

## REQUIRED DISTRIBUTION OF POLICES 2019-2020

The following policies must be distributed annually to all employees of FISD. The purpose of the distribution is so that each employee has easy access to important policies that may need to be looked at periodically. The policies listed below comprise the distribution as a whole.

**DH Legal/Local & Exhibit:** Policies and exhibits addressing standards of conduct for employees.

**FO Legal/Local:** Policies addressing standards of conduct for students.

**DIA Legal/Local, FB Series Legal/Local, FFH Legal/Local & Exhibit:** Policies regarding discrimination, harassment, and retaliation, including the relevant exhibits containing contact information for reporting such behavior, for employees and students.

**FFI Local:** Addresses student bullying, including cyberbullying, and establishes procedures for reporting, investigating, and dealing with bullying of district students. State law requires that the policy and necessary procedures be included in the student and employee handbooks, the district improvement plan, and be posted on the district's website to the extent practicable. Additionally, because this conduct may also rise to the level of discrimination or harassment, if based on a protected characteristic, this policy correlates to FFH(LOCAL) and (EXHIBIT), which are included in this packet (see above).

**BQ Legal:** Refers to the district plan for addressing sexual abuse and other maltreatment of children.

**FFG Legal/Local & Exhibit:** Addresses child abuse and neglect.

**GRA Legal/Local:** Addresses child abuse investigations.

**FFB Legal:** Addresses prevention and intervention programs for student mental health.

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DH  
(LEGAL)

**Educator Ethics**

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

*Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)*

**Public Servants**

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

**Electronic  
Communication  
Policy**

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes e-mails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or e-mail address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

*Education Code 38.027*

**Ineligible for  
Retirement Annuity**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or children);
2. Section 21.12 (improper relationship between educator and student); or
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

*Gov't Code 824.009*

**Transportation or  
Storage of Firearm in  
School Parking Area**

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125 or Penal Code 46.03 or 46.035, or other law. [See GKA]

*Education Code 37.0815*

**Tobacco and  
E-Cigarettes**

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

*Education Code 38.006(b)* [See also FNCD and GKA]

**Drug and Alcohol  
Abuse Program**

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property.

*Education Code 38.007(a)*

Federal Drug-Free  
Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

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1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The district's policy of maintaining a drug-free workplace;
  - c. Available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
  - a. Abide by the terms of the statement; and
  - b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;
6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

*41 U.S.C. 8103(a)(1)*

**Dietary Supplements**

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or

secondary education student with whom the employee has contact as part of the employee's duties; or

2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

*Education Code 38.011*

**Low-THC Cannabis**

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. The District holds all employees accountable to the Educators' Code of Ethics. [See DH(EXHIBIT)]

Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

**Violations of Standards of Conduct**

Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment. [See DCD and DF series]

**Weapons Prohibited**

The District prohibits the use, possession, or display of any firearm, location-restricted knife, club, or prohibited weapon, as defined at FNCG, on District property at all times.

Exceptions

No violation of this policy occurs when:

1. Use or possession of a firearm by a specific employee is authorized by Board action. [See CKC]
2. A District employee who holds a Texas handgun license stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area provided by the District, provided the handgun or other firearm is not loaded and not in plain view; or
3. The use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities. [See FOD]

**Electronic Communication**

Use with Students

A certified employee, licensed employee, or any other employee may use electronic communication, as this term is defined by law, with currently enrolled students only about matters within the scope of the employee's professional responsibilities.

Unless an exception has been made in accordance with the employee handbook or other administrative regulations, an employee shall not use a personal electronic communication platform, application, or account to communicate with currently enrolled students.

Unless authorized above, all other employees are prohibited from using electronic communication directly with students who are currently enrolled in the District. The employee handbook or other administrative regulations shall further detail:

1. Exceptions for family and social relationships;
2. The circumstances under which an employee may use text messaging to communicate with individual students or student groups;
3. Hours of the day during which electronic communication is discouraged or prohibited; and
4. Other matters deemed appropriate by the Superintendent or designee.

In accordance with ethical standards applicable to all District employees [see DH(EXHIBIT)], an employee shall be prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a District student; adversely affects the student's learning, mental health, or safety; includes threats of violence against the student; reveals confidential information about the student; or constitutes an inappropriate communication with a student, as described in the Educators' Code of Ethics.

An employee shall have no expectation of privacy in electronic communications with students. Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic communication. [See CPC]

*Text Messaging*

Only a teacher, trainer, or other employee who has an extracurricular duty may use text messaging and then only to communicate with students who participate in the extracurricular activity over which the employee has responsibility.

An employee who communicates through text messaging shall be required to include at least one of the student's parents or guardians as a recipient so that the student and parent receive the same message. As an alternative to sending a message to the student's parent, the employee may send a copy of the message to his or her own District email address in order to retain a printable record if the employee has a device that provides this capability.

Personal Use

All employees shall be held to the same professional standards in their public use of electronic communication as for any other public conduct. If an employee's use of electronic communication violates state or federal law or District policy, or interferes with the em-

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employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

**Reporting Improper Communication**

In accordance with administrative regulations, an employee shall notify his or her supervisor when a student engages in improper electronic communication with the employee.

**Disclosing Personal Information**

An employee shall not be required to disclose his or her personal email address or personal phone number to a student.

**Safety Requirements**

Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

**Harassment or Abuse**

An employee shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect.]

While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

An employee shall report child abuse or neglect as required by law. [See FFG]

**Relationships with Students**

An employee shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

As required by law, the District shall notify the parent of a student with whom an educator is alleged to have engaged in certain misconduct. [See FFF]

**Tobacco and E-Cigarettes**

An employee shall not smoke or use tobacco products or e-cigarettes on District property, in District vehicles, or at school-related activities. [See also GKA]

**Alcohol and Drugs / Notice of Drug-Free Workplace**

As a condition of employment, an employee shall abide by the terms of the following drug-free workplace provisions. An employee shall notify the Superintendent in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace in accordance with Arrests, Indictments, Convictions, and Other Adjudications, below.

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An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while on District property or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.
4. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

Exceptions

It shall not be considered a violation of this policy if the employee:

1. Manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities;
2. Uses or possesses a controlled substance or drug authorized by a licensed physician prescribed for the employee's personal use; or
3. Possesses a controlled substance or drug that a licensed physician has prescribed for the employee's child or other individual for whom the employee is a legal guardian.

Sanctions

An employee who violates these drug-free workplace provisions shall be subject to disciplinary sanctions. Sanctions may include:

1. Referral to drug and alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Termination from employment with the District; and
4. Referral to appropriate law enforcement officials for prosecution.

Notice

Employees shall receive a copy of this policy.

**Arrests, Indictments,  
Convictions, and  
Other Adjudications**

An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for

any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:

1. Crimes involving school property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or
4. Crimes involving moral turpitude, which include:
  - Dishonesty; fraud; deceit; theft; misrepresentation;
  - Deliberate violence;
  - Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
  - Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
  - Acts constituting public intoxication, operating a motor vehicle while under the influence of alcohol, or disorderly conduct; or
  - Acts constituting abuse or neglect under the Texas Family Code.

**Dress and Grooming**

An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.

## **Educators' Code of Ethics**

The Texas educator shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom. The Texas educator, in maintaining the dignity of the profession, shall respect and obey the law, demonstrate personal integrity, and exemplify honesty. The Texas educator, in exemplifying ethical relations with colleagues, shall extend just and equitable treatment to all members of the profession. The Texas educator, in accepting a position of public trust, shall measure success by the progress of each student toward realization of his or her potential as an effective citizen. The Texas educator, in fulfilling responsibilities in the community, shall cooperate with parents and others to improve the public schools of the community. *19 TAC 247.1*

### **Professional Ethical Conduct, Practices, and Performance**

Standard 1.1. The educator shall not intentionally, knowingly, or recklessly engage in deceptive practices regarding official policies of the school district, educational institution, educator preparation program, the Texas Education Agency, or the State Board for Educator Certification (SBEC) and its certification process.

Standard 1.2. The educator shall not intentionally, knowingly, or recklessly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.

Standard 1.3. The educator shall not submit fraudulent requests for reimbursement, expenses, or pay.

Standard 1.4. The educator shall not use institutional or professional privileges for personal or partisan advantage.

Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or that are used to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents of students, or other persons or organizations in recognition or appreciation of service.

Standard 1.6. The educator shall not falsify records, or direct or coerce others to do so.

Standard 1.7. The educator shall comply with state regulations, written local school board policies, and other state and federal laws.

Standard 1.8. The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

Standard 1.9. The educator shall not make threats of violence against school district employees, school board members, students, or parents of students.

Standard 1.10. The educator shall be of good moral character and be worthy to instruct or supervise the youth of this state.

Standard 1.11. The educator shall not intentionally or knowingly misrepresent his or her employment history, criminal history, and/or disciplinary record when applying for subsequent employment.

Standard 1.12. The educator shall refrain from the illegal use, abuse, or distribution of controlled substances, prescription drugs, and toxic inhalants.

Standard 1.13. The educator shall not be under the influence of alcohol or consume alcoholic beverages on school property or during school activities when students are present.

### **Ethical Conduct Toward Professional Colleagues**

Standard 2.1. The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.

Standard 2.2. The educator shall not harm others by knowingly making false statements about a colleague or the school system.

Standard 2.3. The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.

Standard 2.4. The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.

Standard 2.5. The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, gender, disability, family status, or sexual orientation.

Standard 2.6. The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.

Standard 2.7. The educator shall not retaliate against any individual who has filed a complaint with the SBEC or who provides information for a disciplinary investigation or proceeding under this chapter.

Standard 2.8. The educator shall not intentionally or knowingly subject a colleague to sexual harassment.

### **Ethical Conduct Toward Students**

Standard 3.1. The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.

Standard 3.2. The educator shall not intentionally, knowingly, or recklessly treat a student or minor in a manner that adversely affects or endangers the learning, physical health, mental health, or safety of the student or minor.

Standard 3.3. The educator shall not intentionally, knowingly, or recklessly misrepresent facts regarding a student.

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Standard 3.4. The educator shall not exclude a student from participation in a program, deny benefits to a student, or grant an advantage to a student on the basis of race, color, gender, disability, national origin, religion, family status, or sexual orientation.

Standard 3.5. The educator shall not intentionally, knowingly, or recklessly engage in physical mistreatment, neglect, or abuse of a student or minor.

Standard 3.6. The educator shall not solicit or engage in sexual conduct or a romantic relationship with a student or minor.

Standard 3.7. The educator shall not furnish alcohol or illegal/unauthorized drugs to any person under 21 years of age unless the educator is a parent or guardian of that child or knowingly allow any person under 21 years of age unless the educator is a parent or guardian of that child to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

Standard 3.8. The educator shall maintain appropriate professional educator-student relationships and boundaries based on a reasonably prudent educator standard.

Standard 3.9. The educator shall refrain from inappropriate communication with a student or minor, including, but not limited to, electronic communication such as cell phone, text messaging, email, instant messaging, blogging, or other social network communication. Factors that may be considered in assessing whether the communication is inappropriate include, but are not limited to:

1. The nature, purpose, timing, and amount of the communication;
2. The subject matter of the communication;
3. Whether the communication was made openly or the educator attempted to conceal the communication;
4. Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;
5. Whether the communication was sexually explicit; and
6. Whether the communication involved discussion(s) of the physical or sexual attractiveness or the sexual history, activities, preferences, or fantasies of either the educator or the student.

*19 TAC 247.2*

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**Note:** The Board has adopted an [innovation plan](#)<sup>1</sup> that affects application of provisions in this legally referenced policy.

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**Student Code of Conduct**

The board shall adopt a Student Code of Conduct for a district, with the advice of its district-level committee. The Student Code of Conduct must:

1. Specify the circumstances, in accordance with Education Code Chapter 37, Subchapter A, under which a student may be removed from a classroom, campus, disciplinary alternative education program (DAEP), or vehicle owned or operated by the district.
2. Specify conditions that authorize or require a principal or other appropriate administrator to transfer a student to a DAEP.
3. Outline conditions under which a student may be suspended, as provided by Education Code 37.005 [see FOB], or expelled, as provided by Education Code 37.007 [see FOD].
4. Specify that consideration will be given, as a factor in each decision concerning suspension, removal to a DAEP, expulsion, or placement in a juvenile justice alternative education program (JJAEP), regardless of whether the decision concerns a mandatory or discretionary action, to:
  - a. Self-defense;
  - b. Intent or lack of intent at the time the student engaged in the conduct;
  - c. A student's disciplinary history; or
  - d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
5. Provide guidelines for setting the length of removal to a DAEP or of expulsion. Except as provided by Education Code 37.007(e) (Gun-Free Schools Act [see FOD]), a district is not required to specify a minimum term of removal or expulsion.
6. Address the notification of the parent or guardian of a student's violation of the Student Code of Conduct that results in suspension, removal to a DAEP, or expulsion.
7. Prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions. "Bullying" has the meaning provided by Education Code 37.0832. [See

FFI] "Harassment" means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety. "Hit list" means a list of people targeted to be harmed using a firearm, as defined by Penal Code 46.01(3) [see FNCG]; a knife, as defined by Penal Code 46.01(7) (any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument); or any other object to be used with intent to cause bodily harm.

8. Provide, as appropriate for students at each grade level, methods, including options, for:
  - a. Managing students in the classroom, on school grounds, and on a vehicle owned or operated by the district;
  - b. Disciplining students; and
  - c. Preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.
9. Include an explanation of the provisions regarding refusal of entry to or ejection from district property under Education Code 37.105 [see GKA], including the appeal process established under 37.105(h).

The methods adopted must provide that a student who is enrolled in a special education program under Education Code Chapter 29, Subchapter A, may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal (ARD) committee meeting has been held to review the conduct. [See FOF]

Changes in SCOC	Once a Student Code of Conduct is promulgated, any change or amendment shall be approved by a board.
Posting	The Student Code of Conduct must be posted and prominently displayed at each school campus or made available for review at the office of the campus principal. <i>Education Code 37.001</i>
Notice to Parents	Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. <i>Education Code 37.001(d)</i>

STUDENT DISCIPLINE

FO  
(LEGAL)

<i>Noncustodial Parent</i>	<p>A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, a district provide that parent with a copy of any written notification that is generally provided to a student's parent or guardian, relating to student misconduct under Education Code 37.006 or 37.007. A district may not unreasonably deny the request. Notwithstanding this requirement, a district shall comply with any applicable court order of which the district has knowledge. <i>Education Code 37.0091</i></p>
<b>Copies to Staff</b>	<p>The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. <i>Education Code 37.018</i></p>
<b>Campus Behavior Coordinator</b>	<p>A person at each campus must be designated to serve as the campus behavior coordinator (CBC). The person may be the campus principal or any other campus administrator selected by the principal.</p> <p>The CBC is primarily responsible for maintaining student discipline and the implementation of Education Code Chapter 37, Subchapter A.</p>
Duties	<p>The specific duties of the CBC may be established by campus or district policy. Unless the policy provides otherwise, duties imposed on a campus principal or other campus administrator by Education Code Chapter 37, Subchapter A must be performed by the CBC and a power granted to a campus principal may be exercised by the CBC.</p>
Notice to Parents	<p>The CBC shall promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a DAEP, expelled, or placed in a JJAEP or is taken into custody by a law enforcement officer.</p> <p>A CBC must provide notice by promptly contacting the parent or guardian by telephone or in person; and making a good faith effort to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.</p> <p>If a parent or guardian entitled to notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a CBC shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.</p> <p>If a CBC is unable or not available to promptly provide notice, the principal or other designee shall provide the notice.</p> <p><i>Education Code 37.0012</i></p>

**No Unsupervised Setting**

Except for students who are suspended or expelled, no student may be placed in an unsupervised setting as a result of conduct for which a student may be placed in a DAEP. *Education Code 37.008(h)*

**Continuation of Disciplinary Action**

If a district takes disciplinary action against a student and the student subsequently enrolls in another district or school before the expiration of the period of disciplinary action, the district or school taking the disciplinary action shall provide to the district or school in which the student enrolls, at the same time other records of the student are provided, a copy of the order of disciplinary action.

“Disciplinary action” means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student.

“District or school” includes an independent school district, a home-rule school district, a campus or campus program charter holder, or an open-enrollment charter school.

*Education Code 37.022*

**Opportunity to Complete Courses**

If a student is placed in in-school suspension or other alternative setting other than a DAEP, a district shall offer the student the opportunity to complete, before the beginning of the next school year, each course in which the student was enrolled at the time of removal. A district may provide the opportunity by any method available, including a correspondence course, distance learning, or summer school. *Education Code 37.021* [For DAEP notice requirements, see FOCA.]

**Seclusion**

A district employee or volunteer or an independent contractor of a district may not place a student in seclusion. *Education Code 37.0021(c)*

“Seclusion” means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

1. Is designed solely to seclude a person; and
2. Contains less than 50 square feet of space.

*Education Code 37.0021(b)(2)*

This section and any rules or procedures adopted under this section apply to a peace officer only if the peace officer:

1. Is employed or commissioned by a school district; or

2. Provides, as a school resource officer, a regular police presence on a school district campus under a memorandum of understanding between the district and a local law enforcement agency.

*Education Code 37.0021(h)*

Exceptions

This prohibition on seclusion does not apply to:

1. A peace officer performing law enforcement duties; or
2. An educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

*“Law Enforcement Duties”*

“Law enforcement duties” means activities of a peace officer relating to the investigation and enforcement of state criminal laws and other duties authorized by the Code of Criminal Procedure.

*Education Code 37.0021(b)(4), (g)*

**Restraint Reports**

A district shall report electronically to TEA, in accordance with standards provided by commissioner rule, information relating to the use of restraint by a peace officer performing law enforcement duties on school property or during a school-sponsored or school-related activity. The report must be consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities [see FOF]. *Education Code 37.0021(i)*

“Restraint” means the use of physical force or a mechanical device to significantly restrict the free movement of all or a portion of a student’s body. *Education Code 37.0021(b)(1)*

**Corporal Punishment**

If the board adopts a policy under Education Code 37.001(a)(8) under which corporal punishment is permitted as a method of student discipline, a district educator may use corporal punishment to discipline a student unless the student’s parent or guardian or other person having lawful control over the student has previously provided a written, signed statement prohibiting the use of corporal punishment as a method of student discipline. *Education Code 37.0011(b)*

Parent Statement

To prohibit the use of corporal punishment as a method of student discipline, each school year a student’s parent or guardian or other person having lawful control over the student must provide a separate written, signed statement to the board in the manner established by the board. The student’s parent or guardian or other person having lawful control over the student may revoke the statement provided to the board at any time during the school year

by submitting a written, signed revocation to the board in the manner established by the board. *Education Code 37.0011(c)–(d)*

Definition

“Corporal punishment” means the deliberate infliction of physical pain by hitting, paddling, spanking, slapping, or any other physical force used as a means of discipline. The term does not include physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education or the use of restraint as authorized under Education Code 37.0021 [see FOF]. *Education Code 37.0011(a)*

**Use of Force to  
Maintain Discipline**

The use of force, but not deadly force, against a student is justified if the teacher or administrator is entrusted with the care, supervision, or administration of the student when, and to the degree the teacher or administrator reasonably believes the force is necessary, to further the purpose of education or to maintain discipline in a group. *Penal Code 9.62*

**Videotapes and  
Recordings**

A district employee is not required to obtain the consent of a child’s parent before the employee may make a videotape of the child or authorize the recording of the child’s voice if the videotape or recording is to be used only for purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses. *Education Code 26.009(b)(1)*

**Reports**

Disciplinary  
Alternative  
Education  
Programs

For each placement in a disciplinary alternative education program (DAEP), a district shall annually report to the commissioner:

1. Information identifying the student, including the student’s race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
2. Information indicating whether the placement was based on:
  - a. Conduct violating the Student Code of Conduct;
  - b. Conduct for which a student may be removed from class by a teacher [see FOA and the Student Code of Conduct];
  - c. Conduct for which placement in a DAEP is required [see FOC and the Student Code of Conduct]; or
  - d. Conduct occurring while a student was enrolled in another district and for which placement in a DAEP is permitted by Education Code 37.008(j);
3. The number of full or partial days the student was assigned to the program and the number of full or partial days the student attended the program; and

4. The number of placements that were inconsistent with the guidelines on length of placement in the Student Code of Conduct.

Expulsions

For each expulsion, a district shall annually report to the commissioner:

1. Information identifying the student, including the student's race, sex, and date of birth, that will enable TEA to compare placement data with information collected through other reports;
2. Information indicating whether the expulsion was based on:
  - a. Conduct for which expulsion is required, including information specifically indicating whether a student was expelled for bringing a firearm to school; or
  - b. Conduct for which expulsion is permitted;
3. The number of full or partial days the student was expelled;
4. Information indicating whether:
  - a. The student was placed in a JJAEP;
  - b. The student was placed in a DAEP; or
  - c. The student was not placed in a JJAEP or other alternative education program; and
5. The number of expulsions that were inconsistent with the guidelines on length of expulsion in the Student Code of Conduct.

*Education Code 37.020*

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<sup>1</sup> Innovation Plan: <http://myfisd.com/doi/>

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**Note:** This local policy has been revised in accordance with the District's [innovation plan](#).<sup>1</sup>

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**Campus Behavior  
Coordinator**

In accordance with the District's innovation plan, the District shall be exempt from the statutory requirement for designation of a campus behavior coordinator, who may be the principal of the campus or another campus administrator selected by the principal.

**Student Code of  
Conduct**

The District's rules of discipline are maintained in the Board-adopted Student Code of Conduct and are established to support an environment conducive to teaching and learning.

Rules of conduct and discipline shall not have the effect of discriminating on the basis of gender, race, color, disability, religion, ethnicity, or national origin.

At the beginning of the school year and throughout the school year as necessary, the Student Code of Conduct shall be:

1. Posted and prominently displayed at each campus or made available for review in the principal's office, as required by law; and
2. Made available on the District's website and/or as a hard copy to students, parents, teachers, administrators, and others on request.

Revisions

Revisions to the Student Code of Conduct approved by the Board during the year shall be made available promptly to students and parents, teachers, administrators, and others.

**Extracurricular  
Standards of  
Behavior**

With the approval of the principal and Superintendent, sponsors and coaches of extracurricular activities may develop and enforce standards of behavior that are higher than the District-developed Student Code of Conduct and may condition membership or participation in the activity on adherence to those standards. Extracurricular standards of behavior may take into consideration conduct that occurs at any time, on or off school property.

A student shall be informed of any extracurricular behavior standards at the beginning of each school year or when the student first begins participation in the activity. A student and his or her parent shall sign and return to the sponsor or coach a statement that they have read the extracurricular behavior standards and consent to them as a condition of participation in the activity.

Standards of behavior for an extracurricular activity are independent of the Student Code of Conduct. Violations of these standards

of behavior that are also violations of the Student Code of Conduct may result in independent disciplinary actions.

A student may be removed from participation in extracurricular activities or may be excluded from school honors for violation of extracurricular standards of behavior for an activity or for violation of the Student Code of Conduct.

**“Parent” Defined**

Throughout the Student Code of Conduct and discipline policies, the term “parent” includes a parent, legal guardian, or other person having lawful control of the child.

**General Discipline Guidelines**

A District employee shall adhere to the following general guidelines when imposing discipline:

1. A student shall be disciplined when necessary to improve the student’s behavior, to maintain order, or to protect other students, school employees, or property.
2. A student shall be treated fairly and equitably. Discipline shall be based on an assessment of the circumstances of each case. Factors to consider shall include:
  - a. The seriousness of the offense;
  - b. The student’s age;
  - c. The frequency of misconduct;
  - d. The student’s attitude;
  - e. The potential effect of the misconduct on the school environment;
  - f. Requirements of Chapter 37 of the Education Code; and
  - g. The Student Code of Conduct adopted by the Board.
3. When a student under 18 is assigned to detention outside regular school hours, notice shall be given to the student’s parent to inform him or her of the reason for the detention and permit arrangements for necessary transportation.

**Corporal Punishment**

The Board prohibits the use of corporal punishment in the District. Students shall not be spanked, paddled, or subjected to other physical force as a means of discipline for violations of the Student Code of Conduct.

**Physical Restraint**

Within the scope of an employee’s duties, a District employee may physically restrain a student if the employee reasonably believes restraint is necessary in order to:

1. Protect a person, including the person using physical restraint, from physical injury.
2. Obtain possession of a weapon or other dangerous object.
3. Remove a student refusing a lawful command of a school employee from a specific location, including a classroom or other school property, in order to restore order or to impose disciplinary measures.
4. Control an irrational student.
5. Protect property from serious damage.

A District employee may restrain a student with a disability who receives special education services only in accordance with law. [See FOF(LEGAL)]

**Video and Audio Monitoring**

Video and audio recording equipment shall be used for safety purposes to monitor student behavior on District property.

The District shall post signs notifying students and parents about the District's use of video and audio recording equipment. Students shall not be notified when the equipment is turned on.

Use of Recordings

The principal shall review recordings as needed, and evidence of student misconduct shall be documented. A student found to be in violation of the District's Student Code of Conduct shall be subject to appropriate discipline.

Access to Recordings

Recordings shall remain in the custody of the campus principal and shall be maintained as required by law. A parent or student who wishes to view a recording in response to disciplinary action taken against the student may request such access under the procedures set out by law. [See FL(LEGAL)]

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<sup>1</sup> Innovation Plan: <http://myfisd.com/doi/>

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**Note:** This policy addresses harassment of district employees. For legally referenced material relating to discrimination and retaliation, see DAA(LEGAL). For harassment of students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

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**Official Oppression**

A public servant acting under color of the public servant's office or employment commits an offense if the public servant intentionally subjects another to sexual harassment.

A public servant acts under color of the public servant's office or employment if the person acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

*Penal Code 39.03(a)(3), (b), (c)*

**Harassment of Employees**

Harassment on the basis of a protected characteristic is a violation of the federal anti-discrimination laws. A district has an affirmative duty, under Title VII, to maintain a working environment free of harassment on the basis of sex, race, color, religion, and national origin. *42 U.S.C. 2000e, et seq.; 29 C.F.R. 1606.8(a), 1604.11*

Harassment violates Title VII if it is sufficiently severe and pervasive to alter the conditions of employment. *Pennsylvania State Police v. Suders, 542 U.S. 129 (2004)*

Title VII does not prohibit all verbal and physical harassment in the workplace. For example, harassment between men and women is not automatically unlawful sexual harassment merely because the words used have sexual content or connotations. *Oncale v. Sun-downer Offshore Services, Inc., 523 U.S. 75 (1998)*

**Hostile Environment**

Verbal or physical conduct based on a person's sex, race, color, religion, or national origin constitutes unlawful harassment when the conduct:

1. Has the purpose or effect of creating an intimidating, hostile, or offensive working environment;
2. Has the purpose or effect of unreasonably interfering with an individual's work performance; or
3. Otherwise adversely affects an individual's employment opportunities.

*Pennsylvania State Police v. Suders*, 542 U.S. 129 (2004); *Nat'l Railroad Passenger Corp. v. Morgan*, 536 U.S. 101 (2002); *Meritor Savings Bank v. Vinson*, 477 U.S. 57 (1986); 29 C.F.R. 1604.11, 1606.8

Quid Pro Quo

Conduct of a sexual nature also constitutes harassment when:

1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual.

*29 C.F.R. 1604.11(a)*

Same-Sex Sexual Harassment

Same-sex sexual harassment constitutes sexual harassment. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75 (1998)

**Harassment Policy**

A district should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate penalties, informing employees of their right to raise and how to raise the issue of harassment under Title VII, and developing methods to sensitize all concerned. *29 C.F.R. 1604.11(f)*

**Corrective Action**

A district is responsible for acts of unlawful harassment by fellow employees and by nonemployees if the district, its agents, or its supervisory employees knew or should have known of the conduct, unless the district takes immediate and appropriate corrective action. *29 C.F.R. 1604.11(d), (e), 1606.8(d), (e)*

When no tangible employment action is taken, a district may raise the following affirmative defense:

1. That the district exercised reasonable care to prevent and promptly correct any harassing behavior; and
2. That the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer or to avoid harm otherwise.

*Burlington Industries, Inc. v. Ellerth*, 524 U.S. 742 (1998); *Faragher v. City of Boca Raton*, 524 U.S. 775 (1998)

**Harassment of Unpaid Interns**

A district commits an unlawful employment practice if sexual harassment of an unpaid intern occurs and the district or its agents or supervisors know or should have known that the conduct constituting sexual harassment was occurring, and fail to take immediate and appropriate corrective action. *Labor Code 21.1065*

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**Note:** This policy addresses discrimination, harassment, and retaliation involving District employees. For discrimination, harassment, and retaliation involving students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

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<b>Definitions</b>	Solely for purposes of this policy, the term “employee” includes former employees, applicants for employment, and unpaid interns.
<b>Statement of Nondiscrimination</b>	The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.
<b>Discrimination</b>	Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law, that adversely affects the employee’s employment.
<b>Harassment</b>	Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee’s race, color, religion, sex, gender, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct: <ol style="list-style-type: none"><li>1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;</li><li>2. Creates an intimidating, threatening, hostile, or offensive work environment; or</li><li>3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.</li></ol>
<b>Examples</b>	Examples of prohibited harassment may include offensive or derogatory language directed at another person’s religious beliefs or practices, accent, skin color, gender identity, or need for workplace accommodation; threatening or intimidating conduct; offensive jokes, name calling, slurs, or rumors; physical aggression or assault; display of graffiti or printed material promoting racial, ethnic, or other stereotypes; or other types of aggressive conduct such as theft or damage to property.
<b>Sexual Harassment</b>	Sexual harassment is a form of sex discrimination defined as unwelcome sexual advances; requests for sexual favors; sexually motivated physical, verbal, or nonverbal conduct; or other conduct or communication of a sexual nature when:

EMPLOYEE WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

DIA  
(LOCAL)

1. Submission to the conduct is either explicitly or implicitly a condition of an employee's employment, or when submission to or rejection of the conduct is the basis for an employment action affecting the employee; or
2. The conduct is so severe, persistent, or pervasive that it has the purpose or effect of unreasonably interfering with the employee's work performance or creates an intimidating, threatening, hostile, or offensive work environment.

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

**Retaliation** The District prohibits retaliation against an employee who makes a claim alleging to have experienced discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.

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

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

**Reporting Procedures** An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct should immediately report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal.

Alternatively, the employee may report the alleged acts to one of the District officials below.

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

**Title IX Coordinator** Reports of discrimination based on sex, including sexual harassment, may be directed to the designated Title IX coordinator. [See DIA(EXHIBIT)]

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

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

**Alternative Reporting Procedures**

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

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

**Timely Reporting**

Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the District's ability to investigate and address the prohibited conduct.

**Notice of Report**

Any District supervisor who receives a report of prohibited conduct shall immediately notify the appropriate District official listed above and take any other steps required by this policy.

**Investigation of the Report**

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

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

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

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

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

**Concluding the Investigation**

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

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

**District Action**

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary or corrective action reasonably calculated to address the conduct.

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

**Confidentiality**

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

**Appeal**

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

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

**Records Retention**

Copies of reports alleging prohibited conduct, investigation reports, and related records shall be maintained by the District for a period of at least three years. [See CPC]

**Access to Policy**

This policy shall be distributed annually to District employees. Copies of the policy shall be readily available at each campus and the District administrative offices.

<b>Nondiscrimination</b>	<p>A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. <i>Education Code 1.002(a)</i></p> <p>No officer or employee of a district shall, when acting or purporting to act in an official capacity, refuse to permit any student to participate in any school program because of the student's race, religion, color, sex, or national origin. <i>Civ. Prac. &amp; Rem. Code 106.001</i></p> <p>A district may not deny services to any individual eligible to participate in its special education program, but it shall provide individuals with disabilities special educational services as authorized by law. <i>Education Code 1.002(b)</i></p>
<b>Federal Funding Recipients</b>	<p>No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:</p> <ol style="list-style-type: none"><li>1. Sex.</li><li>2. Race, color, or national origin.</li><li>3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]</li><li>4. Age.</li></ol> <p><i>20 U.S.C. 1681 (Title IX); 42 U.S.C. 2000d (Title VI); 20 U.S.C. 1400 et seq. (Individuals with Disabilities Education Act); 29 U.S.C. 794 (Section 504); 42 U.S.C. 12132 (Americans with Disabilities Act [ADA]); 42 U.S.C. 6101 (Age Discrimination Act of 1975)</i></p>
Sexual Harassment	<p>Sexual harassment of students is discrimination on the basis of sex under Title IX. <i>Franklin v. Gwinnett County Schools</i>, 503 U.S. 60 (1992) [See also DIA and FFH]</p>
Human Rights Coordinator	<p>A district shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, and the ADA. The district shall notify all students and employees of the name, office address, and telephone number of the employee(s) so designated.</p>
Grievance Procedures	<p>A district shall adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging discrimination under these statutes. [See FNG]</p> <p><i>34 C.F.R. 106.8 (Title IX), 104.7 (Section 504)</i></p>
Retaliation	<p>A district shall not coerce, intimidate, threaten, retaliate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. <i>34 C.F.R. 100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX)</i></p>

**Students with  
Learning Difficulties**

The Texas Education Agency shall produce and provide to school districts a written explanation of the options and requirements for providing assistance to students who have learning difficulties or who need or may need special education. The explanation must state that a parent is entitled at any time to request an evaluation of the parent's child for special education services under Education Code 29.004 or for aids, accommodations, or services under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794). Each school year, a district shall provide the written explanation to a parent of each district student by including the explanation in the student handbook or by another means. *Education Code 26.0081(c)*

**Disability  
Discrimination**

ADA

Under the Americans with Disabilities Act (ADA), no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a district, or be subjected to discrimination by the district. *42 U.S.C. 12132; 28 C.F.R. 35.130*

Section 504

Under Section 504 of the Rehabilitation Act, no otherwise qualified individual with a disability shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. *29 U.S.C. 794(a)*

Definitions

*"Student with a  
Disability"*

A "student with a disability" is one who has a physical or mental impairment that substantially limits one or more of the student's major life activities, has a record of having such an impairment, or is being regarded as having such an impairment.

The determination of whether an impairment substantially limits a major life activity shall be made without regard to the ameliorative effects of mitigating measures, such as medication, medical supplies, low-vision devices (which do not include ordinary eyeglasses or contact lenses), prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

An impairment that substantially limits one major life activity need not limit other major life activities in order to be considered a disability. An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.

A student meets the requirement of being "regarded as" having an impairment if the student establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity. This provision does not apply to impairments that are transitory or minor. A transitory im-

pairment is one with an actual or expected duration of 6 months or less.

*29 U.S.C. 705(20)(B), 42 U.S.C. 12102(1), (3)–(4)*

*“Qualified Individual with a Disability”*

The term “qualified individual with a disability” means an individual with a disability who, with or without reasonable modifications to rules, policies, or practices, the removal of architectural, communication, or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by a district. *42 U.S.C. 12131(2)*

*“Major Life Activities”*

“Major life activities” include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. “Major life activity” also includes the operation of major bodily functions, including functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions. *42 U.S.C. 12102(2)*

Reasonable Modification

A district shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. *28 C.F.R. 35.130(b)(7)*

Direct Threat

“Direct threat” means a significant risk to the health or safety of others that cannot be eliminated by a modification of policies, practices or procedures, or by the provision of auxiliary aids or services as provided below. *28 C.F.R. 35.104*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others.

In determining whether an individual poses a direct threat to the health or safety of others, a district must make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to ascertain:

1. The nature, duration, and severity of the risk;
2. The probability that the potential injury will actually occur; and

3. Whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk.

*28 C.F.R. 35.139*

Free Appropriate  
Public Education  
(FAPE)

A district shall provide a free appropriate public education to each qualified student with a disability within the district's jurisdiction, regardless of the nature or severity of the student's disability.

A student with a disability is "qualified" if he or she is between the ages of three and 21, inclusive. *20 U.S.C. 1412(b); 34 C.F.R. 104.3(l)(2)*

An appropriate education is the provision of regular or special education and related services that are:

1. Designed to meet the student's individual educational needs as adequately as the needs of students who do not have disabilities are met; and
2. Based on adherence to procedures that satisfy federal requirements for educational setting, evaluation and placement, and procedural safeguards, as set forth below.

*34 C.F.R. 104.33(b)*

Implementation of an individualized education program (IEP) under IDEA is one means for providing FAPE. *34 C.F.R. 104.33(b)(2)*

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**Note:** See EHBA series for policies regarding the provision of special education to students with disabilities under IDEA who require special education in order to benefit from a free appropriate public education.

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Educational Setting

A district shall place a student with a disability in the regular educational environment, unless the district demonstrates that education in the regular environment with the use of supplemental aids and services cannot be achieved satisfactorily. *34 C.F.R. 104.34(a)*

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

Evaluation and  
Placement

A district shall conduct an evaluation of any person who, because of disability, needs or is believed to need special education or related services before taking any action with respect to the initial

placement of the person in regular or special education and any subsequent significant change in placement.

*Evaluation  
Procedures*

A district shall establish standards and procedures for the evaluation and placement which ensure that:

1. Tests and other evaluation materials have been validated for the specific purpose for which they are used and are administered by trained personnel in conformance with the instructions provided by their producer;
2. Tests and other evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient; and
3. Tests are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

*Placement  
Procedures*

In interpreting evaluation data and in making placement decisions, a district shall:

1. Draw upon information from a variety of sources, including aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior;
2. Establish procedures to ensure that information obtained from all such sources is documented and carefully considered;
3. Ensure that the placement decision is made by a group of persons, including persons knowledgeable about the child, the meaning of the evaluation data, and the placement options; and
4. Ensure that the placement decision is made in conformity with 34 C.F.R. 104.34.

*Reevaluation*

A district shall establish procedures for periodic reevaluation of students who have been provided special education and related services. A reevaluation procedure consistent with the Education for the Handicapped Act [now IDEA] is one means of meeting this requirement.

*34 C.F.R. 104.35*

<i>Military Dependents</i>	In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. <i>Education Code 162.002 art. V, § C</i> [See FDD]
Procedural Safeguards	<p>A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.</p> <p>The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. <i>34 C.F.R. 104.36</i></p>
<b>Homeless Children</b>	A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]
Liaison	<p>A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC]</p> <p><i>42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)</i></p>
<b>Religious Freedom</b>	A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. <i>Civ. Prac. &amp; Rem. Code 110.003</i> [See also DAA and GA]
<b>Discrimination on the Basis of Sex</b>	<p>No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. <i>20 U.S.C. 1681(a)</i></p> <p>A district shall not provide any course or otherwise carry out any of its educational programs or activities separately on the basis of sex, or require or refuse participation therein on the basis of sex, including health, physical education, industrial, business, vocation-</p>

	al, technical, home economics, music, and adult education courses. <i>34 C.F.R. 106.34</i>
Separate Facilities	A district may provide separate toilet, locker room, and shower facilities on the basis of sex, but the facilities provided for one sex shall be comparable to the facilities provided for the other sex. <i>34 C.F.R. 106.33</i>
Human Sexuality Classes	Portions of classes in elementary and secondary school that deal exclusively with human sexuality may be conducted in separate sessions for boys and girls.
Vocal Music Activities	A district may make requirements based on vocal range or quality that may result in a chorus or choruses of one or predominantly one sex. <i>34 C.F.R. 106.34</i>
Single-Sex Programs	A district shall not, on the basis of sex, exclude any student from admission to an institution of vocational education or any other school or educational unit operated by the district unless the district otherwise makes available to the student, pursuant to the same policies and criteria of admission, comparable courses, services, and facilities. <i>34 C.F.R. 106.35</i>
Pregnancy and Marital Status	A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. <i>34 C.F.R. 106.40</i> [See FND]
Physical Education Classes	A district may group students in physical education classes and activities by ability as assessed by objective standards of individual performance developed and applied without regard to sex.
<i>Skills Assessment</i>	Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.
<i>Contact Sports</i>	A district may separate students by sex within physical education classes or activities during participation in wrestling, boxing, rugby, ice hockey, football, basketball, and other sports the purpose or major activity of which involves bodily contact. <i>34 C.F.R. 106.34</i>
Athletic Programs	A district shall not discriminate, on the basis of sex, in interscholastic or intramural athletics or provide any such athletics separately on such basis.
<i>Single-Sex Teams</i>	A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competi-

tive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

*Equal Athletic Opportunities*

A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether a district provides equal athletic opportunities:

1. Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;
2. Provision of equipment and supplies;
3. Scheduling of games and practice time;
4. Travel and per diem allowance;
5. Opportunity to receive coaching and academic tutoring;
6. Assignment and compensation of coaches and tutors;
7. Provision of locker rooms and practice and competitive facilities;
8. Provision of medical and training facilities and services;
9. Provision of housing and dining facilities and services; and
10. Publicity.

*34 C.F.R. 106.41*

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**Note:** The following provisions address equal educational opportunity for all students in accordance with law. For provisions addressing discrimination, harassment, and retaliation involving District students, see FFH.

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**Title IX Coordinator**

The District has designated a Title IX coordinator for students to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended. [See FB(EXHIBIT)]

**ADA / Section 504  
Coordinator**

The District has designated an ADA/Section 504 coordinator for students to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973 ("Section 504"), as amended. [See FB(EXHIBIT)]

**Superintendent**

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

**Equal Educational  
Opportunity**

General Education

The District shall provide necessary services and supports to provide students equal access to educational opportunities. [See EHBC] Certain instructional or other accommodations, including on state-mandated assessments, may be made when necessary, when allowable, and when these accommodations do not modify the rigor or content expectations of a subject, course, or assessment. [See EKB]

Additional Services  
and Supports

If the District has reason to believe that a student has a disability that may require additional services and supports in order for the student to receive an appropriate education as this term is defined by law, Section 504 and/or the Individuals with Disabilities Education Act (IDEA) shall govern the evaluation, services, and supports provided by the District. [See also EHBA series]

[For information regarding dyslexia and related disorders, see EHB.]

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**Note:** The following provisions address the District's compliance efforts and system of procedural safeguards as required by federal regulations for a student with a disability as defined by Section 504. A report of discrimination or harassment based on a student's disability shall be made in accordance with FFH.

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**Section 504**

Committees

The District shall form Section 504 committees as necessary. The Section 504 coordinator and members of each Section 504 committee shall receive training in the procedures and requirements for

identifying and providing educational and related services and supports to a student who has a disability that results in a substantial limitation of a major life activity.

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

Referrals	If a teacher, school counselor, administrator, or other District employee has reason to believe that a student may have a disability as defined by Section 504, the District shall evaluate the student. A student may also be referred for evaluation by the student's parent.
Notice and Consent	The District shall seek written parental consent prior to conducting a formal evaluation. Ordinary observations in the classroom or other school setting shall not require prior parental consent.
Evaluation and Placement	The results of an evaluation shall be considered before any action is taken to place a student with a disability or make a significant change in placement in an instructional program. The Superintendent shall ensure that the District's procedures for tests and other evaluation materials comply with the minimum requirements of law. In interpreting evaluation data and when making decisions related to necessary services and supports, each Section 504 committee shall carefully consider and document information from a variety of sources in accordance with law.
Review and Reevaluation Procedure	<p>To address the periodic reevaluation requirement of law, the District shall adhere to the reevaluation timelines in the IDEA regulations.</p> <p>A parent, teacher, or other District employee may request a review of a student's services and supports at any time, but a formal reevaluation shall generally occur no more frequently than once a year.</p>
Examining Records	A parent shall make any request to review his or her child's education records to the campus principal or other identified custodian of records. [See FL]
Right to Impartial Hearing	A parent shall be given written notice of the due process right to an impartial hearing if the parent has a concern or complaint about the District's actions regarding the identification, evaluation, or educational placement of a student with a disability. The impartial hearing shall be conducted by a person who is knowledgeable about Section 504 issues and who is not employed by the District or related to a member of the Board in a degree that would be prohibited under the nepotism statute [see DBE]. The impartial hearing officer is

not required to be an attorney. The District and the parent shall be entitled to legal representation at the impartial hearing.

Records Retention

Records specific to identification, evaluation, and placement as these pertain to Section 504 shall be retained by the District in accordance with law and the District's local records retention schedules. [See CPC]

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**Note:** The following provisions are from federal law.

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**Service Animal**

Service Dogs

“Service animal” means any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the individual’s disability. Examples of work or tasks include, but are not limited to, assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

*28 C.F.R. 35.104*

Policies, Practices,  
or Procedures

A district shall modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability, unless the district can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity.  
*28 C.F.R. 35.130(b)(7), .136(a)* [See FB]

Access

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a district’s facilities where members of the public, participants in services, programs or activities, or invitees, as relevant, are allowed to go. *28 C.F.R. 35.136(g)*

*Exceptions*

A district may ask an individual with a disability to remove a service animal from the premises if:

1. The animal is out of control and the animal’s handler does not take effective action to control it; or
2. The animal is not housebroken.

*28 C.F.R. 35.136(b)*

The ADA does not require a district to permit an individual to participate in or benefit from the services, programs, or activities of that district when that individual poses a direct threat to the health or safety of others. *28 C.F.R. 35.139* [See FB]

If a district properly excludes a service animal, it shall give the individual with a disability the opportunity to participate in the service, program, or activity without having the service animal on the premises. *28 C.F.R. 35.136(c)*

Animal Under  
Handler's  
Control

A service animal shall be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means). *28 C.F.R. 35.136(d)*

Inquiries

A district shall not ask about the nature or extent of a person's disability, but may make two inquiries to determine whether an animal qualifies as a service animal. A district may ask if the animal is required because of a disability and what work or task the animal has been trained to perform.

A district shall not require documentation, such as proof that the animal has been certified, trained, or licensed as a service animal.

Generally, a district may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

*28 C.F.R. 35.136(f)*

Care or Supervision  
of Animal

A district is not responsible for the care or supervision of a service animal. *28 C.F.R. 35.136(e)*

Surcharges

A district shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets.

If a district normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by his or her service animal.

*28 C.F.R. 35.136(h)*

<b>Miniature Horses</b>	A district shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.
Reasonable Modifications	
Assessment Factors	In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, a district shall consider: <ol style="list-style-type: none"><li>1. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;</li><li>2. Whether the handler has sufficient control of the miniature horse;</li><li>3. Whether the miniature horse is housebroken; and</li><li>4. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.</li></ol>
Other Requirements	Provisions at 28 C.F.R. 35.136(c) through (h) shall also apply to miniature horses.  <i>28 C.F.R. 35.136(i)</i>

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**Note:** The following provisions are from state law.

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<b>Assistance Animals</b>	"Assistance animal" and "service animal" mean a canine that is specially trained or equipped to help a person with a disability and that is used by a person with a disability. <i>Human Resources Code 121.002(1)</i>
Assistance Animal Access	No person with a disability may be denied admittance to any public facility in the state because of the person's disability or may be denied the use of an assistance animal.  Regulations relating to the use of public facilities by any designated class of persons from the general public may not prohibit the use of particular public facilities by persons with disabilities who, except for their use of assistance animals, would fall within the designated class.  A service animal in training shall not be denied admittance to any public facility when accompanied by an approved trainer.  <i>Human Resources Code 121.003(c), (e), (i)</i>

Harassment and  
Harm Prohibited

A person may not assault, harass, interfere with, kill, or injure in any way, or attempt to assault, harass, interfere with, kill, or injure in any way, an assistance animal.

“Harass” means any conduct that is directed at an assistance animal that impedes or interferes with, or is intended to impede or interfere with, the animal’s performance of its duties or places a person with a disability who is using an assistance animal, or a trainer who is training an assistance animal, in danger of injury.

A person is not entitled to make demands or inquiries relating to the qualifications or certifications of a service animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the service animal to a person with a disability. If a person’s disability is not readily apparent, a staff member or manager of the facility may inquire about whether the service animal is required because the person has a disability and what type of work or task the service animal is trained to perform.

*Human Resources Code 121.002, .003(j)–(l)*

Transportation

No public conveyance or mode of transportation operating within the state may refuse to accept as a passenger a person with a disability solely because of the person’s disability, nor may a person with a disability be required to pay an additional fare because of his or her use of an assistance animal. *Human Resources Code 121.003(b)*

Responsibilities of  
Persons with  
Disabilities

A person with a disability who uses an assistance animal for assistance in travel is liable for any damages done to the premises or facilities by the animal.

A person with a disability who uses an assistance animal for assistance in travel or auditory awareness shall keep the animal properly harnessed or leashed, and a person who is injured by the animal because of the failure of a person with a disability to properly harness or leash the animal is entitled to maintain a cause of action for damages in a court of competent jurisdiction under the same law applicable to other causes brought for the redress of injuries caused by animals.

*Human Resources Code 121.005*

Penalties

A person, including a firm, association, corporation, or other public or private organization, or the agent of the person, who violates the provisions of Human Resources Code 121.003:

1. Commits a misdemeanor punishable by a fine of not more than \$300 and 30 hours of community service to be performed for a governmental entity or nonprofit organization that

primarily serves persons with visual impairments or other disabilities, or for another entity or organization at the discretion of the court, to be completed in not more than one year; and

2. Is deemed to have deprived a person with a disability of his or her civil liberties. Subject to Human Resources Code 121.0041 (pertaining to notice of claim and opportunity for cure), if applicable, the person with a disability deprived of his or her civil liberties may maintain an action for damages in a court of competent jurisdiction, and there is a conclusive presumption of damages in the amount of at least \$300 to the person with a disability.

*Human Resources Code 121.004*

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**Note:** The following legal provisions address sexual harassment. For legal provisions addressing discrimination on the basis of disability, sex, and other protected characteristics, see FB.

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A district may develop and implement a sexual harassment policy to be included in the district improvement plan. A district shall adopt and implement a dating violence policy to be included in the district improvement plan. *Education Code 37.083, .0831* [See BQ]

Sexual abuse of a student by an employee, when there is a connection between the physical sexual activity and the employee's duties and obligations as a district employee, violates a student's constitutional right to bodily integrity. Sexual abuse may include fondling, sexual assault, or sexual intercourse. *U.S. Const. Amend. 14; Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443 (5th Cir. 1994)*

Sexual harassment of students may constitute discrimination on the basis of sex in violation of Title IX. *20 U.S.C. 1681; 34 C.F.R. 106.11; Franklin v. Gwinnett County Schools, 503 U.S. 60 (1992)* [See FB regarding Title IX]

**Definition of Sexual Harassment**

Sexual harassment of students is conduct that is so severe, pervasive, and objectively offensive that it can be said to deprive the victim of access to the educational opportunities or benefits provided by the school. Sexual harassment does not include simple acts of teasing and name-calling among school children, however, even when the comments target differences in gender. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*

**Employee-Student Sexual Harassment**

A district official who has authority to address alleged harassment by employees on the district's behalf shall take corrective measures to address the harassment or abuse. *Gebser v. Lago Vista Indep. Sch. Dist., 118 S.Ct. 1989 524 U.S. 274 (1998); Doe v. Taylor Indep. Sch. Dist., 15 F.3d 443 (5th Cir. 1994)*

**Student-Student Sexual Harassment**

A district must reasonably respond to known student-on-student harassment where the harasser is under the district's disciplinary authority. *Davis v. Monroe County Bd. of Educ., 526 U.S. 629 (1999)*

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

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**Statement of Nondiscrimination**

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

**Discrimination**

Discrimination against a student is defined as conduct directed at a student on the basis of race, color, religion, sex, gender, national origin, disability, age, or on any other basis prohibited by law, that adversely affects the student.

**Prohibited Harassment**

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

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

Prohibited harassment includes dating violence as defined by this policy.

**Examples**

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

**Sexual Harassment**

By an Employee

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

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

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

By Others

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

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

Examples

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

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

**Gender-Based Harassment**

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

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

Examples

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

**Dating Violence**

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

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

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

Examples

Examples of dating violence against a student may include physical or sexual assaults; name-calling; put-downs; or threats directed at the student, the student's family members, or members of the

student's household. Additional examples may include destroying property belonging to the student, threatening to commit suicide or homicide if the student ends the relationship, attempting to isolate the student from friends and family, stalking, threatening a student's spouse or current dating partner, or encouraging others to engage in these behaviors.

**Retaliation**

The District prohibits retaliation by a student or District employee against a student alleged to have experienced discrimination or harassment, including dating violence, or another student who, in good faith, makes a report of harassment or discrimination, serves as a witness, or participates in an investigation.

Examples

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

**False Claim**

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

**Prohibited Conduct**

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

**Reporting Procedures**

Student Report

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

Employee Report

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

*Definition of District Officials*

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

*Title IX Coordinator*

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

*ADA / Section 504 Coordinator*

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

<i>Superintendent</i>	The Superintendent shall serve as coordinator for purposes of District compliance with all other nondiscrimination laws.
<b>Alternative Reporting Procedures</b>	<p>A student shall not be required to report prohibited conduct to the person alleged to have committed the conduct. Reports concerning prohibited conduct, including reports against the Title IX coordinator or ADA/Section 504 coordinator, may be directed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall appoint an appropriate person to conduct an investigation.</p>
<b>Timely Reporting</b>	Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.
<b>Notice to Parents</b>	<p>The District official or designee shall promptly notify the parents of any student alleged to have experienced prohibited conduct by a District employee or another adult.</p> <p>[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]</p>
<b>Investigation of the Report</b>	The District may request, but shall not require, a written report. If a report is made orally, the District official shall reduce the report to written form.
Initial Assessment	<p>Upon receipt or notice of a report, the District official shall determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District shall immediately undertake an investigation, except as provided below at Criminal Investigation.</p> <p>If the District official determines that the allegations, if proven, would not constitute prohibited conduct as defined by this policy, the District official shall refer the complaint for consideration under FFI.</p>
Interim Action	If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District shall promptly take interim action calculated to address prohibited conduct or bullying prior to the completion of the District's investigation.
District Investigation	The investigation may be conducted by the District official or a designee, such as the principal, or by a third party designated by the District, such as an attorney. When appropriate, the principal shall be involved in or informed of the investigation.

The investigation may consist of personal interviews with the person making the report, the person against whom the report is filed, and others with knowledge of the circumstances surrounding the allegations. The investigation may also include analysis of other information or documents related to the allegations.

**Criminal Investigation**

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

**Concluding the Investigation**

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

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

*Notification of Outcome*

Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.

**District Action**

**Prohibited Conduct**

If the results of an investigation indicate that prohibited conduct occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the Student Code of Conduct and may take corrective action reasonably calculated to address the conduct.

*Corrective Action*

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

**Bullying**

If the results of an investigation indicate that bullying occurred, as defined by FFI, the District official shall refer to FFI for appropriate

notice to parents and District action. The District official shall refer to FDB for transfer provisions.

**Improper Conduct**

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

**Confidentiality**

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

**Appeal**

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

**Records Retention**

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

**Access to Policy and Procedures**

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

The District designates the following person to coordinate its efforts to comply with Title IX of the Education Amendments of 1972, as amended, for students:

Name: Leah Tunnell  
Position: Executive Director of Human Resources  
Address: 302 Laurel Drive, Friendswood, TX 77546  
Telephone: (281) 482-1267

The District designates the following person to coordinate its efforts to comply with Title II of the Americans with Disabilities Act of 1990, as amended, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973, as amended, for students:

Name: Dahria Driskell  
Position: Executive Director of Special Education  
Address: 302 Laurel Drive, Friendswood, TX 77546  
Telephone: (281) 482-0687

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**Note:** This policy addresses bullying of District students. For purposes of this policy, the term bullying includes cyber-bullying.

For provisions regarding discrimination and harassment involving District students, see FFH. Note that FFI shall be used in conjunction with FFH for certain prohibited conduct. For reporting requirements related to child abuse and neglect, see FFG.

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<b>Bullying Prohibited</b>	The District prohibits bullying, including cyberbullying, as defined by state law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.
Examples	Bullying of a student could occur by physical contact or through electronic means and may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name calling, rumor spreading, or ostracism.
<b>Retaliation</b>	The District prohibits retaliation by a student or District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.
Examples	Examples of retaliation may include threats, rumor spreading, ostracism, assault, destruction of property, unjustified punishments, or unwarranted grade reductions. Unlawful retaliation does not include petty slights or annoyances.
<b>False Claim</b>	A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding bullying shall be subject to appropriate disciplinary action.
<b>Timely Reporting</b>	Reports of bullying shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.
<b>Reporting Procedures</b>	To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, school counselor, principal, or other District employee. The Superintendent shall develop procedures allowing a student to anonymously report an alleged incident of bullying.
Student Report	
Employee Report	Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee.

<b>Report Format</b>	A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.
<b>Notice of Report</b>	When an allegation of bullying is reported, the principal or designee shall notify a parent of the alleged victim on or before the third business day after the incident is reported. The principal or designee shall also notify a parent of the student alleged to have engaged in the conduct within a reasonable amount of time after the incident is reported.
<b>Prohibited Conduct</b>	The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, sex, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.
<b>Investigation of Report</b>	The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.
<b>Concluding the Investigation</b>	<p>Absent extenuating circumstances, the investigation should be completed within ten District business days from the date of the initial report alleging bullying; however, the principal or designee shall take additional time if necessary to complete a thorough investigation.</p> <p>The principal or designee shall prepare a final, written report of the investigation. The report shall include a determination of whether bullying occurred, and if so, whether the victim used reasonable self-defense. A copy of the report shall be sent to the Superintendent or designee.</p>
<b>Notice to Parents</b>	If an incident of bullying is confirmed, the principal or designee shall promptly notify the parents of the victim and of the student who engaged in bullying.
<b>District Action</b>	If the results of an investigation indicate that bullying occurred, the District shall promptly respond by taking appropriate disciplinary action in accordance with the District's Student Code of Conduct and may take corrective action reasonably calculated to address the conduct. The District may notify law enforcement in certain circumstances.
<i>Discipline</i>	A student who is a victim of bullying and who used reasonable self-defense in response to the bullying shall not be subject to disciplinary action.

	<p>The discipline of a student with a disability is subject to applicable state and federal law in addition to the Student Code of Conduct.</p>
<i>Corrective Action</i>	<p>Examples of corrective action may include a training program for the individuals involved in the complaint, a comprehensive education program for the school community, follow-up inquiries to determine whether any new incidents or any instances of retaliation have occurred, involving parents and students in efforts to identify problems and improve the school climate, increasing staff monitoring of areas where bullying has occurred, and reaffirming the District's policy against bullying.</p>
<i>Transfers</i>	<p>The principal or designee shall refer to FDB for transfer provisions.</p>
<i>Counseling</i>	<p>The principal or designee shall notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.</p>
Improper Conduct	<p>If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the Student Code of Conduct or any other appropriate corrective action.</p>
<b>Confidentiality</b>	<p>To the greatest extent possible, the District shall respect the privacy of the complainant, persons against whom a report is filed, and witnesses. Limited disclosures may be necessary in order to conduct a thorough investigation.</p>
<b>Appeal</b>	<p>A student who is dissatisfied with the outcome of the investigation may appeal through FNG(LOCAL), beginning at the appropriate level.</p>
<b>Records Retention</b>	<p>Retention of records shall be in accordance with CPC(LOCAL).</p>
<b>Access to Policy and Procedures</b>	<p>This policy and any accompanying procedures shall be distributed annually in the employee and student handbooks. Copies of the policy and procedures shall be posted on the District's website, to the extent practicable, and shall be readily available at each campus and the District's administrative offices.</p>

**Planning and  
Decision-Making  
Process**

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

The planning and decision-making requirements do not:

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

*Education Code 11.251(g), .252(e), .253(f)*

**Evaluation**

At least every two years, a district shall evaluate the effectiveness of the district's decision-making and planning policies, procedures, and staff development activities related to district- and campus-level decision making and planning to ensure that they are effectively structured to positively impact student performance. *Education Code 11.252(d)*

**Administrative  
Procedure**

A board shall ensure that an administrative procedure is provided to clearly define the respective roles and responsibilities of the superintendent, central office staff, principals, teachers, district-level committee members, and campus-level committee members in the areas of planning, budgeting, curriculum, staffing patterns, staff development, and school organization.

A board shall ensure that the district-level planning and decision-making committee will be actively involved in establishing the administrative procedure that defines the respective roles and responsibilities pertaining to planning and decision making at the district and campus levels.

*Education Code 11.251(d)*

**Federal  
Requirements**

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

**Required Plans**

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

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

*Education Code 11.251(a)*

Shared Services  
Arrangement for  
DAEP Services

A district participating in a shared services arrangement for disciplinary alternative education program (DAEP) services shall ensure that the district improvement plan and each campus-level plan include the performance of the DAEP student group for the district. The identified objectives for the improvement plans shall include:

1. Student groups served, including overrepresentation of students from economically disadvantaged families, with ethnic and racial representations, and with a disability who receive special education and limited English proficiency services;
2. Attendance rates;
3. Pre- and post-assessment results;
4. Dropout rates;
5. Graduation rates; and
6. Recidivism rates.

*19 TAC 103.1201(b)*

District  
Improvement Plan

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

The district improvement plan must include provisions for:

1. A comprehensive needs assessment addressing performance on the achievement indicators, and other appropriate measures of performance, that are disaggregated by all stu-

- dent groups served by a district, including categories of ethnicity, socioeconomic status, sex, and populations served by special programs, including students in special education programs under Education Code Chapter 29, Subchapter A.
2. Measurable district performance objectives for all appropriate achievement indicators for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, and other measures of student performance that may be identified through the comprehensive needs assessment.
  3. Strategies for improvement of student performance that include:
    - a. Instructional methods for addressing the needs of student groups not achieving their full potential.
    - b. Methods for addressing the needs of students for special programs, including:
      - (1) Suicide prevention programs, in accordance with Health and Safety Code Chapter 161, Subchapter O-1, which includes a parental or guardian notification procedure [see FFB];
      - (2) Conflict resolution programs;
      - (3) Violence prevention programs; and
      - (4) Dyslexia treatment programs.
    - c. Dropout reduction.
    - d. Integration of technology in instructional and administrative programs.
    - e. Discipline management.
    - f. Staff development for professional staff of a district.
    - g. Career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities.
    - h. Accelerated education.
  4. Strategies for providing to middle school, junior high school, and high school students, those students' teachers and school counselors, and those students' parents information about:

- a. Higher education admissions and financial aid opportunities.
  - b. The TEXAS grant program and the Teach for Texas grant program.
  - c. The need for students to make informed curriculum choices to be prepared for success beyond high school.
  - d. Sources of information on higher education admissions and financial aid.
5. Resources needed to implement identified strategies.
  6. Staff responsible for ensuring the accomplishment of each strategy.
  7. Timelines for ongoing monitoring of the implementation of each improvement strategy.
  8. Formative evaluation criteria for determining periodically whether strategies are resulting in intended improvement of student performance.

*Education Code 11.252(a)*

9. A discipline management program providing for prevention of and education concerning unwanted physical or verbal aggression, sexual harassment, and other forms of bullying in schools, on school grounds, and in school vehicles. *Education Code 37.083(a)*
10. A dating violence policy that must:
  - a. Include a definition of dating violence that includes the intentional use of physical, sexual, verbal, or emotional abuse by a person to harm, threaten, intimidate, or control another person in a dating relationship, as defined by Family Code 71.0021; and
  - b. Address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators, counseling for affected students, and awareness education for students and parents.

*Education Code 37.0831 [See FFH]*

11. A policy addressing sexual abuse and other maltreatment of children that must include:

- a. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse and other maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim of sexual abuse or other maltreatment, using resources developed by TEA. These methods must include the staff training described at Education Code 38.0041(c) [see DMA];
- b. Actions that a child who is a victim of sexual abuse or other maltreatment should take to obtain assistance and intervention; and
- c. Available counseling options for students affected by sexual abuse or other maltreatment.

The policy must be included in any informational handbook provided to students and parents.

*Education Code 38.0041*

A district's plan for the improvement of student performance is not filed with TEA, but the district must make the plan available to TEA on request. *Education Code 11.252(b)*

Campus-Level Plan

Each school year, the principal of each school campus, with the assistance of the campus-level committee, shall develop, review, and revise the campus improvement plan for the purpose of improving student performance for all student populations, including students in special education programs under Education Code Chapter 29, Subchapter A, with respect to the student achievement indicators and any other appropriate performance measures for special needs populations. *Education Code 11.253(c)*

Each campus improvement plan must:

1. Assess the academic achievement for each student in the school using the achievement indicator system.
2. Set the campus performance objectives based on the achievement indicator system, including objectives for special needs populations, including students in special education programs under Education Code Chapter 29, Subchapter A.
3. Identify how the campus goals will be met for each student.
4. Determine the resources needed to implement the plan.
5. Identify staff needed to implement the plan.
6. Set time lines for reaching the goals.

PLANNING AND DECISION-MAKING PROCESS

BQ  
(LEGAL)

7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Provide for a program to encourage parental involvement at the campus.
9. Include goals and methods for violence prevention and intervention on campus.
10. If the campus is an elementary, middle, or junior high school, set goals and objectives for the coordinated health program at the campus based on:
  - a. Student fitness assessment data, including any data from research-based assessments such as the school health index assessment and planning tool created by the federal Centers for Disease Control and Prevention;
  - b. Student academic performance data;
  - c. Student attendance rates;
  - d. The percentage of students who are educationally disadvantaged;
  - e. The use and success of any method to ensure that students participate in moderate to vigorous physical activity; and
  - f. Any other indicator recommended by the local school health advisory council.

*Education Code 11.253(d)*

**Antivictimization  
Program**

A district shall provide child abuse antivictimization programs in elementary and secondary schools. *Education Code 38.004*

**Duty to Report**

By Any Person

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. *Family Code 261.101(a)*

*Abuse of Persons  
with Disabilities*

A person having cause to believe that a person with a disability who is over the age of 18 or who has had the disabilities of minority removed is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS).

A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report.

A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose.

*Human Resources Code 48.051, .052, .054*

By a Professional

Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect.

A professional may not delegate to or rely on another person to make the report.

A "professional" is a person who is licensed or certified by the state or who is an employee of a facility licensed, certified, or operated by the state and who, in the normal course of official duties or duties for which a license or certification is required, has direct contact with children. The term includes teachers, nurses, doctors, day-care employees, and juvenile detention or correctional officers.

*Family Code 261.101(b)*

Adult Victims of  
Abuse

A person or professional shall make a report in the manner required above if the person or professional has cause to believe that an adult was a victim of abuse or neglect as a child and the person or professional determines in good faith that disclosure of the information is necessary to protect the health and safety of another

child or an elderly person or person with a disability. *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. <i>Family Code 261.405(a)(4)(A), (b)</i>
<b>Immunity from Liability</b>	<p>A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. <i>Family Code 261.106</i></p> <p>A district may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. <i>Family Code 261.110</i> [See DG]</p>
<b>Criminal Offenses</b>	
Failure to Report	<p>A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.</p> <p>A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.</p> <p><i>Family Code 261.109</i></p> <p>Failure to report child abuse or neglect violates the Educator’s Code of Ethics and may result in sanctions against an educator’s certificate, as addressed in 19 Administrative Code Chapter 249. <i>19 TAC 61.1051(a)(2)(A)</i></p>
False Report	A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i>
Coercion	A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i>
<b>Confidentiality of Report</b>	A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information

Act), and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. *Family Code 261.101(d)*

### **Investigations**

#### Reports to District

If DFPS initiates an investigation and determines that the abuse or neglect involves an employee of a public elementary or secondary school, and that the child is a student at the school, the department shall orally notify the superintendent of the district in which the employee is employed. *Family Code 261.105(d)*

On request, DFPS shall provide a copy of the completed report of its investigation to the board, the superintendent, and the school principal, unless the principal is alleged to have committed the abuse or neglect. The report shall be edited to protect the identity of the person who made the report. *Family Code 261.406(b)*

#### Interview of Student

The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. *Family Code 261.302(b)* [See GRA]

#### Interference with Investigation

A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. *Family Code 261.303(a)*

#### Confidentiality

A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. *Human Resources Code 42.004*

### **Reporting Policy**

A board shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements of Family Code Chapter 261.

The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see To Whom Reported, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion.

The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (relating to CPS) regarding investigations by DFPS, including regulations governing

investigation of abuse by school personnel and volunteers. [See GRA]

The policies must notify school personnel of the following:

1. Penalties under Penal Code 39.06 (misuse of official information), Family Code 261.109 (failure to report), and 19 Administrative Code Chapter 249 (actions against educator's certificate) for failure to submit a required report of child abuse or neglect;
2. Prohibitions against interference with an investigation of a report of child abuse or neglect, including:
  - a. The prohibition, under Family Code 261.302 and 261.303, against denying an investigator's request to interview a student at school; and
  - b. The prohibition, under Family Code 261.302, against requiring the presence of a parent or school administrator during an interview by an investigator.
3. Immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;
4. Confidentiality provisions relating to a report of suspected child abuse or neglect;
5. Any disciplinary action that may result from noncompliance with a district's reporting policy;
6. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above]; and
7. The current toll-free number for DFPS.

The policies must not require that school personnel report suspicions of child abuse or neglect to a school administrator before making a report to one of the agencies listed above.

*19 TAC 61.1051(a)*

Annual Distribution  
and Staff  
Development

The policies shall be distributed to all personnel at the beginning of each school year and shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 61.1051(b)*

Each school year, a district shall provide training as required by Education Code 38.0041 to all new district employees as a part of new employee orientation. [See DH and DMA] *Education Code 38.0041; 19 TAC 61.1051(c)*

**Required Poster**

A district shall place a poster of the following specifications at every campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The poster must:

1. Be in a format and language that is clear, simple, and understandable to students;
2. Be in English and in Spanish;
3. Be 11x17 inches or larger;
4. Be in large print;
5. Be placed at eye-level to the student for easy viewing; and
6. Include the following information:
  - a. The current toll-free DFPS Abuse Hotline telephone number (in bold print);
  - b. Instructions to call 911 for emergencies; and
  - c. Directions for accessing the DFPS [Texas Abuse Hotline Website](http://www.txabusehotline.org)<sup>1</sup> for more information on reporting abuse, neglect, and exploitation.

*Education Code 38.0042; 19 TAC 61.1051(e), (f)*

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<sup>1</sup> Texas Abuse Hotline Website: <http://www.txabusehotline.org>

**Reporting Child  
Abuse and Neglect**

Any person who has cause to believe that a child has been or may be abused or neglected by any person shall make a report immediately as required by law.

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

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

## Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

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### **What are the District's policies addressing child abuse or neglect and my responsibilities for reporting suspected child abuse or neglect?**

The applicable District policies—FFG(LEGAL) and (LOCAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact the assistant superintendent of administration at (281) 482-1267.

### **What are my legal responsibilities for reporting if I suspect that a child has been or may be abused or neglected?**

Anyone who suspects that a child has been or may be abused or neglected has a legal responsibility, under state law, for reporting the suspected abuse or neglect to law enforcement or to Child Protective Services (CPS).

Any District employee, agent, or contractor has an additional legal obligation to submit the oral or written report within 48 hours of learning of the facts giving rise to the suspicion.

An employee will make a report if the employee has cause to believe that an adult was a victim of abuse or neglect as a child and the employee determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

### **Are there any restrictions on reporting?**

Under state law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

- Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
- Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

### **To whom do I make a report?**

Reports may be made to any of the following:

- A law enforcement agency: The Friendswood Police Department, at (281) 996-3300;
- The CPS division of the Texas Department of Family and Protective Services at (800) 252-5400 or [Texas Abuse Hotline Website](#)<sup>1</sup>; or

- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility.

Reporting your suspicion to a school counselor, a principal, or another school staff member does NOT fulfill your responsibilities under the law. Furthermore, the District cannot require you to report your suspicion first to a school administrator.

#### **Will my report be kept confidential?**

State law requires that the identity of a person making a report of suspected child abuse or neglect be kept confidential.

#### **Will I be liable in any way for making a report?**

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

#### **What will happen if I don't report suspected child abuse or neglect?**

By failing to report a suspicion of child abuse or neglect:

- You may be placing a child at risk of continued abuse or neglect;
- You are violating the law and may be subject to legal penalties, including criminal sanctions;
- You are violating Board policy and may be subject to disciplinary action, including possible termination of your employment; and
- Your certification from the State Board for Educator Certification may be suspended, revoked, or canceled.

#### **What are my responsibilities regarding investigations of abuse or neglect?**

State law specifically prohibits school officials from:

- Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect; or
- Requiring that a parent or school employee be present during the interview.

School personnel must cooperate fully and may not interfere with an investigation of reported child abuse or neglect.

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<sup>1</sup> Texas Abuse Hotline Website: <http://www.txabusehotline.org>

**CPS Investigations  
at School**

A school official may not refuse to permit a Child Protective Services (CPS) investigator to interview at school a student who is alleged to be a victim of abuse or neglect under Family Code 261. A school official may not require the CPS investigator to permit district personnel to be present at a student interview conducted at school. *Family Code 261.302(b), .303(a); Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of a CPS investigation shall release that information to the Texas Department of Family and Protective Services (DFPS) on request. The release of information to DFPS as required by this subsection by a person is not subject to Government Code 552.352 or any other law providing liability for the release of confidential information. *Family Code 261.303(e)*

**CPS Investigations  
of Schools**

On receipt of a report of alleged or suspected child abuse or neglect in a public school, DFPS shall perform an investigation as provided by Family Code 261. Investigations of school personnel or volunteers for child abuse or neglect shall be conducted by CPS in accordance with the procedures adopted in DFPS rule. *Family Code 261.406; 40 TAC 700.401–.412*

Notice to Principal

Prior to conducting an investigation of school personnel or volunteers, CPS shall notify the school principal (or the principal's supervisor if the school principal is an alleged perpetrator) of the fact that a report has been assigned for investigation, the nature of the allegations contained in the report, and the date and time when the investigator plans to visit the school campus to begin the investigation.

The CPS investigator must request that the school principal (or the principal's supervisor) not alert the alleged perpetrator or others regarding the report until the investigator has had an opportunity to interview the alleged perpetrator.

*40 TAC 700.407*

Interviews

School officials or other persons related to the school setting may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by the CPS investigator, provided the investigator notifies the school principal (or that individual's supervisor in the event that the principal is the alleged perpetrator) prior to conducting an interview or examination on school premises.

*Participants*

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

1. The presence of school personnel or volunteers would compromise the integrity of the investigation; or
2. A better interview or examination of the child would result without school personnel or volunteers being present.

*Family Code 261.303; 40 TAC 700.409(a)*

Report of Findings

After DFPS has closed the school investigation, DFPS shall provide a report of the investigation, redacted to remove the identity of the reporter, to TEA (Director of Education Investigations). On request, DFPS shall provide a redacted copy of the report to the following:

1. State Board for Educator Certification;
2. The president of the school board;
3. The superintendent; and
4. The school principal, unless the principal is the alleged perpetrator.

Notice need not be provided to a school official if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

*40 TAC 700.411(a), (e)*

**Students Taken into Custody**

A child may be taken into custody under Family Code Title 3 (Juvenile Justice Code):

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer, including a school district peace officer, if there is probable cause to believe the student has engaged in a criminal violation, delinquent conduct, conduct indicating a need for supervision, or conduct that violates a condition of probation.
4. By a probation officer, if there is probable cause to believe the student has violated a condition of probation or a condition of release.

5. Pursuant to a directive to apprehend issued by a juvenile court.
6. By a law enforcement officer, to take the child's fingerprints or photograph, as set forth at Family Code 58.0021.

*Family Code 52.01(a), 58.0021*

In addition, a child may be taken into custody without a court order:

1. By an authorized representative of the DFPS, a law enforcement officer, or a juvenile probation officer under the conditions set out in Family Code 262.104, relating to the student's physical health or safety; or
2. As otherwise provided by Family Code Chapter 262 (Suit by Governmental Entity to Protect Health and Safety of Child).

*Family Code Ch. 262*

**Students in Custody**

A person taking a child into custody may, if school is in session and the child is a student, bring the child to the campus to which the child is assigned if the principal, the principal's designee, or a peace officer assigned to the campus agrees to assume responsibility for the child for the remainder of the school day. *Family Code 52.02(a)(7)*

**Child Abuse  
Investigation**

When a representative of the Department of Family and Protective Services or another lawful authority requests to question or interview a student at school as part of a child abuse investigation, the principal shall cooperate fully with the official's requests regarding the conditions of the interview or questioning.

**Other Questioning of  
Students**

When law enforcement officers or other lawful authorities requests to question or interview a student at school for any purpose other than a child abuse investigation, the following guidelines shall apply:

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. Prior to questioning, the officer or principal shall obtain written or verbal parent permission to question the student while at school. A parent may consent to the interview, request that an administrator be present, refuse the interview, or reschedule when a parent can be present.
3. The principal or a designee ordinarily shall be present during the questioning or interview.

**Students Taken into  
Custody**

Before a student at school is arrested or taken into custody by a law enforcement officer or other legally authorized person, the principal shall verify the official's identity. To the best of his or her ability, the principal shall verify the official's authority to take custody of the student and then shall deliver over the student.

The principal shall immediately notify the Superintendent and ordinarily shall notify the parents or other person having lawful control of the student. If the officer or other authorized person raises what the principal considers to be a valid objection to notifying the parents at that time, the principal shall not notify the parents.

[See FO for notification requirements by the campus behavior coordinator under Education Code Chapter 37.]

**Recommended Programs**

The Texas Department of State Health Services (TDSHS), in coordination with TEA and regional education service centers (ESCs), shall provide and annually update a list of recommended best practice-based programs and research-based practices in the areas specified below for implementation in public elementary, junior high, middle, and high schools within the general education setting. Each school district may select from the list a program or programs appropriate for implementation in the district.

**Subject Areas**

The list must include programs and practices in the following areas:

1. Early mental health intervention;
2. Mental health promotion;
3. Building skills related to managing emotions, establishing and maintaining positive relationships, and responsible decision-making;
4. Substance abuse prevention and intervention;
5. Suicide prevention;
6. Grief-informed and trauma-informed practices;
7. Positive behavior interventions and supports and positive youth development; and
8. Safe, supportive, and positive school climate.

“School climate” means the quality and character of school life, including interpersonal relationships, teaching and learning practices, and organizational structures, as experienced by students enrolled in the district, parents of those students, and personnel employed by the district.

TDSHS, TEA, and each ESC shall make the list easily accessible on their websites.

**Practices and Procedures**

A district may develop practices and procedures concerning each area listed above, including mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention, that:

1. Include a procedure for providing notice of a recommendation for early mental health or substance abuse intervention regarding a student to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs, which may include declining academic performance, depression, anxiety, isolation, unexplained changes in

sleep or eating habits, and destructive behavior toward self and others;

2. Include a procedure for providing notice of a student identified as at risk of committing suicide to a parent or guardian of the student within a reasonable amount of time after the identification of early warning signs;
3. Establish that the district may develop a reporting mechanism and may designate at least one person to act as a liaison officer in the district for the purposes of identifying students in need of early mental health or substance abuse intervention or suicide prevention; and
4. Set out available counseling alternatives for a parent or guardian to consider when his or her child is identified as possibly being in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures must prohibit the use without the prior consent of a student's parent or guardian of a medical screening of the student as part of the process of identifying whether the student is possibly in need of early mental health or substance abuse intervention or suicide prevention.

The practices and procedures developed must be included in the annual student handbook and the district improvement plan under Education Code 11.252. [See BQ]

Nothing in these provisions is intended to interfere with the rights of parents or guardians and the decision-making regarding the best interest of the child. Practices and procedures developed in accordance with these provisions are intended to notify a parent or guardian of a need for mental health or substance abuse intervention so that a parent or guardian may take appropriate action. These provisions do not give school districts the authority to prescribe medications. Any and all medical decisions are to be made by a parent or guardian of a student.

*Health and Safety Code 161.325*

**Immunity**

These requirements do not waive any immunity from liability of a district or of district officers or employees, create any liability for a cause of action against a district or against district officers or employees, or waive any immunity from liability under Civil Practice and Remedies Code 74.151. *Health and Safety Code 161.326*