential Program Components	An Adult Education and Literacy (AEL) grant recipient shall provide the essential program components as described by 40 Administrative Code 805.4. <i>40 TAC 805.4</i>
Staff Qualifications	<p>AEL instructional aides, administrative, data entry, proctoring staff, and staff providing support or employment services to students shall have at least a high school diploma or a high school equivalency certificate. AEL directors, supervisors, and staff that oversee program assessment services and/or overall program accountability, and instructors in the content areas of reading, writing, mathematics, and English language acquisition, including substitutes, shall possess at least a bachelor's degree.</p> <p>Requests for exemptions for staff qualification requirements in individual cases may be submitted to the Texas Workforce Commission for approval. The exemption shall include a justification outlining extenuating circumstances and shall be submitted and approved prior to an individual being placed in the position in question.</p>
Professional Development	<p>The district shall comply with the program requirements for professional development in accordance with 40 Administrative Code 805.21.</p> <p>Records of staff qualifications and professional development shall be maintained by each grant recipient and shall be available for monitoring.</p> <p><i>40 TAC 805.21</i></p>
Tuition and Fees	Tuition and fees shall not be charged unless a district is statutorily authorized to do so. Funds generated by tuition and fees shall be used for the AEL instructional programs and must be expended before federal and state grant funds, in accordance with 2 Code of Federal Regulations 200.305(b)(5). <i>40 TAC 805.45</i>
Reimbursement for Community Education	If a board elects to provide community education for all age groups, it may be eligible for reimbursement for the costs of the program. In order to receive reimbursement, it must submit an application in accordance with TEA rules and reimbursement shall be made to the extent authorized.

Arlington ISD
220901

SPECIAL PROGRAMS
ADULT AND COMMUNITY EDUCATION

EHBI
(LEGAL)

Conditions

A district will receive such reimbursement only if it has achieved the level of community services prescribed by TEA in the current or preceding year.

Education Code 29.256

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State Assessment of Academic Skills

Every student receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Education Code Chapter 39, Subchapter B [see Testing in Grades 3–8, below]. *Education Code 39.023(a), (c), (f); 19 TAC 101.5*

A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course (EOC) assessment instruments [see End-of-Course Assessments, below]. *Education Code 39.025(a); 19 TAC 101.4001*

Limited English Proficient Students

In grades 3–12, a limited English proficient (LEP) student, as defined by Education Code Chapter 29, Subchapter B, shall participate in the state assessment in accordance with commissioner rules at 19 Administrative Code Chapter 101, Subchapter AA. *Education Code 39.023(l), (m)* [See EKBA]

Special Education

The Texas Education Agency (TEA) shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program for whom a state assessment instrument adopted under Education Code 39.023(a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student’s admission, review, and dismissal (ARD) committee, including assessment instruments approved by the commissioner of education that measure growth. The assessment instruments developed or adopted, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students.

TEA may not adopt a performance standard that indicates that a student’s performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student’s developmental level as determined by the student’s ARD committee.

The student’s ARD committee shall determine whether any allowable modification is necessary in administering to the student a required EOC assessment instrument under Education Code 39.023(c), and whether the student is required to achieve satisfactory performance on an EOC assessment instrument to receive a high school diploma.

Education Code 39.023(b)–(c), .025(a-4)

Military Dependents

If the student is a military dependent, the district shall 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 grade 10 level after an absence of at least two years from the public schools of this state. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard. *Education Code 162.002 art. VII, §§ B–C [See FDD]*

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 campus's ability to administer an assessment or the students' performance on the assessment.

"Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause a district or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the commissioner may prohibit a district or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of the district, campus, and students.

19 TAC 101.5003

Notice to Parents and Students

A superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of:

1. The testing requirements for grade advancement [see EIE] and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's kindergarten year, for students attending kindergarten in the district, and no later than the beginning of the student's first-grade year for all other students. The superintendent shall also provide such notice for students in grades 1–8 who are new to the district.
2. The testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The superintendent shall also provide such notice for students in grades 7–12 who are new to the district. Notice of the dates, times, and locations of testing shall be 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]

Credits Earned
Prior to
Enrollment

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–12 spring administration, the student is not required to take the corresponding EOC assessment.

19 TAC 101.3021(e), .3022

Substitute
Assessments

The commissioner adopts certain assessments as substitute assessments that a student may use in place of a corresponding EOC assessment to meet the student's assessment graduation requirements. A satisfactory score on an approved assessment may be used in place of only one specific EOC assessment, except as provided by 19 Administrative Code 101.4002(d)(1) (relating to a student who qualifies for use of the Texas Success Initiative [TSI] as a substitute assessment and is enrolled in certain college preparatory courses; see TSI Additional Criteria, below).

A student at any grade level is eligible to use a substitute assessment as provided in the commissioner's chart at 19 Administrative Code 101.4002(b) if the student:

1. Was administered an approved substitute assessment for an equivalent course in which the student was enrolled;
2. Received a satisfactory score on the substitute assessment as determined by the commissioner and provided in the chart at 19 Administrative Code 101.4002(b); and
3. Using a TSI assessment, also meets the additional criteria.

*TSI Additional
Criteria*

A student must meet the criteria established below in order to qualify to use TSI as a substitute assessment.

1. A student must have been enrolled in a college preparatory course for English language arts or mathematics and, in accordance with Education Code 39.025(a-1), have been administered an appropriate TSI assessment at the end of that course.
 - a. A student under this provision who meets all three TSI English language arts score requirements provided in the chart at 19 Administrative Code 101.4002(b) satisfies both the English I and English II EOC assessment graduation requirements.

- b. A student under this provision may satisfy an assessment graduation requirement in such a manner regardless of previous performance on an Algebra I, English I, or English II EOC assessment.
2. In accordance with Education Code 39.025(a-3), a student who has not been successful on the Algebra I or English II EOC assessment after retaking the assessment may use the corresponding TSI assessment in place of that EOC assessment.

For a student under this provision who took separate reading and writing assessments for the English II EOC assessment and who did not meet the English II assessment graduation requirement using those tests as specified in 19 Administrative Code 101.3022(b) (relating to Assessment Requirements for Graduation), the separate TSI reading or writing assessment may not be used to substitute for the corresponding English II reading or writing EOC assessment.

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above. If a student sits for an EOC assessment, a district may not mark the substitute assessment bubble for that administration.

A student who fails to perform satisfactorily on the PSAT-related assessment or the pre-ACT test (or any versions of these tests) as indicated in the chart at 19 Administrative Code 101.4002(b) must take the appropriate required EOC assessment. However, a student who does not receive a passing score on the EOC assessment and retakes the PSAT-related assessment or pre-ACT test (or any versions of these tests) is eligible to meet the requirements to use a substitute assessment.

19 TAC 101.4002

*Verification of
Results*

An eligible student is responsible for providing a district an official copy of the student's scores from the substitute assessment.

Upon receipt of official results of an approved substitute assessment, a district must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the commissioner.

19 TAC 101.4005

Satisfactory
Performance

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner on each EOC assessment instrument administered to the student. *Education Code 39.025(a)*

Individual
Graduation
Committee

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Education Code 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee (IGC). [See EIF] *Education Code 28.0258, 39.025(a-2)*

Special Education

A student receiving special education services is not subject to the IGC requirements in Education Code 28.0258. As provided in 19 Administrative Code 89.1070 (relating to Graduation Requirements) and 19 Administrative Code 101.3023 (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to 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. *Education Code 39.023(c-2)*

Retakes

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. [See Satisfactory Performance, above]

A student is not required to retake a course as a condition of retaking an EOC assessment instrument.

If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Education Code 39.025(b); 19 TAC 101.3021(f), .3022(d)

Reporting Results

To the Public

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of a board, after receipt from TEA. The information shall not contain the names of individual students or teachers. *Education Code 39.030(b)*

To the Board

A superintendent shall accurately report all test results with appropriate interpretations to a board according to the schedule in the applicable test administration materials.

To Parents,
Students, and
Teachers

A district shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated at Confidentiality, below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, a district shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year. [See BQ series, FD, and FL]

19 TAC 101.3014

TEA shall adopt a series of questions to be included in an EOC assessment instrument administered under Education Code 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A district shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A district may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course. *Education Code 39.0233(b)*

Parents Right-to-
Know Under ESEA

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), a district shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A. *20 U.S.C. 6312(e)(1)(B)(i)*

Parental Access

A parent is entitled to access to a copy of each state assessment instrument administered to the parent's child. This right of access does not apply, however, to those instruments or particular questions that are being field-tested by TEA. *Education Code 26.005, .006(a)(2)*

**Out-of-State
Transfers**

A district shall accurately report to TEA whether that student transferred into the district from out of state during the current school year.

Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. A district shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to districts from the results of the district's

other students in addition to the current reporting of assessment results for all students and other student subsets.

19 TAC 101.3014

**Accelerated
Instruction**

Each time a student fails to perform satisfactorily on an assessment instrument administered under Education Code 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations. *Education Code 28.0211(a-1)*

A district shall provide each student who fails to perform satisfactorily on an EOC assessment instrument with accelerated instruction in the subject assessed by the assessment instrument. *Education Code 39.025(b-1)* [See EHBC]

College Readiness

Each district shall partner with at least one institution of higher education to develop and provide courses in college preparatory mathematics and English language arts. The courses must be designed:

1. For students at the grade 12 level whose performance on:
 - a. An EOC assessment instrument required under Education Code 39.023(c) does not meet college readiness standards; or
 - b. Coursework, a college entrance examination, or an assessment instrument designated under Education Code 51.334(a) indicates that the student is not ready to perform entry-level college coursework; and
2. To prepare students for success in entry-level college courses.

A course must be provided on the campus of the high school offering the course or through distance learning or as an online course 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	<p>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).</p>
<i>Dual Credit</i>	<p>A course may be offered for dual credit at the discretion of the institution of higher education with which a district partners.</p>
<i>Instructional Materials</i>	<p>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.</p> <p><i>Education Code 28.014</i></p>
Security	<p>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.</p> <p>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.</p> <p><i>19 TAC 101.3031</i></p>
Confidentiality	<p>Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974. <i>Education Code 39.030(b)</i> [See FL and GBA]</p>
Penalties	<p>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.</p>

Procedures for maintaining the security and confidentiality of state assessments are specified in the Test Security Supplement and in the appropriate test administration materials. Conduct that violates the security and confidentiality of a test is defined as any departure from the test administration procedures established in the Test Security Supplement and other test administration materials. Conduct of this nature may include the following acts and omissions:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying TELPAS holistic ratings or STAAR Alternate 2 student responses;
4. Viewing a test before, during, or after an assessment unless specifically authorized to do so;
5. Discussing or disclosing the contents of any portion of a secure test;
6. Scoring student tests, either formally or informally;
7. Solving secure test questions;
8. Duplicating, recording, or electronically capturing secure test content unless authorized to do so;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during the TELPAS calibration activities;
11. Encouraging or assisting an individual to engage in the conduct described in the items listed above or any other serious violation of security and confidentiality; or
12. Failing to report to an appropriate authority that an individual has engaged in conduct outlined in the items listed above or any other serious violation of security and confidentiality.

The State Board for Educator Certification (SBEC) may take any of the following actions against any person who violates, assists in the violation of, or solicits another to violate or assist in the violation of test security or confidentiality, as well as any person who fails to report such a violation:

1. Place restrictions on the issuance, renewal, or holding of a Texas teacher certificate, either indefinitely or for a set term;

2. Issue an inscribed or non-inscribed reprimand;
3. Suspend a Texas teacher certificate for a set term;
4. Revoke or cancel a Texas teacher certificate without opportunity for reapplication either for a set term or permanently; or
5. Impose any additional conditions or restrictions upon a certificate that SBEC deems necessary to facilitate the rehabilitation and professional development of the educator or to protect students, parents of students, school personnel, or school officials.

Release or disclosure of confidential test content could result in criminal prosecution under Education Code 39.0303, Government Code 552.352, and Penal Code 37.10. SBEC may take any of the above actions based on satisfactory evidence that an educator has failed to cooperate with TEA in an investigation.

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(g)

Minimize
Disruptions

In implementing the commissioner's procedures for the administration of assessment instruments adopted or developed under Education Code 39.023, including procedures designed to ensure the security of the assessment, a district shall minimize disruptions to school operations and the classroom environment. *Education Code 39.0301(a-1)*

Note: The following provisions address requirements for a charter partnership to receive the benefits of Education Code 11.174 and 42.2511. For the general campus charter requirements applicable to partnership charters, see EL(LEGAL).

**Contract Regarding
Operation of District
Campus**

The board may contract with a partner to operate a campus. The partner may be an open-enrollment charter school or, on approval by the commissioner of education, an entity granted a charter by the district under Chapter 12, Subchapter C that is eligible to be awarded a charter under Education Code 12.101(a). The campus must be granted a charter under Chapter 12, Subchapter C. *Education Code 11.174(a), (d)*

A campus operated under a contract qualifies for an exemption from intervention as provided below and qualifies for funding as provided by Education Code 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(a)–(b)

Intervention Pause

For a campus under a contract that received an overall performance rating of unacceptable under Education Code Chapter 39, Subchapter C for the school year before operation under the contract began, the commissioner may not impose a sanction or take action against the campus under Education Code 39A for failure to satisfy academic performance standards during the first two school years of operation of a campus under the contract. [See AIA, AIC]

A campus is eligible for an exemption from applicable sanctions or actions if the campus and the partnership to operate the campus

meet all applicable requirements and the campus was operated under the partnership from the first to the last day of the school year of the campus. A school year must include, at a minimum, all minutes of operation and instructional time conducted on the campus, and all the days for which the instructional workforce of the campus that provides education services for students are employed.

The overall performance rating received by the campus during those first two school years is not included in calculating consecutive school years and is not considered a break in consecutive school years.

Education Code 11.174(f); 19 TAC 97.1077

Applicability

A campus shall not qualify for an intervention pause unless during the school year prior to the operation of a partnership charter the campus received an unacceptable performance rating, except as provided by 19 Administrative Code 97.1077(e) (related to a campus that operates a partnership charter for less than a year). *19 TAC 97.1062(b)*

The Texas Education Agency (TEA) will not withdraw or postpone issuing any orders or determinations required or authorized that arise due to the performance rating from the school year prior to the school year in which the campus qualifies for the intervention pause, and any order or determination will resume upon expiration of the intervention pause.

Any intervention or sanction not covered by the intervention pause shall continue.

If a campus ceases to qualify for the intervention pause at any point during a school year, TEA will resume previously ordered interventions and sanctions, order interventions and sanctions based on the rating from that school year, and count that rating for purposes of consecutive years of performance.

TEA will not pursue interventions under Education Code 39A.101–39A.109 and 39A.111 for a campus eligible for an intervention pause if one of the school years eligible for an intervention pause results in an acceptable or higher overall rating.

If after the expiration of the intervention pause a campus receives an unacceptable rating, TEA will apply the requisite interventions that apply to the consecutive year that corresponds to the campus's actual number of consecutive years of unacceptable performance minus the number of intervention pause years and, if applicable, accounting for the modification under 19 Administrative Code 97.1062(c).

If a campus qualifies for an intervention pause for a school year after the conclusion of the school year in which an order is authorized under Education Code 39A.111, the intervention under Education Code 39A.111 will not pause.

A campus that receives an intervention pause will still receive an accountability rating for that school year.

Performance of students at a campus that receives an intervention pause shall be considered in the accountability rating of the district and the application of an intervention pause to a campus shall not pause or alter any intervention applicable to the district or other campuses.

Appeal

A determination under this section that arises from the application of Education Code 28.020 is final and may not be appealed.

Partial Year

A partial school year that results in an intervention pause under 19 Administrative Code 97.1077(b) or (c) constitutes one full year of a pause. This provision expires on September 1, 2023.

19 TAC 97.1062(d), (f)-(n)

Additional Exemption

A campus that receives an exemption from a sanction or other action may receive another exemption while operating under a subsequent contract only if the campus receives approval for the exemption from the commissioner. *Education Code 11.174(g)*

Funding for Certain Students

A district that enters into a contract is entitled to receive for each student in average daily attendance at the campus an amount equivalent to the difference, if the difference results in increased funding, between the amount described by Education Code 12.106 and the amount to which the district would be entitled under this Education Code Chapter 42. This section applies only to a district that does not appoint a majority of the governing body of the charter holder. *Education Code 42.2511*

Consultation with Campus Personnel

Before entering into a contract, the district must consult with campus personnel regarding the provisions to be included in the contract between the district and the open-enrollment charter school. All rights and protections afforded by current employment contracts or agreements may not be affected by the contract entered into between a district and an open-enrollment charter school. *Education Code 11.174(c)*

Notice to Commissioner

A district proposing to enter into a contract with a campus or program charter shall notify the commissioner of the district's intent to enter into the contract according to commissioner rules. The commissioner shall notify the district whether the proposed contract is

approved not later than the 60th day after the date the commissioner receives notice of the proposed contract and all information required by the commissioner to be submitted. If the commissioner fails to notify the district that the proposed contract has been approved or denied within the period prescribed by this subsection, the proposed contract is considered approved. *Education Code 11.174(k)*

Enrollment Eligibility The contract must include a provision addressing student eligibility for enrollment.

The contract must provide that any student residing in the attendance zone of the campus as the attendance zone existed before operation of the campus under the contract shall be admitted for enrollment at the campus. The contract must establish enrollment preference for students who do not reside in the attendance zone as follows:

1. Other students residing in the school district in which the campus is located; and
2. Students who reside outside the school district.

Education Code 11.174(h), (i)

Operating Partner An operating partner means a state authorized open-enrollment charter school or an eligible entity as defined by Education Code 12.101(a). *19 TAC 97.1075(b)(1)*

*Conferred
Authority*

The district must confer, at a minimum, the following enhanced authorities to the operating partner:

Staffing
Authorities

1. The operating partner must have authority to employ and manage the campus chief operating officer, including the initial and final non-delegable authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment, and establish any other terms of employment.
2. The operating partner must have authority over the employees of the operating partner, including initial and final non-delegable authority for the operating partner to employ and/or manage all of the operating partner's own administrators, educators, contractors, or other staff. Such authority includes the authority to hire, supervise, manage, assign, evaluate, develop, advance, compensate, continue employment and establish any other terms of employment.
3. The operating partner must have authority over the assignment of all district employees to the campus, including initial

and final authority to approve the assignment of all district employees or contractors to the campus, as well as initial and final authority to supervise, manage, and rescind the assignment of any district employee or district contractor from the campus.

4. The operating partner must directly manage the instructional staff described above who provide services to at least a majority of the students.

19 TAC 97.1075(c)(1)

Other Authorities

The operating partner must have:

1. Initial and final authority to approve all curriculum decisions beyond the minimum requirements under regulation, lesson plans, instructional strategies, and instructional materials as defined by law;
2. Initial and final authority over educational programs for specific, identified student groups, such as gifted and talented students, students of limited English proficiency, students at risk of dropping out of school, special education students, and other statutorily defined populations;
3. Initial and final authority to set the school calendar and daily schedule, which may differ from those in other district campuses;
4. Initial and final authority to approve all assessments that are not required by the state of Texas; and
5. Initial and final authority to adopt and implement the campus budget. The governing body of the operating partner shall approve the campus budget in a meeting held under the Texas Open Meetings Act [see BE]. Notwithstanding such budget authority, the operating partner's expenditures must comply with the applicable restrictions on the use of state and federal funds.

19 TAC 97.1075(c)(2)

Performance
Contract

To contract to partner to operate under Education Code 11.174, the district's board must grant the operating partner a campus charter under Education Code Chapter 12, Subchapter C. The charter must include performance expectations memorialized in a performance contract as required by law. The performance contract must include, at a minimum, the following:

1. A description of enhanced authorities as outlined above;

2. Academic performance expectations and goals, which shall include;
 - a. For campuses that are paired for accountability purposes, specific annual targets for improved student academic performance;
 - b. For campuses issued an accountability rating under Education Code 39.054, a specific annual target for the overall campus academic rating and a specific target for student growth based on the School Progress Domain; and
 - c. Specific consequences in the event that the operating party does not meet the annual academic performance expectations and goals described in the performance contract;
3. Annual financial performance expectations and goals, which shall include:
 - a. The completion of an annual financial report of the operating partner meeting the expectation outlined in 19 Administrative Code 109.23;
 - b. Receipt of an unqualified audit opinion, in connection with the annual financial report required above; and
 - c. Specific consequences in the event that the operating partner does not meet the annual financial performance expectations and goals described in the performance contract;
4. A description of the campus enrollment and expulsion policies that must comply with Education Code 11.174(i);
5. A contract term of up to ten years as required by Education Code 12.0531, with a provision specifying a requirement for a public hearing at least 30 days prior to any district action to terminate the contract for an operating partner that successfully met the performance expectations and goals described in the performance contract;
6. A contract term stating that the campus is exempt from laws and rules to the fullest extent allowed by the Education Code, Chapter 12, Subchapter C, and is exempt from all district policies except for laws, rules, and policies that are specifically identified as applicable to the campus in the performance contract;

7. Service-level agreements that describe and allocate shared resources and services the district provides to the operating partner, which may include:
 - a. Facility use and related matters;
 - b. Transportation;
 - c. Specific education program services, such as providing special education services; and
 - d. Access to other resources and services as agreed between the parties;
8. A per-pupil allocation from the district to the operator that provides a student level allocation of local, state, and federal funds received by the district;
9. A description of the educational plan for the campus;
10. An assurance that the district has consulted with campus personnel regarding the provisions included in the performance contract and that the rights and protections afforded by current employment contracts or agreements shall not be affected by this contract as required by Education Code 11.174(c); and
11. A description of the consequences in the instance that either the district or the operating partner breaches the contract. The contract may not be contingent on any rating issued by TEA to the campus prior to the operation of the campus by the operating partner.

19 TAC 97.1075(d); Education Code 12.0531

TEA Monitoring

The commissioner shall continue to evaluate and assign overall and domain performance ratings under Education Code 39.054 to the campus. In order to qualify for ongoing benefits subsequent to initial eligibility validation or approval, the eligible partnership campus must comply with all information requests or monitoring visits deemed necessary by the TEA staff to monitor the ongoing eligibility of the partnership. *19 TAC 97.1075(g)*

**Entity Granted a
Charter by the
District**

Title 19 Administrative Code 97.1079 applies only to districts that intend to contract to partner to operate the district campus with, on approval by the commissioner, an entity granted a charter by the district under Education Code Subchapter C, Chapter 12.

Definitions

Eligible Entity

“Eligible entity” means an institution of higher education, a non-profit organization, or a governmental entity. For applicants seeking approval of an institution of higher education, which has been

granted a charter in accordance with Education Code Chapter 12, Subchapter E, the commissioner will treat the institution of higher education as an open-enrollment charter.

Campus

“Campus” means an organization unit operated by a district that is eligible to receive a campus performance rating in the state accountability system, including a rating of Not Rated or Not Rated: Data Integrity Issues. This definition includes a charter school campus.

Applicant

“Applicant” means a district seeking approval to receive benefits under Education Code 11.174.

*Proposed
Operating
Partner*

“Proposed operating partner” means an eligible entity seeking approval in coordination with a district to contract to partner to operate a campus.

19 TAC 97.1079, .1051(3); Education Code 12.101(a)

Eligibility Approval
Process

TEA shall review eligibility approval requests. If TEA determines that an eligibility approval request does not meet the eligibility criteria in Education Code 11.174, TEA shall notify the applicant and allow ten business days for the applicant to submit any missing or explanatory documents.

If, after giving the applicant opportunity to provide supplementary documents, TEA determines that the eligibility approval request remains incomplete and/or the eligibility requirements have not been met, the eligibility approval request will be denied. If the documents are not timely submitted, TEA shall remove the eligibility approval request without further processing.

19 TAC 97.1079(d)

Review Panel

Applicants with complete eligibility approval requests shall be reviewed by an external eligibility approval request review panel selected by the commissioner, in accordance with the procedures and criteria established in the eligibility approval request form. The recommendation, ranking, or other type of endorsement by a member or members of the review pane is not binding on the commissioner. *19 TAC 97.1079(d)(4)–(5)*

*Public
Information*

All parts of the district’s eligibility approval request are releasable under the Texas Public Information Act [see GBA] and will be posted to the TEA website. Information described in 19 Administrative Code 97.1079(d)(6) must be excluded or redacted from an eligibility approval request. *19 TAC 97.1079(d)(6)*

CAMPUS OR PROGRAM CHARTERS
PARTNERSHIP CHARTERS

ELA
(LEGAL)

*Criteria for
Approval*

The commissioner shall consider the criteria described in 19 Administrative Code 97.1079(d)(8) when determining approval to contract to partner to operate a campus and receive benefits under Education Code 11.174(a)(2). *19 TAC 97.1079(d)*

Appeals

A decision made by TEA to deny, remove, or return an eligibility approval request is a final administrative decision of TEA and may not be appealed under Education Code 7.057. *19 TAC 97.1079(e)*

**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 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. *Family Code 261.101(b-1)*

Psychotropic Drugs
and Psychological
Testing

An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

Education Code 26.0091; Family Code 261.111(a) [See FFAC]

Contents of Report

The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:

1. The name and address of the child;
2. The name and address of the person responsible for the care, custody, or welfare of the child; and
3. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104

To Whom Reported

If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].

All other reports shall be made to:

1. Any local or state law enforcement agency;
2. DFPS, Child Protective Services (CPS) Division;
3. A local office of CPS, where available; or
4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.

Family Code 261.103(a); 19 TAC 61.1051(a)(1)

JJAEPs

Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation.

The term “juvenile justice program” includes a juvenile justice alternative education program. *Family Code 261.405(a)(4)(A), (b)*

Immunity from Liability

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

A district may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. *Family Code 261.110* [See DG]

Criminal Offenses

Failure to Report

A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.

A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.

Family Code 261.109

False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

Coercion

A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

Confidentiality of Report

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act), and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

**SBEC Disciplinary
Action**

The State Board for Educator Certification (SBEC) may take any of the actions listed in 19 Administrative Code 249.15(a) (regarding impositions, including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code 261.001, or has failed to notify the SBEC or the school superintendent or director under the circumstances and in the manner required by Education Code 21.006 and 19 Administrative Code 249.14(d)–(f). *19 TAC 249.15(b)(4)*

Investigations

Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

Interview of Student

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

Interference with
Investigation

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

Confidentiality

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

Reporting Policy

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To 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) re-

garding 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 11 inches x 17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
 - a. The current toll-free DFPS Abuse Hotline telephone number (in bold print);
 - b. Instructions to call 911 for emergencies; and
 - c. Directions for accessing the DFPS [Texas Abuse Hotline website](#)¹ for more information on reporting abuse, neglect, and exploitation.

Education Code 38.0042; 19 TAC 61.1051(e), (f)

¹ Texas Abuse Hotline website: <http://www.txabusehotline.org>

**Searches of
Students**

Students shall be free from unreasonable searches and seizures by school officials. School officials may search a student's outer clothing, pockets, or property by establishing reasonable cause or securing the student's voluntary consent. Coercion, either expressed or implied, such as threatening to contact parents or police, invalidates apparent consent. *U.S. Const., Amend. 4.; New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985); Jones v. La-texo Indep. Sch. Dist., 499 F.Supp. 223 (1980)*

A search is reasonable if it meets both of the following criteria:

1. The action is justified at the inception; i.e., the school official has reasonable grounds for suspecting that the search will uncover evidence of a rule violation or a criminal violation.
2. The scope of the search is reasonably related to the circumstances that justified the search in the first place; i.e., the measures adopted are reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

New Jersey v. T.L.O., 469 U.S. 325, 105 S.Ct. 733 (1985)

Intrusive Searches

A search of a student's underwear is impermissibly intrusive unless the school officials reasonably suspect either that the object of the search is dangerous or that it is likely to be hidden in the student's underwear. *Safford Unified Sch. Dist. v. Redding, 557 U.S. 364 (2009), Littell v. Houston Indep. Sch. Dist., 894 F.3d 616 (2018)*

**Random Drug
Testing**

Whether a particular search is reasonable is judged by balancing its intrusion on the individual's Fourth Amendment interests against its promotion of legitimate governmental interests. Thus, the reasonableness of a random student drug-testing policy is determined by balancing the following factors:

1. The nature of the privacy interest compromised by the drug-testing policy.
2. The character of the intrusion imposed by the drug-testing policy.
3. The nature and immediacy of the governmental interests involved and the efficacy of the drug-testing policy for meeting them.

Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 115 S.Ct. 2386 (1995) (upholding a policy requiring urinalysis drug testing as a condition of participating in athletics); Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie County v. Earls, 122 S.Ct. 2559

(2002) (upholding a policy requiring urinalysis drug testing as a condition of participating in competitive extracurricular activities)

Searches of
Telecommunications/
Electronic Devices

A person is prohibited from obtaining, altering, or preventing authorized access to a wire or electronic communication while it is in electronic storage by:

1. Intentionally accessing without authorization a facility through which an electronic communication service is provided; or
2. Intentionally exceeding an authorization to access that facility.

Exceptions

This section does not apply with respect to conduct authorized:

1. By the person or entity providing a wire or electronic communications service;
2. By a user of that service with respect to a communication of or intended for that user; or
3. By sections 18 U.S.C. 2703, 2704, or 2518.

18 U.S.C. 2701(a), (c)

*Electronic
Communication*

“Electronic communication” means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photo-electronic or photo-optical system that affects interstate or foreign commerce. *18 U.S.C. 2510(12)*

*Electronic
Storage*

“Electronic storage” means:

1. Any temporary, intermediate storage of a wire or electronic communication incidental to the electronic transmission thereof; and
2. Any storage of such communication by an electronic communication service for purposes of backup protection of such communication.

18 U.S.C. 2510(17)

Messages that have been sent to a person, but not yet opened, are in temporary, intermediate storage and are considered to be in electronic storage. See Steve Jackson Games, Inc. v. United States Secret Service, 36 F.3d 457 (5th Cir. 1994). Electronic communications that are opened and stored separately from the provider are considered to be in post-transmission storage, not electronic storage. See Fraser v. Nationwide Mut. Ins. Co., 352 F.3d 107 (3d Cir. 2004).

STUDENT RIGHTS AND RESPONSIBILITIES
INVESTIGATIONS AND SEARCHES

FNF
(LEGAL)

*By Law
Enforcement*

A peace officer may not search a person's cellular telephone or other wireless communications device, pursuant to a lawful arrest of the person, without obtaining a warrant under Code of Criminal Procedure 18.0215.

A peace officer may search a cellular telephone or other wireless communications device without a warrant if:

1. The owner or possessor of the telephone or device consents to the search;
2. The telephone or device is reported stolen by the owner or possessor; or
3. The officer reasonably believes that:
 - a. The telephone or device is in the possession of a fugitive from justice for whom an arrest warrant has been issued for committing a felony offense; or
 - b. There exists an immediate life-threatening situation, as defined by Code of Criminal Procedure 18A.201.

Code of Crim. Proc. 18.0215

Use of Trained Dogs

Trained dogs' sniffing of cars and lockers does not constitute a search under the Fourth Amendment. The alert of a trained dog to a locker or car provides reasonable cause for a search of the locker or car if the dog is reasonably reliable in indicating that contraband is currently present. A district need not show that the dog is infallible or even that it is reliable enough to give probable cause.

Trained dogs' sniffing of students does constitute a search and requires individualized reasonable suspicion.

Horton v. Goose Creek Indep. Sch. Dist., 690 F.2d 470 (5th Cir. 1982)

STUDENT RIGHTS AND RESPONSIBILITIES
INVESTIGATIONS AND SEARCHES

FNF
(LOCAL)

**Questioning
Students**

District officials may question a student regarding the student's own conduct or the conduct of other students. In the context of school discipline, students may not refuse to answer questions based on a right not to incriminate themselves.

For provisions pertaining to student questioning by law enforcement officials or other state or local governmental authorities, see GRA(LOCAL).

District Property

Desks, lockers, District-provided technology, and similar items are the property of the District and are provided for student use as a matter of convenience. District property is subject to search or inspection at any time without notice. Students have no expectation of privacy in District property. Students shall be fully responsible for the security and contents of District property assigned to them. No student shall place or keep in a desk, locker, District-provided technology, or similar item any article or material prohibited by law, District policy, or the Student Code of Conduct. Students shall be responsible for any prohibited item found in District property provided to the student.

Searches in General

District officials may conduct searches of students, their belongings, and their vehicles in accordance with state and federal law and District policy. Searches of students shall be conducted in a reasonable and nondiscriminatory manner.

District officials may initiate a search in accordance with law, including, for example, based on reasonable suspicion, voluntary consent, or pursuant to District policy providing for suspicionless security procedures, including the use of metal detectors.

In accordance with the Student Code of Conduct, students are responsible for prohibited items found in their possession, including items in their personal belongings or in vehicles parked on District property.

Reasonable-
Suspicion Searches

Searches should be reasonable at their inception and in scope. If there is reasonable suspicion to believe that searching a student's person, belongings, or vehicle will reveal evidence of a violation of the Student Code of Conduct, a District official may conduct a search in accordance with law and District regulations.

Suspicionless
Searches

For purposes of this policy, a suspicionless search is a search carried out based on lawful security procedures, such as metal detector searches.

*Metal Detector
Searches*

In order to maintain a safe and disciplined learning environment, the District reserves the right to subject students to metal detector searches when entering a District campus and at off-campus, school-sponsored activities.

STUDENT RIGHTS AND RESPONSIBILITIES
INVESTIGATIONS AND SEARCHES

FNF
(LOCAL)

Use of Trained Dogs

The District reserves the right to use trained dogs to conduct screening for concealed prohibited items. Such procedures shall be unannounced. The dogs shall not be used with students; however, students may be asked to leave personal belongings in an area that will be screened. If a dog alerts to an item or an area, it may be searched by District officials.

STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

FOA
(LEGAL)

**Mandatory Removal
by a Teacher**

A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program (DAEP) or expulsion, as appropriate, a student who engages in conduct described in Education Code 37.006 (removal) or 37.007 (expulsion). [See FOC and FOD] *Education Code 37.002(d)*

Routine Referral

A teacher may send a student to the campus behavior coordinator's (CBC) office to maintain effective discipline in the classroom. The CBC shall respond by employing appropriate discipline management techniques, consistent with the Student Code of Conduct that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the CBC shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the CBC in the Student Code of Conduct. *Education Code 37.002(a)* [See FO]

**Discretionary
Removal**

A teacher may remove from class a student:

1. Who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or
2. Whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

Education Code 37.002(b)

Placement of
Student

If a teacher removes a student from class under the provisions above, the principal may place the student in another appropriate classroom, in-school suspension, or DAEP [see FOC]. *Education Code 37.002(c)*

Conference by
Third Day Required

Not later than the third class day after the day on which a student is removed from class by the teacher under the above provision or by the school principal or other appropriate administrator under the Student Code of Conduct, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference.

STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

FOA
(LEGAL)

Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the mitigating factors (see below), shall order the placement of the student for a period consistent with the Student Code of Conduct.

Appeals

If district policy allows a student to appeal to the board or the board's designee, a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed.

Placement Length

The period of the placement may not exceed one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees. The student may not be returned to the regular class pending the required conference.

Education Code 37.009(a)

Mitigating Factors

The CBC must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct. *Education Code 37.009(a), .001(a)(4)*

*Prohibitions on
Activities*

The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activities. *Education Code 37.002(c)*

Note: A power granted to a campus principal under Education Code Chapter 37, Subchapter A may be exercised by the CBC.

Return to Class

The principal may not return the student to the class of the teacher who removed the student without the teacher's consent, unless the placement review committee determines that such placement is the best or only alternative available.

If the teacher removed the student from class because the student engaged in the elements of an offense listed in Education Code 37.006(a)(2)(B) or 37.007(a)(2)(A) or (b)(2)(C) (assault, sexual assault, assault against a district employee or volunteer) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

Education Code 37.002(c), (d)

STUDENT DISCIPLINE
REMOVAL BY TEACHER OR BUS DRIVER

FOA
(LEGAL)

**Placement Review
Committee**

Each school shall establish a three-member committee to determine the placement of a student when a teacher refuses the return of a student to the teacher's class. The committee shall make recommendations to the district regarding readmission of expelled students.

Composition

Committee members shall be appointed as follows:

1. Campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and
2. The principal shall choose one member from the professional staff of a campus.

The teacher refusing to readmit the student may not serve on the committee.

Education Code 37.003

**Removal by School
Bus Driver**

The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus.

The principal shall respond by employing appropriate discipline management techniques consistent with the Student Code of Conduct.

Education Code 37.0022

Note: See FOF for provisions concerning students with disabilities.

**Meetings with
Juvenile Board**

A board or designee shall regularly meet with either:

1. The juvenile board for the county in which a district's central administrative office is located; or
2. The juvenile board's designee.

The meeting shall be called by the board president and shall address supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs (DAEPs).

Matters for discussion shall include:

1. Service by probation officers at the DAEP site;
2. Recruitment of volunteers to serve as mentors and provide tutoring services; and
3. Coordination with other social service agencies.

Education Code 37.013

**Juvenile Justice
Alternative
Education Program**

For the purposes of the following provisions, only a DAEP operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program (JJAEP).

Mandatory JJAEP

The juvenile board of a county with a population greater than 125,000 shall develop a JJAEP, subject to the approval of the Texas Juvenile Justice Department (TJJD).

Voluntary JJAEP

The juvenile board of a county with a population of 125,000 or less may develop a JJAEP. Such a JJAEP is not required to be approved by the TJJD. Further, it is not subject to Education Code 37.011(c), (d), (f), (g), (k) or (m).

Education Code 37.011(a), (k), (m)

County Population

A county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

1. The county had a population of 125,000 or less according to the 2000 federal census and the juvenile board of the county enters into, with the approval of the TJJD, a memorandum of understanding (MOU) with each school district within the county that:
 - a. Outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and
 - b. Includes the coordination procedures required by Education Code 37.013, above.

2. Has a population of 180,000 or less; is adjacent to two counties, each of which has a population of more than 1.7 million; and has seven or more school districts located wholly within the county's boundaries.
3. Has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students.

Education Code 37.011(a-1)–(a-3)

Note: The following provisions apply to all districts that operate JJAEPs, whether voluntary or mandatory.

**Placement of
Students in JJAEP—
Expelled Students**

Court-Ordered
Placement

An expelled student shall, to the extent provided by law or by the MOU, immediately attend the educational program from the date of expulsion. *Education Code 37.010(a)* [See FOD]

If a student admitted under Education Code 25.001(b) is expelled for conduct for which expulsion is required under Education Code 37.007, the juvenile court, juvenile board, or juvenile board's designee, as appropriate, shall:

1. If the student is placed on probation under Family Code 54.04, order the student to attend the JJAEP in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;
2. If the student is placed on deferred prosecution under Family Code 53.03 by the court, prosecutor, or probation department, require the student to immediately attend the JJAEP in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;
3. In determining the condition of the deferred prosecution or court-ordered probation, consider the length of a district's expulsion order for the student; and
4. Provide timely educational services to the student in the JJAEP in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student. This provision does not require that educational services be provided to a student who is not entitled to admission under Education Code 25.001(b).

Education Code 37.011(b)–(b-1)

	<p>A student transferred to a JJAEP must participate in the program for the full period ordered by the juvenile court, unless a district agrees to accept the student before the date ordered by the juvenile court. <i>Education Code 37.011(i)</i></p>
<p><i>Students Who Move</i></p>	<p>If a student who is ordered to attend a JJAEP moves from one county to another, the juvenile court may request the JJAEP in the county to which the student moves to provide educational services to the student in accordance with the local MOU between the district and the juvenile board in the receiving county. <i>Education Code 37.011(n)</i></p>
<p>Entry and Exit Transition Plans</p>	<p>For each student, the JJAEP must coordinate with the sending school district to develop a written transition plan for entrance into the JJAEP. For each student, the JJAEP must develop a written exit transition plan, provide the plan to the receiving school district, and maintain written verification that the plan was sent. The exit transition plan must include all information regarding courses in progress or completed, current grades for courses in progress, and the number of attendance days and absent days. <i>37 TAC 348.212(b)</i></p>
<p>Funding for JJAEPs</p>	
<p>Mandatory Expulsions</p>	<p>Except as determined by the commissioner of education, a student served by a JJAEP on the basis of conduct for which expulsion is required under Education Code 37.007 is not eligible for Foundation School Program funding if the JJAEP receives funding from the TJJD. <i>Education Code 37.011(h)</i></p>
<p>Court-Assigned Students</p>	<p>A district is not required to provide funding to a juvenile board for a student who is assigned by a court to a JJAEP but who has not been expelled. <i>Education Code 37.012</i></p>
<p>Title 5 Felony Placements</p>	<p>A district shall reimburse a JJAEP in which a student is placed under Education Code 37.0081 [see FOE] for the actual cost incurred each day the student is enrolled in the program. For purposes of this subsection:</p> <ol style="list-style-type: none">1. The actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and2. The juvenile board shall determine the actual cost each day of the program based on the board's annual audit. <p><i>Education Code 37.0081(g)</i></p>
<p>Funding for Discretionary Expulsions</p>	<p>Subject to Education Code 37.011(n) [see Students Who Move, above], the district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Education Code 37.007 shall, if the student is</p>

served by the JJAEP, provide funding to the juvenile board in an amount determined by the MOU under Education Code 37.011(k).

The amount of the funds transferred is determined by the portion of the school year for which the JJAEP provides educational services to a district.

Education Code 37.012(a)

Arbitration of
Disputes

If a district elects to contract with the juvenile board for the placement of students who are expelled for conduct for which expulsion is permitted but not required under Education Code 37.007, and the juvenile board and the district are unable to reach an agreement in the MOU, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator.

Each party shall pay its pro rata share of the arbitration costs and shall submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the district shall select an arbitrator, and those two arbitrators shall select an arbitrator who shall decide the issues in dispute.

*Decision of
Arbitrator*

The arbitration decision is enforceable in a court in the county in which the JJAEP is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a JJAEP must provide an amount sufficient based on operation of the JJAEP. In determining the amount to be paid by a district for an expelled student enrolled in a JJAEP, the arbitrator shall consider the relevant factors, including evidence of:

1. The actual average total per student expenditure in the district's DAEP;
2. The expected per student cost in the JJAEP as described and agreed on in the MOU and in compliance with Education Code Chapter 37; and
3. The costs necessary to achieve the accountability goals under Education Code Chapter 37.

Education Code 37.011(p)

Fees

Except as otherwise authorized by law [see FP], a JJAEP may not require a student, or the parent or guardian, to pay any fee, including an entrance or supply fee, for participating in the program. *Education Code 37.012(e)*

**Location and
Staffing**

A JJAEP may be provided in a facility owned by a district. A district may provide personnel and services for a JJAEP under a contract with the juvenile board. *Education Code 37.011(e)*

Academic Mission of JJAEP Academically, the mission of the JJAEP shall be to enable students to perform at grade level.

Accountability For purposes of accountability under Education Code Chapters 39 and 39A, a student enrolled in a JJAEP is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program.

Education Code 37.011(h)

Program Requirements JJAEP programs operated under Education Code 37.011 must comply with the requirements found at 37 Administrative Code Chapter 348. *37 TAC 348.104(b)*

Note: The following provisions apply only to districts located in counties with a population greater than 125,000 that are not exempt from the application of the provisions as detailed in Education Code 37.011(a-1), (a-2), or (a-3) [see County Population, above].

Memorandum of Understanding A district and the county juvenile board shall, no later than September 1 of each school year, enter into a joint MOU that:

1. Outlines the responsibilities of the juvenile board concerning the establishment and operation of a JJAEP;
2. Defines the amount and conditions on payments from the district to the juvenile board for students who are served in the JJAEP whose placement was not made on the basis of expulsion required under Education Code 37.007(a), (d), or (e);
3. Establishes that a student may be placed in the JJAEP if the student engages in serious misbehavior, as defined by Education Code 37.007(c);
4. Identifies and requires a timely placement and specifies a term of placement for expelled students for whom the district has received a notice under Family Code 52.041(d);
5. Establishes services for the transitioning of expelled students to the district before the completion of the student's placement in the JJAEP;
6. Establishes a plan that provides transportation services for students placed in the JJAEP;
7. Establishes the circumstances and conditions under which a juvenile may be allowed to remain in the JJAEP setting once the juvenile is no longer under juvenile court jurisdiction; and

8. Establishes a plan to address special education services required by law.

Education Code 37.011(k)–(m)

The memorandum of understanding must be submitted to TJJD no later than October 1 of each year. *37 TAC 348.200(c)*

Placement in JJAEP

Every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program. *Education Code 37.010(a)*

Operating Requirements

The JJAEP shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the TJJD for review and comment. The JJAEP is not subject to a requirement imposed by Education Code Title II, other than a reporting requirement or a requirement imposed by Education Code Chapters 37, 39, or 39A. *Education Code 37.011(g)*

Student Code of Conduct

The JJAEP shall adopt a Student Code of Conduct in accordance with Education Code 37.001. *Education Code 37.011(c); 37 TAC 348.224*

Educational Program

The JJAEP shall focus on English language arts, mathematics, science, social studies, and self-discipline.

Assessment

The JJAEP shall administer assessment instruments under Education Code Chapter 39, Subchapter B.

Equivalency

The JJAEP shall offer a high school equivalency program.

Review of Progress

The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress toward meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified above.

Education Code 37.011(d)

Days and Hours

The JJAEP must operate at least seven hours per day and 180 days per year, except that a JJAEP may apply to the TJJD for a waiver of the 180-day requirement. The commissioner may not grant a waiver to a JJAEP for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a district served by the program. *Education Code 37.011(f)*

**Performance
Reports**

TJJD completes a performance assessment report as required by the General Appropriations Act. At mandatory JJAEPs (i.e., JJAEPs whose operation is required by law), the JJAEP administrator must provide a copy of the report to the juvenile board and the superintendent of each school district that participates in the JJAEP. *37 TAC 348.300*

**Students with
Disabilities Under
Section 504**

A district shall conduct an evaluation in accordance with 34 C.F.R. 104.35(b) before taking any action with respect to any significant change in placement of a student with a disability who needs or is believed to need special education and related services. *34 C.F.R. 104.35(a)*

A district may take disciplinary action pertaining to the use or possession of illegal drugs or alcohol against any student with a disability who is currently engaging in the illegal use of drugs or in the use of alcohol to the same extent that the district would take disciplinary action against nondisabled students. The due process procedures afforded under Section 504 do not apply to such disciplinary action. *29 U.S.C. 705(20)(C)(iv)*

Note: The provisions below apply only to students eligible for special education and related services under the Individuals with Disabilities Education Act (IDEA).

**Students Receiving
Special Education
Services**

All disciplinary actions regarding students with disabilities must be determined in accordance with 34 C.F.R. 300.101(a) and 300.530–300.536; Education Code Chapter 37, Subchapter A; and 19 Administrative Code 89.1053 (relating to Procedures for Use of Restraint and Time-Out). *19 TAC 89.1050(k)*

Except as set forth below, the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal (ARD) committee. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations. *Education Code 37.004*

The methods adopted in the Student Code of Conduct [see FO] for discipline management and for preventing and intervening in student discipline problems must provide that a student who is enrolled in the special education program may not be disciplined for bullying, harassment, or making hit lists until an ARD committee meeting has been held to review the conduct. *Education Code 37.001(b-1)*

**DAEP Placement
Not Solely for
Educational
Purposes**

A student with a disability who receives special education services may not be placed in a disciplinary alternative education program (DAEP) solely for educational purposes. A teacher in a DAEP who has a special education assignment must hold an appropriate certificate or permit for that assignment. *Education Code 37.004(c)–(d)*

**Removal for Ten
Days or Less**

School personnel may remove a student with a disability who violates a student code of conduct from his or her current placement

	to an appropriate interim alternative educational setting, another setting, or suspension, for not more than ten consecutive school days, to the extent those alternatives are applied to children without disabilities. <i>20 U.S.C. 1415(k)(1)(B); 34 C.F.R. 300.530(b)(1)</i>
Services During Removal	A district is required to provide services during the period of removal if the district provides services to a child without disabilities who is similarly removed. <i>34 C.F.R. 300.530(d)</i>
Subsequent Removals of Ten Days or Less	School personnel may remove the student for additional removals of not more than ten consecutive school days in that same school year for separate incidents of misconduct, as long as those removals do not constitute a change in placement (see below). <i>34 C.F.R. 300.530(b)(1)</i>
Services During Removal	After a student has been removed from his or her current placement for ten school days in the same school year, during any subsequent removal of ten consecutive school days or less, school personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are needed so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's individualized education program (IEP). <i>20 U.S.C. 1415(k)(1)(D); 34 C.F.R. 300.530(d)(4)</i>
Notice of Procedural Safeguards	Not later than the date on which the decision to take the disciplinary action is made, a district shall notify the student's parents of the decision and of all procedural safeguards [see EHBAE]. <i>20 U.S.C. 1415(k)(1)(H)</i>
Removals That Are a Change in Placement	Any disciplinary action that would constitute a change in placement may be taken only after the student's ARD committee conducts a manifestation determination review [see Manifestation Determination, below]. <i>Education Code 37.004</i>
Change in Placement	For purposes of disciplinary removal of a student with a disability, a change in placement occurs if a student is: <ol style="list-style-type: none">1. Removed from the student's current educational placement for more than ten consecutive school days; or2. Subjected to a series of removals that constitute a pattern because:<ol style="list-style-type: none">a. The series of removals total more than ten school days in a school year;

- b. The student's behavior is substantially similar to the student's behavior in the previous incidents that resulted in the series of removals; and
- c. Additional factors exist, such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another.

The district determines, on a case-by-case basis, whether a pattern of removals constitutes a change in placement. The district's determination is subject to review through due process and judicial proceedings.

34 C.F.R. 300.536

School personnel may consider any unique circumstances on a case-by-case basis when determining whether to order a change in placement for a student who violates a code of student conduct. *20 U.S.C. 1415(k)(1)(A)*

Manifestation
Determination

Within ten school days of any decision to change the placement of a student because of a violation of a code of student conduct, a district, parents, and relevant members of the ARD committee (as determined by the parent and the district) shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine whether the conduct in question was:

- 1. Caused by, or had a direct and substantial relationship to, the student's disability; or
- 2. The direct result of the district's failure to implement the IEP.

If the district, the parent, and relevant members of the ARD committee determine that either of the above is applicable, the conduct shall be determined to be a manifestation of the student's disability.

If the district, the parent, and relevant members of the ARD committee determine the conduct was the direct result of the district's failure to implement the IEP, the district must take immediate steps to remedy those deficiencies.

20 U.S.C. 1415(k)(1)(E); 34 C.F.R. 300.530(e)

Not a Manifestation

If the determination is that the student's behavior was not a manifestation of the student's disability, school personnel may apply the relevant disciplinary procedures to the student in the same manner and for the same duration as for students without disabilities. The ARD committee shall determine the interim alternative educational setting. *20 U.S.C. 1415(k)(1)(C), (k)(2); 34 C.F.R. 300.530(c)*

Expulsion

In a county with a juvenile justice alternative education program (JJAEP) [see FODA], a district must invite the administrator of the JJAEP or the administrator's designee to an ARD committee meeting convened to discuss the discretionary expulsion under Education Code 37.007 of a student with a disability. The district must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. A copy of the student's current IEP must be provided to the JJAEP representative with the notice. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference telephone calls. The JJAEP representative may participate in the meeting to the extent that the meeting relates to the student's placement in the JJAEP and implementation of the student's current IEP in the JJAEP. *19 TAC 89.1052*

*Services During
Removal*

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1)–(2)

For a student with a disability who was expelled under a discretionary expulsion under Education Code 37.007, an ARD committee meeting must be convened to reconsider placement of the student in the JJAEP if the JJAEP provides written notice to the district of specific concerns that the student's education or behavioral needs cannot be met in JJAEP.

The district must invite the JJAEP administrator or the administrator's designee to the meeting and must provide written notice of the meeting at least five school days before the meeting or a shorter timeframe agreed to by the student's parents. If the JJAEP representative is unable to attend the ARD committee meeting, the representative must be given the opportunity to participate in the meeting through alternative means, including conference tele-

phone calls. The JJAEP may participate in the meeting to the extent that the meeting relates to the student's continued placement in JJAEP.

19 TAC 89.1052

Manifestation

If the district, the parents, and relevant members of the ARD committee determine that the conduct was a manifestation of the student's disability, the ARD committee shall:

1. Conduct a functional behavioral assessment (FBA), unless the district had conducted an FBA before the behavior that resulted in the change in placement occurred, and implement a behavioral intervention plan (BIP) for the student; or
2. If a BIP has already been developed, review the BIP and modify it, as necessary, to address the behavior.

Except as provided at Special Circumstances, below, the ARD committee shall return the student to the placement from which the student was removed, unless the parent and the district agree to a change in placement as part of the modification of the BIP.

20 U.S.C. 1415(k)(1)(F); 34 C.F.R. 300.530(f)

**Special
Circumstances**

School personnel may remove a student to an interim alternative educational setting for not more than 45 school days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

1. Carries or possesses a weapon to or at school, on school premises, or to or at a school function under the jurisdiction of the Texas Education Agency (TEA) or a school district;
2. Knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of TEA or a school district; or
3. Has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of TEA or the district.

20 U.S.C. 1415(k)(1)(G); 34 C.F.R. 300.530(g)

The ARD committee shall determine the interim alternative education setting. *20 U.S.C. 1415(k)(2)*

**Services During
Removal**

The student must:

1. Continue to receive educational services so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals in the student's IEP.
2. Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

These services may be provided in an interim alternative educational setting.

34 C.F.R. 300.530(d)(1)

Appeals

A parent who disagrees with a placement decision or the manifestation determination may request a hearing. A district that believes that maintaining a current placement of a student is substantially likely to result in injury to the student or others may request a hearing. *20 U.S.C. 1415(k)(3)(A); 34 C.F.R. 300.532(a); 19 TAC 89.1151*

Placement During Appeals

When an appeal has been requested by a parent or a district, the student shall remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the student's assignment to the alternative setting, whichever occurs first, unless the parent and district agree otherwise. *20 U.S.C. 1415(k)(4); 34 C.F.R. 300.533*

Reporting Crimes

Federal law does not prohibit a district from reporting a crime committed by a student with a disability to appropriate authorities. If a district reports a crime, the district shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom the district reported the crime. A district may transmit records only to the extent permitted by the Family Educational Rights and Privacy Act (FERPA). *20 U.S.C. 1415(k)(6); 34 C.F.R. 300.535 [See FL]*

Students Not Yet Identified

A student who has not been determined to be eligible for special education and related services and who has engaged in behavior that violated a code of student conduct may assert any of the protections provided for in the IDEA if a district had knowledge that the student had a disability before the behavior that precipitated that disciplinary action occurred. *20 U.S.C. 1415(k)(5)(A); 34 C.F.R. 300.534(a)*

District Knowledge

A district shall be deemed to have knowledge that a student has a disability if, before the behavior that precipitated the disciplinary action occurred:

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

1. The parent of the student expressed concern in writing to supervisory or administrative personnel of the district, or to the teacher of the student, that the student was in need of special education and related services;
2. The parent requested an evaluation of the student for special education and related services; or
3. The student's teacher, or other district personnel, expressed specific concerns about a pattern of behavior demonstrated by the student directly to the special education director or to other supervisory personnel of the district.

20 U.S.C. 1415(k)(5)(B); 34 C.F.R. 300.534(b)

Exception

A district shall not be deemed to have knowledge that the student had a disability if:

1. The parent has not allowed an evaluation of the student;
2. The parent has refused services; or
3. The student has been evaluated and it was determined that the student did not have a disability.

20 U.S.C. 1415(k)(5)(C); 34 C.F.R. 300.534(c)

If a district does not have knowledge (as described above), before taking disciplinary measures, that a student has a disability, the student may be subjected to the same disciplinary measures applied to students without disabilities who engaged in comparable behaviors.

However, if a request is made for an evaluation during the time period in which the student is subjected to disciplinary measures, the evaluation shall be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services.

20 U.S.C. 1415(k)(5)(D); 34 C.F.R. 300.534(d)

**Behavior
Management
Techniques**

It is the policy of the state to treat all students with dignity and respect, including students with disabilities who receive special education services. Any behavior management technique and/or discipline management practice must be implemented in such a way as to protect the health and safety of the student and others. No discipline management practice may be calculated to inflict injury, cause harm, demean, or deprive the student of basic human necessities. *Education Code 37.0021(a); 19 TAC 89.1053(j)*

STUDENT DISCIPLINE
STUDENTS WITH DISABILITIES

FOF
(LEGAL)

School Peace
Officers

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or
2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

Education Code 37.0021(h); 19 TAC 89.1053(l)

Exceptions

Education Code 37.0021 (regarding use of confinement, seclusion, restraint, and time-out) does not apply to:

1. A peace officer, while performing law enforcement duties, except as provided above [see School Peace Officers] and by Education Code 37.0021(i) [see Restraint, Documentation, below];
2. Juvenile probation, detention, or corrections personnel; or
3. 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); 19 TAC 89.1053(l), (m)

Further, Education Code 37.0021 does not prevent a student’s locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

1. The student possesses a weapon; and
2. The confinement is necessary to prevent the student from causing bodily harm to the student or another person.

For these purposes, “weapon” includes any weapon described under Education Code 37.007(a)(1). [See FNCG]

Education Code 37.0021(f)

Confinement

A student with a disability who receives special education services may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique. *Education Code 37.0021(a)*

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)

Restraint A school employee, volunteer, or independent contractor may use restraint only in an emergency and with the following limitations:

1. Restraint shall be limited to the use of such reasonable force as is necessary to address the emergency.
2. Restraint shall be discontinued at the point at which the emergency no longer exists.
3. Restraint shall be implemented in such a way as to protect the health and safety of the student and others.
4. Restraint shall not deprive the student of basic human necessities.

19 TAC 89.1053(c)

“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.

Emergency “Emergency” means a situation in which a student’s behavior poses a threat of:

1. Imminent, serious physical harm to the student or others; or
2. Imminent, serious property destruction.

19 TAC 89.1053(b)(1)–(2)

Training Training for school employees, volunteers, or independent contractors regarding the use of restraint shall be provided according to the requirements set forth at 19 Administrative Code 89.1053(d).

Documentation In a case in which restraint is used, school employees, volunteers, or independent contractors shall implement the documentation requirements set forth at 19 Administrative Code 89.1053(e).

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.

Education Code 37.0021(i)

Time-Out

A school employee, volunteer, or independent contractor may use time-out with the following limitations:

1. Physical force or threat of physical force shall not be used to place a student in time-out.
2. Time-out may only be used in conjunction with an array of positive behavior intervention strategies and techniques and must be included in the student's IEP and/or BIP if it is utilized on a recurrent basis to increase or decrease targeted behavior.
3. Use of time-out shall not be implemented in a fashion that precludes the ability of the student to be involved in and progress in the general curriculum and advance appropriately toward attaining the annual goals specified in the student's IEP.

19 TAC 89.1053(g)

"Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

1. That is not locked; and
2. From which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

19 TAC 89.1053(b)(3)

Training

Training for school employees, volunteers, or independent contractors regarding the use of time-out shall be provided according to the requirements set forth at 19 Administrative Code 89.1053(h).

Documentation

Necessary documentation or data collection regarding the use of time-out, if any, must be addressed in the IEP or BIP. The ARD committee must use any collected data to judge the effectiveness of the intervention and provide a basis for making determinations regarding its continued use.

19 TAC 89.1053(i)