ANNUAL POLICY NOTIFICATION 2025–2026
Policy Management

All employees are asked to take a few minutes to review the attached information, which is intended to inform employees of governance requirements for the 2025–2026 school year. There are several links on the district's public website, www.houstonisd.org, to the Houston Independent School District (HISD) policy manual, *Policy Online*. It is the responsibility of all employees to know the district's governance including laws, board policies, and administrative regulations.

What is Board Policy?
Policy conveys the School Board's intent and describes the district's programs and practices. Simple, direct statements are invaluable to district staff in fulfilling board mandates and help ensure that policies are readily understood by all. Policies are usually approved by the board in two readings.

What are Administrative Regulations and Exhibits?
A process or procedure implementing district policy is commonly defined as an administrative regulation. These documents are termed "REGULATIONS" by the Texas Association of School Boards (TASB). Forms or supplemental information related to these regulations are "EXHIBITS."

Organization of HISD's governance documents
Governance documents, comprised of LEGAL and LOCAL policies, administrative regulations, and exhibits, are organized according to the TASB codification system. The sections are devoted to the following areas of school governance:

A - Basic District Foundations
B - Local Governance
C - Business and Support Services
D - Personnel
E - Instruction
F - Students
G - Community and Governmental Relations

Accessing governance documents
All governance documents (i.e., legal policies, local policies, administrative regulations, and exhibits) are incorporated into a single online manual called *Policy Online*. Searches can be performed by governance code or keyword.

The following specific district governance should be reviewed annually by all employees as changes may occur throughout the year. Leaders of HISD are responsible for ensuring their employees have access to district policies that may affect them. Not every employee has access to a computer with an internet connection, so leaders are asked to share the documents with employees who lack electronic access because **all employees are responsible for reviewing policies annually**.

If you have any questions or concerns related to governance, contact Policy Management via e-mail (PolicyManagement@houstonisd.org). Electronic copies of all referenced policies are available through the embedded links in this document.

For All Employees

The School Board has set forth a vision, goals, and constraints for the whole district. HISD's Employee Conduct Policy, DH(LOCAL), carries serious consequences governing employee conduct.

Note: If a "series" is indicated, please review all documents with the policy code identifier that begins with the two or three letters shown. This may include a legal policy, a local policy, one or more regulations, one or more exhibits, or a subset of these.

Discrimination, harassment, and retaliation: To support a safe environment and common decency, all employees need to be versed in our discrimination, harassment, bullying, and retaliation governance. It is imperative that those who interact with students be aware of their responsibilities to respond immediately and appropriately to allegations. Relevant policies include:

- DH series, FO series, and FNC legal policy—Policies, administrative regulations, and exhibits addressing standards of conduct for employees and students.
- DIA series, FB series, and FFH series—Policies regarding discrimination, harassment, and retaliation, including the relevant exhibits containing the contact information for reporting such behavior, for employees and students.

Bullying: A dedicated policy, FFI(LOCAL), addresses student bullying, including cyberbullying, and establishes procedures for reporting, investigating, and dealing with bullying of district students. Additionally, because this conduct may rise to the level of discrimination or harassment, if based on a protected characteristic, this policy should be reviewed annually, along with FFH(LOCAL) and FFH(EXHIBIT). DH(LOCAL), DIA(LOCAL), DIA3(REGULATION), and CQ5(REGULATION) are policies and regulations prohibiting bullying by employees.

Child abuse and neglect: Education commissioner rules require all employees to be aware of how and to whom to report suspicion or knowledge of child abuse or neglect. Please review the state rules on reporting child abuse and neglect in 19 TAC 103.1401 to familiarize yourself with the procedures. The toll-free phone number of the Texas Department of Family and Protective Services is 1-800-252-5400. Policy information related to these concerns may be found at:

- BQ(LEGAL)—Policy referring to the district plan for addressing sexual abuse and other maltreatment of children;
- DH series—Policies, administrative regulations, and exhibits addressing employee standards of conduct;
- FFG series—Policies, administrative regulation, and exhibit addressing child abuse and neglect, trafficking, and maltreatment of students; and
- GRA series—Policies addressing child abuse investigations.

Crisis Intervention: The district has a program that supports early mental health intervention and suicide prevention as outlined in the FFB series.

Drug-free workplace: State and federal laws require all new employees to review district policies establishing a drug-free workplace. In HISD, these policies are found at DH(LOCAL) and DHE(LOCAL).

Standards of Conduct and Conflict of Interest: Conflict of interest arises when there is incompatibility between professional duties and personal interests. The following governance defines conduct that

constitutes a conflict of interest and specifies the sanctions for violations: the DH series; CAA series; CDC series; and DBD series for all employees. Please see DBD2(REGULATION) for annual disclosure process.

Technology and Technology Resources: The district has an obligation to protect student and employee information. Access to the district's technology resources including e-mail is a privilege and provided for academic and district business purposes. Altering software configurations and/or disabling security features are prohibited. Relevant policies include:

- CQ series—Policies, Regulations, and Exhibits addressing technology for employees and students.
- CY series—Policies, Regulations, and Exhibits addressing copyright restrictions for employees and students.

Social Media: The communication and collaboration inherent in the use of social media can increase student engagement and expand the district's instructional resources when used responsibly and safely. While the district believes there are significant educational advantages to using social media, a suite of policy changes has been approved to ensure the use of social media supported by the district is safe and adheres to federal and state laws as well as board policy.

The following governance defines social media use:

- Employee Standards of Conduct DH(LOCAL)
- Technology Resources CQ(LOCAL)
- Intellectual Property CY(LOCAL)

Equal Educational Opportunity: Under Title II, HISD ensures communications with individuals with hearing, vision, speech, or other sensory impairments are as effective as communications with others. When an auxiliary aid or service is required to assist with communication, HISD will provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the district must honor the choice, unless it can demonstrate that another equally effective means of communication is available. FB1(REGULATION) addresses "effective communication" under Title II.

Enforcement of Meal Policies: The U.S. Department of Agriculture regulates requirements regarding collecting payment for school meals; notifying families of low or negative balances; and enforcing other aspects of the meal charge policy. See the CO series regarding school meals. For more information, see the USDA's memo, *Unpaid Meal Charges: Guidance and Q&As*.

Information pertaining to student discipline: Education Code 37.018 requires that each teacher and administrator review Chapter 37, sections 37.001 through 37.023, dealing with student discipline, as well as all relevant local district policies. Therefore, in addition to the Chapter 37 sections, please review the FN series and FO series. We also recommend that teachers and administrators review the *Student Code of Conduct* as approved by the School Board and the *Student Handbook*.

Note: Education Code 37.001 requires the *Student Code of Conduct* to be posted and prominently displayed at each school campus or to be made available for review in the campus principal's office.

Information pertaining to field trips: All students shall be invited to participate in school-sponsored field trips and other enrichment activities. The district has adopted reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. See FP(LOCAL).

Note: FP(LEGAL) requires posting of the process for waiving fees in a central location in each school facility as well as the school and student handbooks.

Employment Policies: Employees with education certification, including probationary, term, and continuing contracts, should review the district's employment policies. Employment policies include (LEGAL) and (LOCAL) policies, regulations, and exhibits found within the district's online policy manual. All employees should review the following policies.

Policy Code	Policy Title	Policy Code	Policy Title
DAA	Employment Objectives: Equal Employment Opportunity	DFBA series	Term Contracts: Suspension/Termination During Contract
DAB	Genetic Nondiscrimination and Criteria for Personnel Decisions	DFD	Termination of Employment: Hearings Before Hearing Examiner
DBAA	Employment Requirements and Restrictions: Pre-Employment Reviews	DFE	Termination of Employment: Resignation
DBB	Medical Examinations and Communicable Diseases	DFF	Termination of Employment: Reduction in Force
DBD	Employment Requirements and Restrictions: Conflict of Interest	DFFA	Reduction in Force: Financial Exigency
DC series	Employment Practices	DFFB	Reduction in Force: Program Change
DCA	Employment Practices: Probationary Contracts	DG	Employee Rights and Privileges
DCB	Employment Practices: Term Contracts	DGBA	Personnel-Management Relations: Employee Complaints/Grievances
DCC	Employment Practices: Continuing Contracts	DH series	Employee Standards of Conduct
DEA series	Compensation and Benefits: Compensation Plan	DHB	Employee Standards of Conduct: Reports to State Board for Educator Certification
DEAA	Compensation Plan: Incentives and Stipends	DHE	Employee Standards of Conduct: Searches and Alcohol/Drug Testing
DEC series	Compensation and Benefits: Leaves and Absences	DI series	Employee Welfare
DECA series	Leaves and Absences: Family and Medical Leave	DIA	Employee Welfare: Freedom from Discrimination, Harassment, and Retaliation
DECB	Leaves and Absences: Military Leave	DK	Assignment and Schedules
DF series	Termination of Employment	DMA	Professional Development: Required Staff Development
DFAA	Probationary Contracts: Suspension/Termination During Contract	DN series	Performance Appraisal
DFAB	Probationary Contracts: Termination at End of Year	DNA	Performance Appraisal: Evaluation of Teachers
DFAC	Probationary Contracts: Return to Probationary Status	DNB	Performance Appraisal: Evaluation of Campus Administrators

Electronic copies of all referenced policies are available by clicking the links above.

All employees are responsible for reviewing policies annually.

Chapter 103. Health and Safety

Subchapter EE. Commissioner's Rules on Prevention, Awareness, and Reporting of Child Abuse or Neglect, Including Trafficking of a Child

§103.1401. Reporting Child Abuse or Neglect, Including Trafficking of a Child.

(a) The following words and terms, when used in this subchapter, have the following meanings.

(1) Child abuse or neglect--The definition of child abuse or neglect includes the trafficking of a child in accordance with Texas Education Code (TEC), §38.004.

(2) Other maltreatment--This term has the meaning assigned by Human Resources Code, §42.002.

(3) Trafficking of a child--This term has the meaning assigned by Texas Penal Code, §20A.02(a)(5), (6), (7), or (8).

(b) The board of trustees of a school district or governing body of an open-enrollment charter school shall adopt and annually review policies for reporting child abuse and neglect. The policies shall follow the requirements outlined in Texas Family Code, Chapter 261.

(1) The policies must require that every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect submit a written or oral report to at least one of the following authorities within 48 hours or less, as determined by the board of trustees, after learning of facts giving rise to the suspicion:

(A) a local or state law enforcement agency;

(B) the Texas Department of Family and Protective Services, Child Protective Services Division;

(C) a local office of Child Protective Services, where available; or

(D) the state agency that operates, licenses, certifies, or registers the facility in which the alleged child abuse or neglect occurred.

(2) The policies must require a report to the Texas Department of Family and Protective Services if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and must notify school personnel of the following:

(A) penalties under Texas Penal Code, §39.06; Texas Family Code, §261.109; and Chapter 249 of this title (relating to Disciplinary Proceedings, Sanctions, and Contested Cases) for failure to submit a required report of child abuse or neglect;

(B) applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including the following:

(i) Texas Family Code, §261.302 and §261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and

(ii) Texas Family Code, §261.302, prohibiting school officials from requiring the presence of a parent or school administrator during an interview by an investigator;

(C) immunity provisions applicable to a person who reports child abuse or neglect or otherwise assists an investigation in good faith;

(D) oral reports made to the Texas Department of Family and Protective Services are recorded;

(E) confidentiality provisions relating to reports of suspected child abuse or neglect, including the following:

(i) the requirement for the individual making the report to provide his or her name and telephone number;

(ii) the requirement for the individual making the report to provide his or her home address or, if the individual making the report is a school employee, agent, or contractor, provide his or her business address and profession; and

(iii) the limited circumstances under which the identity of the individual making a report may be disclosed;

(F) any disciplinary action that may result from noncompliance with the district's reporting policy;

(G) the prohibition under TEC, §26.0091, against using or threatening to use the refusal to consent to administration of a psychotropic drug to a child or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, except as authorized by TEC, §26.0091; and

(H) the Department of Family and Protective Services is not authorized to accept an anonymous report of abuse or neglect.

(3) Each school district and open-enrollment charter school shall adopt and implement a policy addressing sexual abuse, trafficking, and other maltreatment of children. The policy must be included in any informational handbook provided to students and parents and must address the following:

(A) methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;

(B) actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and

(C) available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.

(4) The policies must be consistent with Texas Family Code, Chapter 261, and 40 TAC Chapter 700 (relating to Child Protective Services) regarding investigations by the Texas Department of Family and Protective Services, including regulations governing investigation of abuse by school personnel and volunteers.

(5) The policies may not require that school personnel report suspicions of child abuse or neglect to a school administrator prior to making a report to one of the agencies identified in paragraph (1) of this subsection.

(6) The policies must include the current toll-free telephone number of the Texas Department of Family and Protective Services.

(7) The policies must provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by the Texas Department of Family and Protective Services.

(8) The policies must include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

(c) The policies required by this section and adopted by the board of trustees shall be distributed to all school personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by the board of trustees.

(d) Training concerning prevention techniques for, and recognition of, sexual abuse, trafficking, and all other maltreatment of children, including the sexual abuse, trafficking, and other maltreatment of children with

significant cognitive disabilities, must be provided as a part of new employee orientation to all new school district and open-enrollment charter school employees as required by TEC, §38.0041.

(1) The training must include:

(A) factors indicating a child is at risk for sexual abuse, trafficking, or other maltreatment;

(B) warning signs indicating a child may be a victim of sexual abuse, trafficking, or other maltreatment;

(C) internal procedures for seeking assistance for a child who is at risk for sexual abuse, trafficking, or other maltreatment, including referral to a school counselor, a social worker, or another mental health professional;

(D) techniques for reducing a child's risk for sexual abuse, trafficking, or other maltreatment; and

(E) information on community organizations that have relevant research-based programs that are able to provide training or other education for school district or open-enrollment charter school staff, students, and parents.

(2) Each school district and open-enrollment charter school must maintain records that include the name of each staff member who participated in training.

(3) To the extent that resources are not yet available from the Texas Education Agency or commissioner of education, school district and open-enrollment charter schools shall implement the policies and trainings with existing or publicly available resources. The school district or open-enrollment charter school may also work in conjunction with a community organization to provide the training at no cost to the district or charter school.

(e) Using a format and language that is clear, simple, and understandable to students, each public school and open-enrollment charter school shall post, in English and in Spanish:

(1) the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number;

(2) instructions to call 911 for emergencies; and

(3) directions for accessing the Texas Department of Family and Protective Services website (www.txabusehotline.org) for more information on reporting abuse, neglect, and exploitation.

(f) School districts and open-enrollment charter schools shall post the information specified in subsection (e) of this section at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Protective Services Abuse Hotline telephone number should be in bold print.

Statutory Authority: The provisions of this §103.1401 issued under the Texas Education Code, §§37.086, as amended by SB 2069, 88th Texas Legislature, Regular Session, 2023; 38.004; 38.0041; and 38.0042; Texas Family Code, §261.001; and Texas Penal Code, §20A.02(a)(5)-(8).

Source: The provisions of this §103.1401 adopted to be effective December 11, 2024, 49 TexReg 9974.

§103.1403. Required Signage Pertaining to Criminal Offenses of Human Trafficking.

(a) When used in this section, the term "school" means a public primary or secondary school.

(b) Each public school shall post warning signs in a conspicuous place reasonably likely to be viewed by all school employees and visitors.

(c) Each warning sign must:

(1) describe the offense of trafficking in persons as provided under Texas Penal Code, §20A.02(a). The sign must emphasize that an offense under Texas Penal Code, §20A.02, is a felony of the first degree punishable by imprisonment in the Texas Department of Criminal Justice for life or for a term of not more than 99 years or less than 25 years if it is shown on the trial of the offense that the actor committed the offense in a location that was:

(A) on the premises of or within 1,000 feet of the premises of:

(i) a school;

(ii) a juvenile detention facility;

(iii) a post-adjudication secure correctional facility;

(iv) a shelter or facility operating as a residential treatment center that serves runaway youth, foster children, people who are homeless, or persons subjected to human trafficking, domestic violence, or sexual assault;

(v) a community center offering youth services and programs;

(vi) a child-care facility, as defined by Human Resources Code, §42.002; or

(vii) an institution of higher education or private or independent institution of higher education, as defined by Texas Education Code, §61.003; or

(B) on premises or within 1,000 feet of premises where:

(i) an official school function was taking place; or

(ii) an event sponsored or sanctioned by the University Interscholastic League was taking place;

(2) be written in English and Spanish;

(3) be at least 8.5 by 11 inches in size; and

(4) be properly maintained to ensure readability and protection from the elements for outdoor signs.

Statutory Authority: The provisions of this §103.1403 issued under the Texas Education Code, §§37.086, as amended by SB 2069, 88th Texas Legislature, Regular Session, 2023; 38.004; 38.0041; and 38.0042; Texas Family Code, §261.001; and Texas Penal Code, §20A.02(a)(5)-(8).

Source: The provisions of this §103.1403 adopted to be effective December 11, 2024, 49 TexReg 9974.

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE G. SAFE SCHOOLS

CHAPTER 37. DISCIPLINE; LAW AND ORDER

SUBCHAPTER A. ALTERNATIVE SETTINGS FOR BEHAVIOR MANAGEMENT

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.001. STUDENT CODE OF CONDUCT. (a) The board of trustees of an independent school district shall, with the advice of its district-level committee established under Subchapter F, Chapter 11, adopt a student code of conduct for the district. 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. In addition to establishing standards for student conduct, the student code of conduct must:

(1) specify the circumstances, in accordance with this subchapter, under which a student may be removed from a classroom, campus, disciplinary alternative education program, 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 disciplinary alternative education program;

(3) outline conditions under which a student may be suspended as provided by Section 37.005 or expelled as provided by Section 37.007;

(4) specify that consideration will be given, as a factor in each decision concerning suspension, removal to a disciplinary alternative education program, expulsion, or placement in a juvenile justice alternative education program, 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;

(D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

(E) a student's status in the conservatorship of the Department of Family and Protective Services; or

(F) a student's status as a student who is homeless;

(5) provide guidelines for setting the length of a term of:

(A) a removal under Section 37.006; and

(B) an expulsion under Section 37.007;

(6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension, removal to a disciplinary alternative education program, or expulsion;

(7) prohibit bullying, harassment, and making hit lists and ensure that district employees enforce those prohibitions;

(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; and

(9) include an explanation of the provisions regarding refusal of entry to or ejection from district property under Section 37.105, including the appeal process established under Section 37.105(h).

(b) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "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.

(3) "Hit list" means a list of people targeted to be harmed, using:

(A) a firearm, as defined by Section 46.01(3), Penal Code;

(B) a knife, as defined by Section 46.01(7), Penal Code; or

(C) any other object to be used with intent to cause bodily harm.

(4) "Student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A,

Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

(c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.

(d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

(e) Except as provided by Section 37.007(e), this subchapter does not require the student code of conduct to specify a minimum term of a removal under Section 37.006 or an expulsion under Section 37.007.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 2, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1055, Sec. 4, 30, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 504 (H.B. 603), Sec. 1, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 920 (H.B. 283), Sec. 3, eff. June 18, 2005.

Acts 2009, 81st Leg., R.S., Ch. 897 (H.B. 171), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 776 (H.B. 1942), Sec. 5, eff. June 17, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 487 (S.B. 1541), Sec. 1, eff. June 14, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 3, eff. September 1, 2013.

Acts 2017, 85th Leg., R.S., Ch. 924 (S.B. 1553), Sec. 4, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 167 (H.B. 811), Sec. 1, eff. May 24, 2019.

Acts 2019, 86th Leg., R.S., Ch. 167 (H.B. 811), Sec. 2, eff. May 24, 2019.

Sec. 37.0011. USE OF CORPORAL PUNISHMENT. (a) In this section, "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:

(1) physical pain caused by reasonable physical activities associated with athletic training, competition, or physical education; or

(2) the use of restraint as authorized under Section 37.0021.

(b) If the board of trustees of an independent school district adopts a policy under Section 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.

(c) 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 of trustees of the school district in the manner established by the board.

(d) The student's parent or guardian or other person having lawful control over the student may revoke the statement provided to the board of trustees under Subsection (c) at any time during the school year by submitting a written, signed revocation to the board in the manner established by the board.

Added by Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 1, eff. September 1, 2011.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.0012. DESIGNATION OF CAMPUS BEHAVIOR COORDINATOR. (a) A person at each campus must be designated to serve as the campus behavior coordinator. The person designated may be the principal of the campus or any other campus administrator selected by the principal.

(b) The campus behavior coordinator is primarily responsible for maintaining student discipline and the implementation of this subchapter.

(c) Except as provided by this chapter, the specific duties of the campus behavior coordinator may be established by campus or district policy. Unless otherwise provided by campus or district policy:

(1) a duty imposed on a campus principal or other campus administrator under this subchapter shall be performed by the campus behavior coordinator; and

(2) a power granted to a campus principal or other campus administrator under this subchapter may be exercised by the campus behavior coordinator.

(d) The campus behavior coordinator shall promptly notify a student's parent or guardian as provided by this subsection if under this subchapter the student is placed into in-school or out-of-school suspension, placed in

a disciplinary alternative education program, expelled, or placed in a juvenile justice alternative education program or is taken into custody by a law enforcement officer. A campus behavior coordinator must comply with this subsection by:

(1) promptly contacting the parent or guardian by telephone or in person; and

(2) 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.

(e) If a parent or guardian entitled to notice under Subsection (d) 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 campus behavior coordinator shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

(f) If a campus behavior coordinator is unable or not available to promptly provide notice under Subsection (d), the principal or other designee shall provide the notice.

Added by Acts 2015, 84th Leg., R.S., Ch. 1267 (S.B. 107), Sec. 1, eff. June 20, 2015.

Sec. 37.0013. POSITIVE BEHAVIOR PROGRAM. (a) Each school district and open-enrollment charter school may develop and implement a program, in consultation with campus behavior coordinators employed by the district or school and representatives of a regional education service center, that provides a disciplinary alternative for a student enrolled in a grade level below grade three who engages in conduct described by Section 37.005(a) and is not subject to Section 37.005(c). The program must:

(1) be age-appropriate and research-based;

(2) provide models for positive behavior;

(3) promote a positive school environment;

(4) provide alternative disciplinary courses of action that do not rely on the use of in-school suspension, out-of-school suspension, or placement in a disciplinary alternative education program to manage student behavior; and

(5) provide behavior management strategies, including:

(A) positive behavioral intervention and support;

(B) trauma-informed practices;

(C) social and emotional learning;

(D) a referral for services, as necessary; and

(E) restorative practices.

(b) Each school district and open-enrollment charter school may annually conduct training for staff employed by the district or school on the program adopted under Subsection (a).

Added by Acts 2017, 85th Leg., R.S., Ch. 696 (H.B. 674), Sec. 1, eff. June 12, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2 and H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.002. REMOVAL BY TEACHER. (a) A teacher may send a student to the campus behavior coordinator's office to maintain effective discipline in the classroom. The campus behavior coordinator shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001 that can reasonably be expected to improve the student's behavior before returning the student to the classroom. If the student's behavior does not improve, the campus behavior coordinator shall employ alternative discipline management techniques, including any progressive interventions designated as the responsibility of the campus behavior coordinator in the student code of conduct.

(b) A teacher may remove from class a student:

(1) who has been documented by the teacher to repeatedly interfere with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn; or

(2) whose behavior the teacher determines is so unruly, disruptive, or abusive that it seriously interferes with the teacher's ability to communicate effectively with the students in the class or with the ability of the student's classmates to learn.

(b-1) A teacher may document any conduct by a student that does not conform to the student code of conduct adopted under Section 37.001 and may submit that documentation to the principal. A school district may not discipline a teacher on the basis of documentation submitted under this subsection.

(c) If a teacher removes a student from class under Subsection (b), the principal may place the student into another appropriate classroom, into in-school suspension, or into a disciplinary alternative education program as provided by Section 37.008. The principal may not return the

student to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. The terms of the removal may prohibit the student from attending or participating in school-sponsored or school-related activity.

(d) A teacher shall remove from class and send to the principal for placement in a disciplinary alternative education program or for expulsion, as appropriate, a student who engages in conduct described under Section 37.006 or 37.007. The student may not be returned to that teacher's class without the teacher's consent unless the committee established under Section 37.003 determines that such placement is the best or only alternative available. If the teacher removed the student from class because the student has engaged in the elements of any offense listed in Section 37.006(a)(2)(B) or Section 37.007(a)(2)(A) or (b)(2)(C) against the teacher, the student may not be returned to the teacher's class without the teacher's consent. The teacher may not be coerced to consent.

(e) A student who is sent to the campus behavior coordinator's or other administrator's office under Subsection (a) or removed from class under Subsection (b) is not considered to have been removed from the classroom for the purposes of reporting data through the Public Education Information Management System (PEIMS) or other similar reports required by state or federal law.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 5, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 504 (H.B. 603), Sec. 2, eff. June 17, 2005.

Acts 2015, 84th Leg., R.S., Ch. 1267 (S.B. 107), Sec. 2, eff. June 20, 2015.

Acts 2019, 86th Leg., R.S., Ch. 630 (S.B. 1451), Sec. 3, eff. June 10, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.0021. USE OF CONFINEMENT, RESTRAINT, SECLUSION, AND TIME-OUT. (a) It is the policy of this state to treat with dignity and respect all students, including students with disabilities who receive special education services under Subchapter A, Chapter 29. A student with a disability who receives special education services under Subchapter A,

Chapter 29, may not be confined in a locked box, locked closet, or other specially designed locked space as either a discipline management practice or a behavior management technique.

(b) In this section:

(1) "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.

(2) "Seclusion" means a behavior management technique in which a student is confined in a locked box, locked closet, or locked room that:

(A) is designed solely to seclude a person; and

(B) contains less than 50 square feet of space.

(3) "Time-out" means a behavior management technique in which, to provide a student with an opportunity to regain self-control, the student is separated from other students for a limited period in a setting:

(A) that is not locked; and

(B) from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

(4) "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.

(5) "Taser" means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream. The term, for purposes of this section, includes a similar device manufactured, sold, or distributed by another person.

(c) A school district employee or volunteer or an independent contractor of a district may not place a student in seclusion. This subsection does not apply to the use of seclusion in a court-ordered placement, other than a placement in an educational program of a school district, or in a placement or facility to which the following law, rules, or regulations apply:

(1) the Children's Health Act of 2000, Pub. L. No. 106-310, any subsequent amendments to that Act, any regulations adopted under that Act, or any subsequent amendments to those regulations;

(2) 40 T.A.C. Sections 720.1001-720.1013; or

(3) 25 T.A.C. Section 412.308(e).

(d) Subject to Subsection (j), the commissioner by rule shall adopt procedures for the use of restraint and time-out by a school district

employee or volunteer or an independent contractor of a district in the case of a student with a disability receiving special education services under Subchapter A, Chapter 29. A procedure adopted under this subsection must:

(1) be consistent with:

(A) professionally accepted practices and standards of student discipline and techniques for behavior management; and

(B) relevant health and safety standards;

(2) identify any discipline management practice or behavior management technique that requires a district employee or volunteer or an independent contractor of a district to be trained before using that practice or technique; and

(3) require a school district to:

(A) provide written notification to the student's parent or person standing in parental relation to the student for each use of restraint that includes:

(i) the name of the student;

(ii) the name of the district employee or volunteer or independent contractor of the district who administered the restraint;

(iii) the date of the restraint;

(iv) the time that the restraint started and ended;

(v) the location of the restraint;

(vi) the nature of the restraint;

(vii) a description of the activity in which the student was engaged immediately preceding the use of the restraint;

(viii) the behavior of the student that prompted the restraint;

(ix) any efforts made to de-escalate the situation and any alternatives to restraint that were attempted;

(x) if the student has a behavior improvement plan or a behavioral intervention plan, whether the plan may need to be revised as a result of the behavior that led to the restraint; and

(xi) if the student does not have a behavior improvement plan or a behavioral intervention plan, information on the procedure for the student's parent or person standing in parental relation to the student to request an admission, review, and dismissal committee meeting to discuss the possibility of conducting a functional behavioral assessment of the student and developing a plan for the student;

(B) include in a student's special education eligibility school records:

(i) a copy of the written notification provided to the student's parent or person standing in parental relation to the student under Paragraph (A);

(ii) information on the method by which the written notification was sent to the parent or person; and

(iii) the contact information for the parent or person to whom the district sent the notification; and

(C) if the student has a behavior improvement plan or behavioral intervention plan, document each use of time-out prompted by a behavior of the student specified in the student's plan, including a description of the behavior that prompted the time-out.

(e) In the case of a conflict between a rule adopted under Subsection (d) and a rule adopted under Subchapter A, Chapter 29, the rule adopted under Subsection (d) controls.

(f) For purposes of this subsection, "weapon" includes any weapon described under Section 37.007(a)(1). This section does not prevent a student's locked, unattended confinement in an emergency situation while awaiting the arrival of law enforcement personnel if:

(1) the student possesses a weapon; and

(2) the confinement is necessary to prevent the student from causing bodily harm to the student or another person.

(g) This section and any rules or procedures adopted under this section do not apply to:

(1) a peace officer performing law enforcement duties, except as provided by Subsection (i);

(2) juvenile probation, detention, or corrections personnel; or

(3) an educational services provider with whom a student is placed by a judicial authority, unless the services are provided in an educational program of a school district.

(h) 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.

(i) A school district shall report electronically to the agency, 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. A report submitted under this subsection must be

consistent with the requirements adopted by commissioner rule for reporting the use of restraint involving students with disabilities.

(j) A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person.

Added by Acts 2001, 77th Leg., ch. 212, Sec. 1, eff. Sept. 1, 2001.
Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 6, eff. June 20, 2003.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 2, eff. September 1, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 3, eff. September 1, 2011.

Acts 2021, 87th Leg., R.S., Ch. 225 (H.B. 785), Sec. 2, eff. June 4, 2021.

Acts 2023, 88th Leg., R.S., Ch. 1042 (S.B. 133), Sec. 1, eff. June 18, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1042 (S.B. 133), Sec. 2, eff. June 18, 2023.

Sec. 37.0022. REMOVAL BY SCHOOL BUS DRIVER. (a) The driver of a school bus transporting students to or from school or a school-sponsored or school-related activity may send a student to the principal's office to maintain effective discipline on the school bus. The principal shall respond by employing appropriate discipline management techniques consistent with the student code of conduct adopted under Section 37.001.

(b) Section 37.004 applies to any placement under Subsection (a) of a student with a disability who receives special education services.

Added by Acts 2013, 83rd Leg., R.S., Ch. 487 (S.B. 1541), Sec. 2, eff. June 14, 2013.

Sec. 37.0023. PROHIBITED AVERSIVE TECHNIQUES. (a) In this section, "aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that:

(1) is designed to or likely to cause physical pain, other than an intervention or technique permitted under Section 37.0011;

(2) notwithstanding Section 37.0011, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks;

(3) involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face;

(4) denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;

(5) ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;

(6) employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;

(7) impairs the student's breathing, including any procedure that involves:

(A) applying pressure to the student's torso or neck; or

(B) obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;

(8) restricts the student's circulation;

(9) secures the student to a stationary object while the student is in a sitting or standing position;

(10) inhibits, reduces, or hinders the student's ability to communicate;

(11) involves the use of a chemical restraint;

(12) constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or

(13) except as provided by Subsection (c), deprives the student of the use of one or more of the student's senses.

(b) A school district or school district employee or volunteer or an independent contractor of a school district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a student.

(c) Notwithstanding Subsection (a)(13), an aversive technique described by Subsection (a)(13) may be used if the technique is executed in

a manner that:

(1) does not cause the student discomfort or pain; or

(2) complies with the student's individualized education program or behavior intervention plan.

(d) Nothing in this section may be construed to prohibit a teacher from removing a student from class under Section 37.002.

(e) In adopting procedures under this section, the commissioner shall provide guidance to school district employees, volunteers, and independent contractors of school districts in avoiding a violation of Subsection (b).

Added by Acts 2019, 86th Leg., R.S., Ch. 598 (S.B. 712), Sec. 1, eff. June 10, 2019.
Added by Acts 2019, 86th Leg., R.S., Ch. 1180 (H.B. 3630), Sec. 1, eff. June 14, 2019.

Sec. 37.003. PLACEMENT REVIEW COMMITTEE. (a) Each school shall establish a three-member committee to determine placement of a student when a teacher refuses the return of a student to the teacher's class and make recommendations to the district regarding readmission of expelled students. Members shall be appointed as follows:

(1) the campus faculty shall choose two teachers to serve as members and one teacher to serve as an alternate member; and

(2) the principal shall choose one member from the professional staff of a campus.

(b) The teacher refusing to readmit the student may not serve on the committee.

(c) The committee's placement determination regarding a student with a disability who receives special education services under Subchapter A, Chapter 29, is subject to the requirements of the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.) and federal regulations, state statutes, and agency requirements necessary to carry out federal law or regulations or state law relating to special education.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 7, eff. June 20, 2003.

Sec. 37.004. PLACEMENT OF STUDENTS WITH DISABILITIES. (a) The placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee.

(b) Any disciplinary action regarding a student with a disability who receives special education services that would constitute a change in placement under federal law may be taken only after the student's admission, review, and dismissal committee conducts a manifestation determination review under 20 U.S.C. Section 1415(k)(4) and its subsequent amendments. Any disciplinary action regarding the student shall be determined in accordance with federal law and regulations, including laws or regulations requiring the provision of:

(1) functional behavioral assessments;

(2) positive behavioral interventions, strategies, and supports;

(3) behavioral intervention plans; and

(4) the manifestation determination review.

(b-1) If a school district takes a disciplinary action regarding a student with a disability who receives special education services that constitutes a change in placement under federal law, the district shall:

(1) not later than the 10th school day after the change in placement:

(A) seek consent from the student's parent or person standing in parental relation to the student to conduct a functional behavioral assessment of the student, if a functional behavioral assessment has never been conducted on the student or the student's most recent functional behavioral assessment is more than one year old; and

(B) review any previously conducted functional behavioral assessment of the student and any behavior improvement plan or behavioral intervention plan developed for the student based on that assessment; and

(2) as necessary:

(A) develop a behavior improvement plan or behavioral intervention plan for the student if the student does not have a plan; or

(B) if the student has a behavior improvement plan or behavioral intervention plan, revise the student's plan.

(c) A student with a disability who receives special education services may not be placed in alternative education programs solely for educational purposes.

(d) A teacher in an alternative education program under Section 37.008 who has a special education assignment must hold an appropriate certificate or permit for that assignment.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 767, Sec. 6, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1225, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch.

435, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 6.006, eff. Sept. 1, 2003.
Amended by:
Acts 2021, 87th Leg., R.S., Ch. 225 (H.B. 785), Sec. 3, eff. June 4, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.005. SUSPENSION. (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.

(b) A suspension under this section may not exceed three school days.

(c) A student who is enrolled in a grade level below grade three may not be placed in out-of-school suspension unless while on school property or while attending a school-sponsored or school-related activity on or off of school property, the student engages in:

(1) conduct that contains the elements of an offense related to weapons under Section 46.02 or 46.05, Penal Code;

(2) conduct that contains the elements of a violent offense under Section 22.01, 22.011, 22.02, or 22.021, Penal Code; or

(3) selling, giving, or delivering to another person or possessing, using, or being under the influence of any amount of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(C) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

(d) A school district or open-enrollment charter school may not place a student who is homeless in out-of-school suspension unless the student engages in conduct described by Subsections (c)(1)-(3) while on school property or while attending a school-sponsored or school-related activity on or off of school property. The campus behavior coordinator may coordinate with the school district's homeless education liaison to identify appropriate alternatives to out-of-school suspension for a student who is homeless. In this subsection, "student who is homeless" has the meaning assigned to the term "homeless children and youths" under 42 U.S.C. Section 11434a.

(e) A school district shall provide to a student during the period of the student's suspension under this section, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all course work provided in the classes in the foundation curriculum under Section 28.002(a)(1) that the student misses as a result of the suspension. The district must provide at least one option for receiving the course work that does not require the use of the Internet.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 8, eff. June 20, 2003.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 696 (H.B. 674), Sec. 2, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 479 (H.B. 692), Sec. 1, eff. June 7, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1150 (H.B. 3012), Sec. 1, eff. June 14, 2019.

Sec. 37.0051. PLACEMENT OF STUDENTS COMMITTING SEXUAL ASSAULT AGAINST ANOTHER STUDENT. (a) As provided by Section 25.0341(b)(2), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 or a juvenile justice alternative education program under Section 37.011.

(b) A limitation imposed by this subchapter on the length of a placement in a disciplinary alternative education program or a juvenile justice alternative education program does not apply to a placement under this section.

Added by Acts 2005, 79th Leg., Ch. 997 (H.B. 308), Sec. 2, eff. June 18, 2005.

Sec. 37.0052. PLACEMENT OR EXPULSION OF STUDENTS WHO HAVE ENGAGED IN CERTAIN BULLYING BEHAVIOR. (a) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Intimate visual material" has the meaning assigned by Section 98B.001, Civil Practice and Remedies Code.

(b) A student may be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 or expelled if the student:

(1) engages in bullying that encourages a student to commit or attempt to commit suicide;

(2) incites violence against a student through group bullying; or

(3) releases or threatens to release intimate visual material of a minor or a student who is 18 years of age or older without the student's consent.

(c) Nothing in this section exempts a school from reporting a finding of intimate visual material of a minor.

Added by Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 3, eff. September 1, 2017.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.006. REMOVAL FOR CERTAIN CONDUCT. (a) Subject to the requirements of Section 37.009(a), a student shall be removed from class and placed in a disciplinary alternative education program as provided by Section 37.008 if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code; or

(2) commits the following on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) engages in conduct punishable as a felony;

(B) engages in conduct that contains the elements of the offense of assault under Section 22.01(a)(1), Penal Code;

(C) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(i) a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq., excluding marihuana, as defined by Section 481.002, Health and Safety Code, or tetrahydrocannabinol, as defined by rule adopted under Section 481.003 of that code; or

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(C-1) possesses, uses, or is under the influence of, or sells, gives, or delivers to another person marihuana, as defined by

Section 481.002, Health and Safety Code, or tetrahydrocannabinol, as defined by rule adopted under Section 481.003 of that code;

(C-2) possesses, uses, sells, gives, or delivers to another person an e-cigarette, as defined by Section 161.081, Health and Safety Code;

(D) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, commits a serious act or offense while under the influence of alcohol, or possesses, uses, or is under the influence of an alcoholic beverage;

(E) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(F) engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code, or indecent exposure under Section 21.08, Penal Code; or

(G) engages in conduct that contains the elements of the offense of harassment under Section 42.07(a)(1), (2), (3), or (7), Penal Code, against an employee of the school district.

(b) Except as provided by Section 37.007(d), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct on or off of school property that contains the elements of the offense of retaliation under Section 36.06, Penal Code, against any school employee.

(c) In addition to Subsections (a) and (b), a student shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the student receives deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(2) a court or jury finds that the student has engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(3) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in a conduct defined as:

(A) a felony offense in Title 5, Penal Code; or

(B) the felony offense of aggravated robbery under Section 29.03, Penal Code.

(d) In addition to Subsections (a), (b), and (c), a student may be removed from class and placed in a disciplinary alternative education program under Section 37.008 based on conduct occurring off campus and while the student is not in attendance at a school-sponsored or school-related activity if:

(1) the superintendent or the superintendent's designee has a reasonable belief that the student has engaged in conduct defined as a felony offense other than aggravated robbery under Section 29.03, Penal Code, or those offenses defined in Title 5, Penal Code; and

(2) the continued presence of the student in the regular classroom threatens the safety of other students or teachers or will be detrimental to the educational process.

(e) In determining whether there is a reasonable belief that a student has engaged in conduct defined as a felony offense by the Penal Code, the superintendent or the superintendent's designee may consider all available information, including the information furnished under Article 15.27, Code of Criminal Procedure, other than information requested under Article 15.27(k-1), Code of Criminal Procedure.

(f) Subject to Section 37.007(e), a student who is younger than 10 years of age shall be removed from class and placed in a disciplinary alternative education program under Section 37.008 if the student engages in conduct described by Section 37.007. An elementary school student may not be placed in a disciplinary alternative education program with any other student who is not an elementary school student.

(g) The terms of a placement under this section must prohibit the student from attending or participating in a school-sponsored or school-related activity.

(h) On receipt of notice under Article 15.27(g), Code of Criminal Procedure, the superintendent or the superintendent's designee shall review the student's placement in the disciplinary alternative education program. The student may not be returned to the regular classroom pending the review. The superintendent or the superintendent's designee shall schedule a review of the student's placement with the student's parent or guardian not later than the third class day after the superintendent or superintendent's designee receives notice from the office or official

designated by the court. After reviewing the notice and receiving information from the student's parent or guardian, the superintendent or the superintendent's designee may continue the student's placement in the disciplinary alternative education program if there is reason to believe that the presence of the student in the regular classroom threatens the safety of other students or teachers.

(i) The student or the student's parent or guardian may appeal the superintendent's decision under Subsection (h) to the board of trustees. The student may not be returned to the regular classroom pending the appeal. The board shall, at the next scheduled meeting, review the notice provided under Article 15.27(g), Code of Criminal Procedure, and receive information from the student, the student's parent or guardian, and the superintendent or superintendent's designee and confirm or reverse the decision under Subsection (h). The board shall make a record of the proceedings. If the board confirms the decision of the superintendent or superintendent's designee, the board shall inform the student and the student's parent or guardian of the right to appeal to the commissioner under Subsection (j).

(j) Notwithstanding Section 7.057(e), the decision of the board of trustees under Subsection (i) may be appealed to the commissioner as provided by Sections 7.057(b), (c), (d), and (f). The student may not be returned to the regular classroom pending the appeal.

(k) Subsections (h), (i), and (j) do not apply to placements made in accordance with Subsection (a).

(l) Notwithstanding any other provision of this code, other than Section 37.007(e)(2), a student who is younger than six years of age may not be removed from class and placed in a disciplinary alternative education program.

(m) Removal to a disciplinary alternative education program under Subsection (a) is not required if the student is expelled under Section 37.007 for the same conduct for which removal would be required.

(n) A principal or other appropriate administrator may but is not required to remove a student to a disciplinary alternative education program for off-campus conduct for which removal is required under this section if the principal or other appropriate administrator does not have knowledge of the conduct before the first anniversary of the date the conduct occurred.

(o) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a principal or a principal's designee shall inform each educator who has responsibility for, or is under the direction and

supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(p) On the placement of a student in a disciplinary alternative education program under this section, the school district shall provide information to the student's parent or person standing in parental relation to the student regarding the process for requesting a full individual and initial evaluation of the student under Section 29.004.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 3, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.15, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 486, Sec. 1, eff. June 11, 2001; Acts 2003, 78th Leg., ch. 1055, Sec. 9, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 504 (H.B. 603), Sec. 3, eff. June 17, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 948 (H.B. 968), Sec. 1, eff. June 17, 2011.

Acts 2019, 86th Leg., R.S., Ch. 451 (S.B. 2135), Sec. 2, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 698 (S.B. 2432), Sec. 1, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 542 (H.B. 3928), Sec. 4, eff. June 10, 2023.

Acts 2023, 88th Leg., R.S., Ch. 797 (H.B. 114), Sec. 1, eff. September 1, 2023.

Sec. 37.0061. FUNDING FOR ALTERNATIVE EDUCATION SERVICES IN JUVENILE RESIDENTIAL FACILITIES. A school district that provides education services to pre-adjudicated and post-adjudicated students who are confined by court order in a juvenile residential facility operated by a juvenile board is entitled to count such students in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. If the district has a local revenue level greater than the guaranteed local revenue level but less than the level established under Section 48.257, the

district in which the student is enrolled on the date a court orders the student to be confined to a juvenile residential facility shall transfer to the district providing education services an amount equal to the difference between the average Foundation School Program costs per student of the district providing education services and the sum of the state aid and the money from the available school fund received by the district that is attributable to the student for the portion of the school year for which the district provides education services to the student.

Added by Acts 1997, 75th Leg., ch. 1015, Sec. 4, eff. June 19, 1997.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.041, eff. September 1, 2019.

Sec. 37.0062. INSTRUCTIONAL REQUIREMENTS FOR ALTERNATIVE EDUCATION SERVICES IN JUVENILE RESIDENTIAL FACILITIES. (a) The commissioner shall determine the instructional requirements for education services provided by a school district or open-enrollment charter school in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board or a post-adjudication secure correctional facility operated under contract with the Texas Juvenile Justice Department, including requirements relating to:

(1) the length of the school day;

(2) the number of days of instruction provided to students each school year; and

(3) the curriculum of the educational program.

(b) The commissioner shall coordinate with the Texas Juvenile Justice Department in determining the instructional requirements for education services provided under Subsection (a):

(1) in a pre-adjudication secure detention facility or a post-adjudication secure correctional facility operated by a juvenile board; and

(2) in a post-adjudication secure correctional facility operated under contract with the department.

(c) The commissioner shall adopt rules necessary to administer this section. The rules must ensure that:

(1) a student who receives education services in a pre-adjudication secure detention facility described by this section is offered courses that enable the student to maintain progress toward completing high school graduation requirements; and

(2) a student who receives education services in a post-adjudication secure correctional facility described by this section is

offered, at a minimum, the courses necessary to enable the student to complete high school graduation requirements.

(d) The Texas Juvenile Justice Department shall coordinate with the commissioner in establishing standards for:

(1) ensuring security in the provision of education services in the facilities; and

(2) providing children in the custody of the facilities access to education services.

Added by Acts 2007, 80th Leg., R.S., Ch. 615 (H.B. 425), Sec. 1, eff. September 1, 2007.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 32, eff. September 1, 2015.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.007. EXPULSION FOR SERIOUS OFFENSES. (a) Except as provided by Subsection (k) and subject to the requirements of Section 37.009(a), a student shall be expelled from a school if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Section 46.02, Penal Code, or elements of an offense relating to prohibited weapons under Section 46.05, Penal Code;

(2) engages in conduct that contains the elements of the offense of:

(A) aggravated assault under Section 22.02, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;

(B) arson under Section 28.02, Penal Code;

(C) murder under Section 19.02, Penal Code, capital murder under Section 19.03, Penal Code, or criminal attempt, under Section 15.01, Penal Code, to commit murder or capital murder;

(D) indecency with a child under Section 21.11, Penal Code;

(E) aggravated kidnapping under Section 20.04, Penal Code;

(F) aggravated robbery under Section 29.03, Penal Code;

(G) manslaughter under Section 19.04, Penal Code;

(H) criminally negligent homicide under Section 19.05, Penal Code; or

(I) continuous sexual abuse of young child or disabled individual under Section 21.02, Penal Code; or

(3) engages in conduct specified by Section 37.006(a)(2)(C), if the conduct is punishable as a felony.

(b) A student may be expelled if the student:

(1) engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Section 42.06, Penal Code, or terroristic threat under Section 22.07, Penal Code;

(2) while on or within 300 feet of school property, as measured from any point on the school's real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

(A) sells, gives, or delivers to another person or possesses, uses, or is under the influence of any amount of:

(i) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(ii) a dangerous drug, as defined by Chapter 483, Health and Safety Code; or

(iii) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code;

(B) engages in conduct that contains the elements of an offense relating to an abusable volatile chemical under Sections 485.031 through 485.034, Health and Safety Code;

(C) engages in conduct that contains the elements of an offense under Section 22.01(a)(1), Penal Code, against a school district employee or a volunteer as defined by Section 22.053; or

(D) engages in conduct that contains the elements of the offense of deadly conduct under Section 22.05, Penal Code;

(3) subject to Subsection (d), while within 300 feet of school property, as measured from any point on the school's real property boundary line:

(A) engages in conduct specified by Subsection (a); or

(B) possesses a firearm, as defined by 18 U.S.C. Section 921;

(4) engages in conduct that contains the elements of any offense listed in Subsection (a)(2)(A) or (C) or the offense of aggravated robbery under Section 29.03, Penal Code, against another student, without regard to whether the conduct occurs on or off of school property or while attending

a school-sponsored or school-related activity on or off of school property; or

(5) engages in conduct that contains the elements of the offense of breach of computer security under Section 33.02, Penal Code, if:

(A) the conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and

(B) the student knowingly:

(i) alters, damages, or deletes school district property or information; or

(ii) commits a breach of any other computer, computer network, or computer system.

(c) A student may be expelled if the student, while placed in a disciplinary alternative education program, engages in documented serious misbehavior while on the program campus despite documented behavioral interventions. For purposes of this subsection, "serious misbehavior" means:

(1) deliberate violent behavior that poses a direct threat to the health or safety of others;

(2) extortion, meaning the gaining of money or other property by force or threat;

(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or

(4) conduct that constitutes the offense of:

(A) public lewdness under Section 21.07, Penal Code;

(B) indecent exposure under Section 21.08, Penal Code;

(C) criminal mischief under Section 28.03, Penal Code;

(D) personal hazing under Section 37.152; or

(E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.

(d) A student shall be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (a), and may be expelled if the student engages in conduct that contains the elements of any offense listed in Subsection (b)(2)(C), against any employee or volunteer in retaliation for or as a result of the person's employment or association with a school district, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property.

(e) In accordance with 20 U.S.C. Section 7151, a local educational agency, including a school district, home-rule school district, or open-

enrollment charter school, shall expel a student who brings a firearm, as defined by 18 U.S.C. Section 921, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that:

(1) the superintendent or other chief administrative officer of the school district or of the other local educational agency, as defined by 20 U.S.C. Section 7801, may modify the length of the expulsion in the case of an individual student;

(2) the district or other local educational agency shall provide educational services to an expelled student in a disciplinary alternative education program as provided by Section 37.008 if the student is younger than 10 years of age on the date of expulsion; and

(3) the district or other local educational agency may provide educational services to an expelled student who is 10 years of age or older in a disciplinary alternative education program as provided in Section 37.008.

(f) A student who engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, may be expelled at the district's discretion if the conduct is punishable as a felony under that section. The student shall be referred to the authorized officer of the juvenile court regardless of whether the student is expelled.

(g) In addition to any notice required under Article 15.27, Code of Criminal Procedure, a school district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in any violation listed in this section of the student's misconduct. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The State Board for Educator Certification may revoke or suspend the certification of an educator who intentionally violates this subsection.

(h) Subject to Subsection (e), notwithstanding any other provision of this section, a student who is younger than 10 years of age may not be expelled for engaging in conduct described by this section.

(i) A student who engages in conduct described by Subsection (a) may be expelled from school by the district in which the student attends school if the student engages in that conduct:

(1) on school property of another district in this state; or

(2) while attending a school-sponsored or school-related activity of a school in another district in this state.

(k) A student may not be expelled solely on the basis of the student's use, exhibition, or possession of a firearm that occurs:

(1) at an approved target range facility that is not located on a school campus; and

(2) while participating in or preparing for a school-sponsored shooting sports competition or a shooting sports educational activity that is sponsored or supported by the Parks and Wildlife Department or a shooting sports sanctioning organization working with the department.

(l) Subsection (k) does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored shooting sports competition or a shooting sports educational activity described by that subsection.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 5, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 542, Sec. 1, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 486, Sec. 2, eff. June 11, 2001; Acts 2003, 78th Leg., ch. 225, Sec. 1, eff. June 18, 2003; Acts 2003, 78th Leg., ch. 443, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1055, Sec. 10, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 504 (H.B. 603), Sec. 4, eff. June 17, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 5.004, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.26, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 338 (H.B. 1020), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 948 (H.B. 968), Sec. 2, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 963 (H.B. 1224), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 1267 (S.B. 107), Sec. 3, eff. June 20, 2015.

Acts 2021, 87th Leg., R.S., Ch. 221 (H.B. 375), Sec. 2.16, eff. September 1, 2021.

Acts 2023, 88th Leg., R.S., Ch. 797 (H.B. 114), Sec. 2, eff. September 1, 2023.

Sec. 37.008. DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS.

(a) Each school district shall provide a disciplinary alternative education program that:

(1) is provided in a setting other than a student's regular classroom;

(2) is located on or off of a regular school campus;

(3) provides for the students who are assigned to the disciplinary alternative education program to be separated from students who are not assigned to the program;

(4) focuses on English language arts, mathematics, science, history, and self-discipline;

(5) provides for students' educational and behavioral needs;

(6) provides supervision and counseling; and

(7) employs only teachers who meet all certification requirements established under Subchapter B, Chapter 21.

(a-1) The agency shall adopt minimum standards for the operation of disciplinary alternative education programs, including standards relating to:

(1) student/teacher ratios;

(2) student health and safety;

(3) reporting of abuse, neglect, or exploitation of students;

(4) training for teachers in behavior management and safety procedures; and

(5) planning for a student's transition from a disciplinary alternative education program to a regular campus.

(b) A disciplinary alternative education program may provide for a student's transfer to:

(1) a different campus;

(2) a school-community guidance center; or

(3) a community-based alternative school.

(c) An off-campus disciplinary alternative education program is not subject to a requirement imposed by this title, other than a limitation on liability, a reporting requirement, or a requirement imposed by this chapter or by Chapter 39 or 39A.

(d) A school district may provide a disciplinary alternative education program jointly with one or more other districts.

(e) Each school district shall cooperate with government agencies and community organizations that provide services in the district to students placed in a disciplinary alternative education program.

(f) A student removed to a disciplinary alternative education program is counted in computing the average daily attendance of students in the

district for the student's time in actual attendance in the program.

(g) A school district shall allocate to a disciplinary alternative education program the same expenditure per student attending the disciplinary alternative education program, including federal, state, and local funds, that would be allocated to the student's school if the student were attending the student's regularly assigned education program, including a special education program.

(h) A school district may not place a student, other than a student suspended as provided under Section 37.005 or expelled as provided under Section 37.007, in an unsupervised setting as a result of conduct for which a student may be placed in a disciplinary alternative education program.

(i) On request of a school district, a regional education service center may provide to the district information on developing a disciplinary alternative education program that takes into consideration the district's size, wealth, and existing facilities in determining the program best suited to the district.

(j) If a student placed in a disciplinary alternative education program enrolls in another school district before the expiration of the period of placement, the board of trustees of the district requiring the placement shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the placement order. The district in which the student enrolls shall inform each educator who will have responsibility for, or will be under the direction and supervision of an educator who will have responsibility for, the instruction of the student of the contents of the placement order. Each educator shall keep the information received under this subsection confidential from any person not entitled to the information under this subsection, except that the educator may share the information with the student's parent or guardian as provided for by state or federal law. The district in which the student enrolls may continue the disciplinary alternative education program placement under the terms of the order or may allow the student to attend regular classes without completing the period of placement. A district may take any action permitted by this subsection if:

(1) the student was placed in a disciplinary alternative education program by an open-enrollment charter school under Section 12.131 and the charter school provides to the district a copy of the placement order; or

(2) the student was placed in a disciplinary alternative education program by a school district in another state and:

(A) the out-of-state district provides to the district a copy of the placement order; and

(B) the grounds for the placement by the out-of-state district are grounds for placement in the district in which the student is enrolling.

(j-1) If a student was placed in a disciplinary alternative education program by a school district in another state for a period that exceeds one year and a school district in this state in which the student enrolls continues the placement under Subsection (j), the district shall reduce the period of the placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(k) A program of educational and support services may be provided to a student and the student's parents when the offense involves drugs, e-cigarettes, or alcohol as specified under Section 37.006 or 37.007. A disciplinary alternative education program that provides chemical dependency treatment services must be licensed under Chapter 464, Health and Safety Code.

(l) A school district is required to provide in the district's disciplinary alternative education program a course necessary to fulfill a student's high school graduation requirements only as provided by this subsection. A school district shall offer a student removed to a disciplinary alternative education program an opportunity to complete coursework before the beginning of the next school year. The school district may provide the student an opportunity to complete coursework through any method available, including a correspondence course, distance learning, or summer school. The district may not charge the student for a course provided under this subsection.

(l-1) A school district shall provide the parents of a student removed to a disciplinary alternative education program with written notice of the district's obligation under Subsection (l) to provide the student with an opportunity to complete coursework required for graduation. The notice must:

(1) include information regarding all methods available for completing the coursework; and

(2) state that the methods are available at no cost to the student.

(m) The commissioner shall adopt rules necessary to evaluate annually the performance of each district's disciplinary alternative education program established under this subchapter. The evaluation required by this section shall be based on indicators defined by the commissioner, but must include student performance on assessment instruments required under Sections 39.023(a) and (c). Academically, the mission of disciplinary alternative education programs shall be to enable students to perform at grade level.

(m-1) The commissioner shall develop a process for evaluating a school district disciplinary alternative education program electronically. The commissioner shall also develop a system and standards for review of the evaluation or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having inaccurate disciplinary alternative education program data or of failing to comply with disciplinary alternative education program requirements. The commissioner shall notify the board of trustees of a district of any objection the commissioner has to the district's disciplinary alternative education program data or of a violation of a law or rule revealed by the data, including any violation of disciplinary alternative education program requirements, or of any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of disciplinary alternative education program data.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 6, eff. June 19, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.16, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1112, Sec. 1, eff. June 18, 1999; Acts 2003, 78th Leg., ch. 631, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1055, Sec. 11, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 504 (H.B. 603), Sec. 5, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1171 (H.B. 426), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 1316 (S.B. 49), Sec. 1, eff. June 17, 2011.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 21.003(19), eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 851 (H.B. 2442), Sec. 7, eff. June 15, 2017.

Acts 2023, 88th Leg., R.S., Ch. 797 (H.B. 114), Sec. 3, eff. September 1, 2023.

Sec. 37.0081. EXPULSION AND PLACEMENT OF CERTAIN STUDENTS IN ALTERNATIVE SETTINGS. (a) Subject to Subsection (h), but notwithstanding any other provision of this subchapter, the board of trustees of a school district, or the board's designee, after an opportunity for a hearing may expel a student and elect to place the student in an alternative setting as provided by Subsection (a-1) if:

(1) the student:

(A) has received deferred prosecution under Section 53.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(B) has been found by a court or jury to have engaged in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(C) is charged with engaging in conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(D) has been referred to a juvenile court for allegedly engaging in delinquent conduct under Section 54.03, Family Code, for conduct defined as:

(i) a felony offense in Title 5, Penal Code; or

(ii) the felony offense of aggravated robbery under Section 29.03, Penal Code;

(E) has received probation or deferred adjudication for a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code;

(F) has been convicted of a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; or

(G) has been arrested for or charged with a felony offense under Title 5, Penal Code, or the felony offense of aggravated robbery under Section 29.03, Penal Code; and

(2) the board or the board's designee determines that the student's presence in the regular classroom:

(A) threatens the safety of other students or teachers;

(B) will be detrimental to the educational process; or

(C) is not in the best interests of the district's students.

(a-1) The student must be placed in:

(1) a juvenile justice alternative education program, if the school district is located in a county that operates a juvenile justice alternative education program or the school district contracts with the juvenile board of another county for the provision of a juvenile justice alternative education program; or

(2) a disciplinary alternative education program.

(b) Any decision of the board of trustees or the board's designee under this section is final and may not be appealed.

(c) The board of trustees or the board's designee may expel the student and order placement in accordance with this section regardless of:

(1) the date on which the student's conduct occurred;

(2) the location at which the conduct occurred;

(3) whether the conduct occurred while the student was enrolled in the district; or

(4) whether the student has successfully completed any court disposition requirements imposed in connection with the conduct.

(d) Notwithstanding Section 37.009(c) or (d) or any other provision of this subchapter, a student expelled and ordered placed in an alternative setting by the board of trustees or the board's designee is subject to that placement until:

(1) the student graduates from high school;

(2) the charges described by Subsection (a)(1) are dismissed or reduced to a misdemeanor offense; or

(3) the student completes the term of the placement or is assigned to another program.

(e) A student placed in an alternative setting in accordance with this section is entitled to the periodic review prescribed by Section 37.009(e).

(f) Subsection (d) continues to apply to the student if the student transfers to another school district in the state.

(g) The board of trustees shall reimburse a juvenile justice alternative education program in which a student is placed under this section for the actual cost incurred each day for the student while the student is enrolled in the program. For purposes of this subsection:

(1) the actual cost incurred each day for the student is determined by the juvenile board of the county operating the program; and

(2) the juvenile board shall determine the actual cost each day of the program based on the board's annual audit.

(h) To the extent of a conflict between this section and Section 37.007, Section 37.007 prevails.

Added by Acts 2003, 78th Leg., ch. 1055, Sec. 12, eff. June 20, 2003. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 1, eff. June 15, 2007.

Acts 2011, 82nd Leg., R.S., Ch. 948 (H.B. 968), Sec. 3, eff. June 17, 2011.

Sec. 37.0082. ASSESSMENT OF ACADEMIC GROWTH OF STUDENTS IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAMS. (a) To assess a student's academic growth during placement in a disciplinary alternative education program, a school district shall administer to a student placed in a program for a period of 90 school days or longer an assessment instrument approved by the commissioner for that purpose. The instrument shall be administered:

(1) initially on placement of the student in the program; and

(2) subsequently on the date of the student's departure from the program, or as near that date as possible.

(b) The assessment instrument required by this section:

(1) must be designed to assess at least a student's basic skills in reading and mathematics;

(2) may be:

(A) comparable to any assessment instrument generally administered to students placed in juvenile justice alternative education programs for a similar purpose; or

(B) based on an appropriate alternative assessment instrument developed by the agency to measure student academic growth; and

(3) is in addition to the assessment instruments required to be administered under Chapter 39.

(c) The commissioner shall adopt rules necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 2, eff. June 15, 2007.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.009. CONFERENCE; HEARING; REVIEW.

(a) Not later than the third class day after the day on which a student is removed from class by the teacher under Section 37.002(b) or (d) or by the school principal or other appropriate administrator under Section 37.001(a)(2) or 37.006, the campus behavior coordinator or other appropriate administrator shall schedule a conference among the campus behavior coordinator or other appropriate administrator, a parent or guardian of the student, the teacher removing the student from class, if any, and the student. At the conference, the student is entitled to written or oral notice of the reasons for the removal, an explanation of the basis for the removal, and an opportunity to respond to the reasons for the removal. The student may not be returned to the regular classroom pending the conference. Following the conference, and whether or not each requested person is in attendance after valid attempts to require the person's attendance, the campus behavior coordinator, after consideration of the factors under Section 37.001(a)(4), shall order the placement of the student for a period consistent with the student code of conduct. Before ordering the suspension, expulsion, removal to a disciplinary alternative education program, or placement in a juvenile justice alternative education program of a student, the behavior coordinator must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the decision of the behavior coordinator concerns a mandatory or discretionary action. If school district policy allows a student to appeal to the board of trustees or the board's designee a decision of the campus behavior coordinator or other appropriate administrator, other than an expulsion under Section 37.007, the decision of the board or the board's designee is final and may not be appealed. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed

one year unless, after a review, the district determines that the student is a threat to the safety of other students or to district employees.

(a-1) If a disciplinary alternative education program is at capacity at the time a campus behavior coordinator is deciding placement under Subsection (a) for a student who engaged in conduct described under Section 37.006(a)(2)(C-1), (C-2), (D), or (E), the student shall be:

(1) placed in in-school suspension; and

(2) if a position becomes available in the program before the expiration of the period of the placement, transferred to the program for the remainder of the period.

(a-2) If a disciplinary alternative education program is at capacity at the time a campus behavior coordinator is deciding placement under Subsection (a) for a student who engaged in conduct described under Section 37.007 that constitutes violent conduct, as defined by commissioner rule, a student who has been placed in the program for conduct described under Section 37.006(a)(2)(C-1), (C-2), (D), or (E):

(1) may be removed from the program and placed in in-school suspension to make a position in the program available for the student who engaged in violent conduct; and

(2) if removed from the program under Subdivision (1) and a position in the program becomes available before the expiration of the period of the placement, shall be returned to the program for the remainder of the period.

(b) If a student's placement in a disciplinary alternative education program is to extend beyond 60 days or the end of the next grading period, whichever is earlier, a student's parent or guardian is entitled to notice of and an opportunity to participate in a proceeding before the board of trustees of the school district or the board's designee, as provided by policy of the board of trustees of the district. Any decision of the board or the board's designee under this subsection is final and may not be appealed.

(c) Before it may place a student in a disciplinary alternative education program for a period that extends beyond the end of the school year, the board or the board's designee must determine that:

(1) the student's presence in the regular classroom program or at the student's regular campus presents a danger of physical harm to the student or to another individual; or

(2) the student has engaged in serious or persistent misbehavior that violates the district's student code of conduct.

(d) The board or the board's designee shall set a term for a student's placement in a disciplinary alternative education program. If the period of the placement is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of the placement may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(e) A student placed in a disciplinary alternative education program shall be provided a review of the student's status, including a review of the student's academic status, by the board's designee at intervals not to exceed 120 days. In the case of a high school student, the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The district is not required under this subsection to provide a course in the district's disciplinary alternative education program except as required by Section 37.008(l). At the review, the student or the student's parent or guardian must be given the opportunity to present arguments for the student's return to the regular classroom or campus. The student may not be returned to the classroom of the teacher who removed the student without that teacher's consent. The teacher may not be coerced to consent.

(f) Before a student may be expelled under Section 37.007, the board or the board's designee must provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. At the hearing, the student is entitled to be represented by the student's parent or guardian or another adult who can provide guidance to the student and who is not an employee of the school district. If the school district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends. Before ordering the expulsion of a student, the board of trustees must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student's disciplinary history, and whether the student has a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct, regardless of whether the

decision of the board concerns a mandatory or discretionary action. If the decision to expel a student is made by the board's designee, the decision may be appealed to the board. The decision of the board may be appealed by trial de novo to a district court of the county in which the school district's central administrative office is located.

(g) The board or the board's designee shall deliver to the student and the student's parent or guardian a copy of the order placing the student in a disciplinary alternative education program under Section 37.001, 37.002, or 37.006 or expelling the student under Section 37.007.

(h) If the period of an expulsion is inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5), the order must give notice of the inconsistency. The period of an expulsion may not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

After a school district notifies the parents or guardians of a student that the student has been expelled, the parent or guardian shall provide adequate supervision of the student during the period of expulsion.

(i) If a student withdraws from the district before an order for placement in a disciplinary alternative education program or expulsion is entered under this section, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the placement or expulsion that has been served by the student on enrollment in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order.

(j) If, during the term of a placement or expulsion ordered under this section, a student engages in additional conduct for which placement in a disciplinary alternative education program or expulsion is required or permitted, additional proceedings may be conducted under this section regarding that conduct and the principal or board, as appropriate, may enter an additional order as a result of those proceedings.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 7, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1055, Sec. 13, eff. June 20, 2003.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1267 (S.B. 107), Sec. 4, eff. June 20, 2015.

Acts 2023, 88th Leg., R.S., Ch. 797 (H.B. 114), Sec. 4, eff. September 1, 2023.

Sec. 37.0091. NOTICE TO NONCUSTODIAL PARENT. (a) A noncustodial parent may request in writing that a school district or school, for the remainder of the school year in which the request is received, provide that parent with a copy of any written notification relating to student misconduct under Section 37.006 or 37.007 that is generally provided by the district or school to a student's parent or guardian.

(b) A school district or school may not unreasonably deny a request authorized by Subsection (a).

(c) Notwithstanding any other provision of this section, a school district or school shall comply with any applicable court order of which the district or school has knowledge.

Added by Acts 2003, 78th Leg., ch. 1055, Sec. 14, eff. June 20, 2003.

Sec. 37.010. COURT INVOLVEMENT. (a) Not later than the second business day after the date a hearing is held under Section 37.009, the board of trustees of a school district or the board's designee shall deliver a copy of the order placing a student in a disciplinary alternative education program under Section 37.006 or expelling a student under Section 37.007 and any information required under Section 52.04, Family Code, to the authorized officer of the juvenile court in the county in which the student resides. In a county that operates a program under Section 37.011, an expelled student shall to the extent provided by law or by the memorandum of understanding immediately attend the educational program from the date of expulsion, except that in a county with a population greater than 125,000, every expelled student who is not detained or receiving treatment under an order of the juvenile court must be enrolled in an educational program.

(b) If a student is expelled under Section 37.007(c), the board or its designee shall refer the student to the authorized officer of the juvenile court for appropriate proceedings under Title 3, Family Code.

(c) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding with the district's board of trustees concerning the juvenile probation department's role in supervising and providing other support

services for students in disciplinary alternative education programs, a court may not order a student expelled under Section 37.007 to attend a regular classroom, a regular campus, or a school district disciplinary alternative education program as a condition of probation.

(d) Unless the juvenile board for the county in which the district's central administrative office is located has entered into a memorandum of understanding as described by Subsection (c), if a court orders a student to attend a disciplinary alternative education program as a condition of probation once during a school year and the student is referred to juvenile court again during that school year, the juvenile court may not order the student to attend a disciplinary alternative education program in a district without the district's consent until the student has successfully completed any sentencing requirements the court imposes.

(e) Any placement in a disciplinary alternative education program by a court under this section must prohibit the student from attending or participating in school-sponsored or school-related activities.

(f) If a student is expelled under Section 37.007, on the recommendation of the committee established under Section 37.003 or on its own initiative, a district may readmit the student while the student is completing any court disposition requirements the court imposes. After the student has successfully completed any court disposition requirements the court imposes, including conditions of a deferred prosecution ordered by the court, or such conditions required by the prosecutor or probation department, if the student meets the requirements for admission into the public schools established by this title, a district may not refuse to admit the student, but the district may place the student in the disciplinary alternative education program. Notwithstanding Section 37.002(d), the student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

(g) If an expelled student enrolls in another school district, the board of trustees of the district that expelled the student shall provide to the district in which the student enrolls, at the same time other records of the student are provided, a copy of the expulsion order and the referral to the authorized officer of the juvenile court. The district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a disciplinary alternative education program for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of

expulsion. A district may take any action permitted by this subsection if the student was expelled by a school district in another state if:

(1) the out-of-state district provides to the district a copy of the expulsion order; and

(2) the grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

(g-1) If a student was expelled by a school district in another state for a period that exceeds one year and a school district in this state continues the expulsion or places the student in a disciplinary alternative education program under Subsection (g), the district shall reduce the period of the expulsion or placement so that the aggregate period does not exceed one year unless, after a review, the district determines that:

(1) the student is a threat to the safety of other students or to district employees; or

(2) extended placement is in the best interest of the student.

(h) A person is not liable in civil damages for a referral to juvenile court as required by this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 8, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1055, Sec. 15, eff. June 20, 2003.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.011. JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) The juvenile board of a county with a population greater than 125,000 shall develop a juvenile justice alternative education program, subject to the approval of the Texas Juvenile Justice Department. The juvenile board of a county with a population of 125,000 or less may develop a juvenile justice alternative education program. For the purposes of this subchapter, only a disciplinary alternative education program operated under the authority of a juvenile board of a county is considered a juvenile justice alternative education program. A juvenile justice alternative education program in a county with a population of 125,000 or less:

(1) is not required to be approved by the department; and

(2) is not subject to Subsection (c), (d), (f), or (g).

(a-1) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if:

(1) the county had a population of 125,000 or less according to the 2000 federal census; and

(2) the juvenile board of the county enters into, with the approval of the Texas Juvenile Justice Department, a memorandum of understanding with each school district within the county that:

(A) outlines the responsibilities of the board and school districts in minimizing the number of students expelled without receiving alternative educational services; and

(B) includes the coordination procedures required by Section 37.013.

(a-2) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of 195,000 or less;

(2) is adjacent to two counties, each of which has a population of more than 1.7 million; and

(3) has seven or more school districts located wholly within the county's boundaries.

(a-3) For purposes of this section and Section 37.010(a), a county with a population greater than 125,000 is considered to be a county with a population of 125,000 or less if the county:

(1) has a population of more than 200,000 and less than 233,500;

(2) has five or more school districts located wholly within the county's boundaries; and

(3) has located in the county a juvenile justice alternative education program that, on May 1, 2011, served fewer than 15 students.

(a-4) A school district located in a county considered to be a county with a population of 125,000 or less under Subsection (a-3) shall provide educational services to a student who is expelled from school under this chapter. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

(1) the district's disciplinary alternative education program; or

(2) a contracted placement with:

(A) another school district;

(B) an open-enrollment charter school;

(C) an institution of higher education;

(D) an adult literacy council; or

(E) a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

(a-5) For purposes of Subsection (a-4), an educational placement other than a school district's disciplinary alternative education program is subject to the educational and certification requirements applicable to an open-enrollment charter school under Subchapter D, Chapter 12.

(b) If a student admitted into the public schools of a school district under Section 25.001(b) is expelled from school for conduct for which expulsion is required under Section 37.007(a), (d), or (e), or for conduct that contains the elements of the offense of terroristic threat as described by Section 22.07(c-1), (d), or (e), Penal Code, the juvenile court, the juvenile board, or the juvenile board's designee, as appropriate, shall:

(1) if the student is placed on probation under Section 54.04, Family Code, order the student to attend the juvenile justice alternative education program in the county in which the student resides from the date of disposition as a condition of probation, unless the child is placed in a post-adjudication treatment facility;

(2) if the student is placed on deferred prosecution under Section 53.03, Family Code, by the court, prosecutor, or probation department, require the student to immediately attend the juvenile justice alternative education program in the county in which the student resides for a period not to exceed six months as a condition of the deferred prosecution;

(3) in determining the conditions of the deferred prosecution or court-ordered probation, consider the length of the school district's expulsion order for the student; and

(4) provide timely educational services to the student in the juvenile justice alternative education program in the county in which the student resides, regardless of the student's age or whether the juvenile court has jurisdiction over the student.

(b-1) Subsection (b)(4) does not require that educational services be provided to a student who is not entitled to admission into the public schools of a school district under Section 25.001(b).

(c) A juvenile justice alternative education program shall adopt a student code of conduct in accordance with Section 37.001.

(d) A juvenile justice alternative education program must focus on English language arts, mathematics, science, social studies, and self-discipline. Each school district shall consider course credit earned by a

student while in a juvenile justice alternative education program as credit earned in a district school. Each program shall administer assessment instruments under Subchapter B, Chapter 39, and shall offer a high school equivalency program. The juvenile board or the board's designee, with the parent or guardian of each student, shall regularly review the student's academic progress. In the case of a high school student, the board or the board's designee, with the student's parent or guardian, shall review the student's progress towards meeting high school graduation requirements and shall establish a specific graduation plan for the student. The program is not required to provide a course necessary to fulfill a student's high school graduation requirements other than a course specified by this subsection.

(e) A juvenile justice alternative education program may be provided in a facility owned by a school district. A school district may provide personnel and services for a juvenile justice alternative education program under a contract with the juvenile board.

(f) A juvenile justice alternative education program must operate at least seven hours per day and 180 days per year, except that a program may apply to the Texas Juvenile Justice Department for a waiver of the 180-day requirement. The department may not grant a waiver to a program under this subsection for a number of days that exceeds the highest number of instructional days waived by the commissioner during the same school year for a school district served by the program.

(g) A juvenile justice alternative education program shall be subject to a written operating policy developed by the local juvenile justice board and submitted to the Texas Juvenile Justice Department for review and comment. A juvenile justice alternative education program is not subject to a requirement imposed by this title, other than a reporting requirement or a requirement imposed by this chapter or by Chapter 39 or 39A.

(h) Academically, the mission of juvenile justice alternative education programs shall be to enable students to perform at grade level. For purposes of accountability under Chapters 39 and 39A, a student enrolled in a juvenile justice alternative education program is reported as if the student were enrolled at the student's assigned campus in the student's regularly assigned education program, including a special education program. Annually the Texas Juvenile Justice Department, with the agreement of the commissioner, shall develop and implement a system of accountability consistent with Chapters 39 and 39A, where appropriate, to assure that students make progress toward grade level while attending a juvenile justice alternative education program. The department shall adopt

rules for the distribution of funds appropriated under this section to juvenile boards in counties required to establish juvenile justice alternative education programs. Except as determined by the commissioner, a student served by a juvenile justice alternative education program on the basis of an expulsion required under Section 37.007(a), (d), or (e) is not eligible for Foundation School Program funding under Chapter 31 or 48 if the juvenile justice alternative education program receives funding from the department under this subchapter.

(i) A student transferred to a juvenile justice alternative education program must participate in the program for the full period ordered by the juvenile court unless the student's school district agrees to accept the student before the date ordered by the juvenile court. The juvenile court may not order a period of transfer under this section that exceeds the term of any probation ordered by the juvenile court.

(j) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's professional employees and volunteers are immune from liability to the same extent as a school district's professional employees and volunteers.

(k) Each school district in a county with a population greater than 125,000 and the county juvenile board shall annually enter into a joint memorandum of understanding that:

(1) outlines the responsibilities of the juvenile board concerning the establishment and operation of a juvenile justice alternative education program under this section;

(2) defines the amount and conditions on payments from the school district to the juvenile board for students of the school district served in the juvenile justice alternative education program whose placement was not made on the basis of an expulsion required under Section 37.007(a), (d), or (e);

(3) establishes that a student may be placed in the juvenile justice alternative education program if the student engages in serious misbehavior, as defined by Section 37.007(c);

(4) identifies and requires a timely placement and specifies a term of placement for expelled students for whom the school district has received a notice under Section 52.041(d), Family Code;

(5) establishes services for the transitioning of expelled students to the school district prior to the completion of the student's placement in the juvenile justice alternative education program;

(6) establishes a plan that provides transportation services for students placed in the juvenile justice alternative education program;

(7) establishes the circumstances and conditions under which a juvenile may be allowed to remain in the juvenile justice alternative education program setting once the juvenile is no longer under juvenile court jurisdiction; and

(8) establishes a plan to address special education services required by law.

(l) The school district shall be responsible for providing an immediate educational program to students who engage in behavior resulting in expulsion under Section 37.007(b) and (f) but who are not eligible for admission into the juvenile justice alternative education program in accordance with the memorandum of understanding required under this section. The school district may provide the program or the school district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program. The memorandum of understanding shall address the circumstances under which such students who continue to engage in serious misbehavior, as defined by Section 37.007(c), shall be admitted into the juvenile justice alternative education program.

(m) Each school district in a county with a population greater than 125,000 and the county juvenile board shall adopt a joint memorandum of understanding as required by this section not later than September 1 of each school year.

(n) If a student who is ordered to attend a juvenile justice alternative education program moves from one county to another, the juvenile court may request the juvenile justice alternative education program in the county to which the student moves to provide educational services to the student in accordance with the local memorandum of understanding between the school district and juvenile board in the receiving county.

(o) In relation to the development and operation of a juvenile justice alternative education program, a juvenile board and a county and a commissioners court are immune from liability to the same extent as a school district, and the juvenile board's or county's employees and volunteers are immune from liability to the same extent as a school district's employees and volunteers.

(p) If a district elects to contract with the juvenile board for placement in the juvenile justice alternative education program of students expelled under Section 37.007(b), (c), and (f) and the juvenile board and

district are unable to reach an agreement in the memorandum of understanding, either party may request that the issues of dispute be referred to a binding arbitration process that uses a qualified alternative dispute resolution arbitrator in which each party will pay its pro rata share of the arbitration costs. Each party must submit its final proposal to the arbitrator. If the parties cannot agree on an arbitrator, the juvenile board shall select an arbitrator, the school districts shall select an arbitrator, and those two arbitrators shall select an arbitrator who will decide the issues in dispute. An arbitration decision issued under this subsection is enforceable in a court in the county in which the juvenile justice alternative education program is located. Any decision by an arbitrator concerning the amount of the funding for a student who is expelled and attending a juvenile justice alternative education program must provide an amount sufficient based on operation of the juvenile justice alternative education program in accordance with this chapter. In determining the amount to be paid by a school district for an expelled student enrolled in a juvenile justice alternative education program, the arbitrator shall consider the relevant factors, including evidence of:

(1) the actual average total per student expenditure in the district's alternative education setting;

(2) the expected per student cost in the juvenile justice alternative education program as described and agreed on in the memorandum of understanding and in compliance with this chapter; and

(3) the costs necessary to achieve the accountability goals under this chapter.

(q) In accordance with rules adopted by the board of trustees for the Teacher Retirement System of Texas, a certified educator employed by a juvenile board in a juvenile justice alternative education program shall be eligible for membership and participation in the system to the same extent that an employee of a public school district is eligible. The juvenile board shall make any contribution that otherwise would be the responsibility of the school district if the person were employed by the school district, and the state shall make any contribution to the same extent as if the person were employed by a school district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 9, eff. June 19, 1997; Acts 1997, 75th Leg., ch. 1282, Sec. 1, eff. June 20, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.17, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1225, Sec. 2, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 1055, Sec. 16, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 376 (H.B. 1425), Sec. 1, eff. June 19, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 235 (H.B. 592), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 948 (H.B. 968), Sec. 4, eff. June 17, 2011.

Acts 2011, 82nd Leg., 1st C.S., Ch. 4 (S.B. 1), Sec. 70.01, eff. September 28, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 33, eff. September 1, 2015.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 21.003(20), eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 3.042, eff. September 1, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1150 (H.B. 3012), Sec. 2, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 644 (H.B. 4559), Sec. 19, eff. September 1, 2023.

Sec. 37.012. FUNDING OF JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAMS. (a) Subject to Section 37.011(n), the school district in which a student is enrolled on the date the student is expelled for conduct for which expulsion is permitted but not required under Section 37.007 shall, if the student is served by the juvenile justice alternative education program, provide funding to the juvenile board for the portion of the school year for which the juvenile justice alternative education program provides educational services in an amount determined by the memorandum of understanding under Section 37.011(k)(2).

(b) Funds received under this section must be expended on juvenile justice alternative education programs.

(c) The Office of State-Federal Relations shall assist a local juvenile probation department in identifying additional state or federal funds to assist local juvenile probation departments conducting educational or job training programs within juvenile justice alternative education programs.

(d) A school district is not required to provide funding to a juvenile board for a student who is assigned by a court to a juvenile justice alternative education program but who has not been expelled.

(e) Except as otherwise authorized by law, a juvenile justice alternative education program may not require a student or the parent or guardian of a student to pay any fee, including an entrance fee or supply fee, for participating in the program.

(f) Notwithstanding any other law, for purposes of any budget reductions requested by the Legislative Budget Board or the governor, any money received by a local juvenile probation department or appropriated to the Texas Juvenile Justice Department for purposes of operating a juvenile justice alternative education program is considered to be part of the foundation school program and is not subject to those budget reductions.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 1015, Sec. 10, eff. June 19, 1997; Acts 2003, 78th Leg., ch. 1055, Sec. 17, eff. June 20, 2003.
Amended by:

Acts 2005, 79th Leg., Ch. 964 (H.B. 1687), Sec. 1, eff. June 18, 2005.

Acts 2021, 87th Leg., R.S., Ch. 489 (H.B. 3456), Sec. 5, eff. June 14, 2021.

Sec. 37.013. COORDINATION BETWEEN SCHOOL DISTRICTS AND JUVENILE BOARDS. The board of trustees of the school district or the board's designee shall at the call of the president of the board of trustees regularly meet with the juvenile board for the county in which the district's central administrative office is located or the juvenile board's designee concerning supervision and rehabilitative services appropriate for expelled students and students assigned to disciplinary alternative education programs. Matters for discussion shall include service by probation officers at the disciplinary alternative education program site, recruitment of volunteers to serve as mentors and provide tutoring services, and coordination with other social service agencies.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 18, eff. June 20, 2003.

Sec. 37.014. COURT-RELATED CHILDREN--LIAISON OFFICERS. Each school district shall appoint at least one educator to act as liaison officer for court-related children who are enrolled in the district. The liaison officer shall provide counselling and services for each court-related child and the child's parents to establish or reestablish normal attendance and progress of the child in the school.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.015. REPORTS TO LOCAL LAW ENFORCEMENT; LIABILITY. (a) The principal of a public or private primary or secondary school, or a person designated by the principal under Subsection (d), shall notify any school district police department and the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if the principal has reasonable grounds to believe that any of the following activities occur in school, on school property, or at a school-sponsored or school-related activity on or off school property, whether or not the activity is investigated by school security officers:

(1) conduct that may constitute an offense listed under Section 508.149, Government Code;

(2) deadly conduct under Section 22.05, Penal Code;

(3) a terroristic threat under Section 22.07, Penal Code;

(4) the use, sale, or possession of a controlled substance, drug paraphernalia, or marihuana under Chapter 481, Health and Safety Code;

(5) the possession of any of the weapons or devices listed under Sections 46.01(1)-(14) or Section 46.01(16), Penal Code;

(6) conduct that may constitute a criminal offense under Section 71.02, Penal Code; or

(7) conduct that may constitute a criminal offense for which a student may be expelled under Section 37.007(a), (d), or (e).

(b) A person who makes a notification under this section shall include the name and address of each student the person believes may have participated in the activity.

(c) A notification is not required under Subsection (a) if the person reasonably believes that the activity does not constitute a criminal offense.

(d) The principal of a public or private primary or secondary school may designate a school employee who is under the supervision of the principal to make the reports required by this section.

(e) The person who makes the notification required under Subsection (a) shall also notify each instructional or support employee of the school who has regular contact with a student whose conduct is the subject of the notice.

(f) A person is not liable in civil damages for reporting in good faith as required by this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 12.05, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1055, Sec. 19, eff. June 20, 2003.

Sec. 37.0151. REPORT TO LOCAL LAW ENFORCEMENT REGARDING CERTAIN CONDUCT CONSTITUTING ASSAULT OR HARASSMENT; LIABILITY. (a) The principal of a public primary or secondary school, or a person designated by the principal under Subsection (c), may make a report to any school district police department, if applicable, or the police department of the municipality in which the school is located or, if the school is not in a municipality, the sheriff of the county in which the school is located if, after an investigation is completed, the principal has reasonable grounds to believe that a student engaged in conduct that constitutes an offense under Section 22.01 or 42.07(a)(7), Penal Code.

(b) A person who makes a report under this section may include the name and address of each student the person believes may have participated in the conduct.

(c) The principal of a public primary or secondary school may designate a school employee, other than a school counselor, who is under the supervision of the principal to make the report under this section.

(d) A person who is not a school employee but is employed by an entity that contracts with a district or school to use school property is not required to make a report under this section and may not be designated by the principal of a public primary or secondary school to make a report. A person who voluntarily makes a report under this section is immune from civil or criminal liability.

(e) A person who takes any action under this section is immune from civil or criminal liability or disciplinary action resulting from that action.

(f) Notwithstanding any other law, this section does not create a civil, criminal, or administrative cause of action or liability or create a standard of care, obligation, or duty that provides a basis for a cause of action for an act under this section.

(g) A school district and school personnel and school volunteers are immune from suit resulting from an act under this section, including an act under related policies and procedures.

(h) An act by school personnel or a school volunteer under this section, including an act under related policies and procedures, is the

exercise of judgment or discretion on the part of the school personnel or school volunteer and is not considered to be a ministerial act for purposes of liability of the school district or the district's employees.

Added by Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 4, eff. September 1, 2017.

Sec. 37.016. REPORT OF DRUG OFFENSES; LIABILITY. A teacher, school administrator, or school employee is not liable in civil damages for reporting to a school administrator or governmental authority, in the exercise of professional judgment within the scope of the teacher's, administrator's, or employee's duties, a student whom the teacher suspects of using, passing, or selling, on school property:

(1) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code;

(2) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) an abusable glue or aerosol paint, as defined by Chapter 485, Health and Safety Code, or a volatile chemical, as listed in Chapter 484, Health and Safety Code, if the substance is used or sold for the purpose of inhaling its fumes or vapors; or

(4) an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.017. DESTRUCTION OF CERTAIN RECORDS. Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the school year in which the report was filed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.018. INFORMATION FOR EDUCATORS. Each school district shall provide each teacher and administrator with a copy of this subchapter and with a copy of the local policy relating to this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.0181. PROFESSIONAL DEVELOPMENT REGARDING DISCIPLINARY PROCEDURES. (a) Each principal or other appropriate administrator who oversees student discipline shall, at least once every three school years, attend professional development training regarding this subchapter, including training relating to the distinction between a discipline management technique used at the principal's discretion under Section 37.002(a) and the discretionary authority of a teacher to remove a disruptive student under Section 37.002(b).

(b) Professional development training under this section may be provided in coordination with regional education service centers through the use of distance learning methods, such as telecommunications networks, and using available agency resources.

Added by Acts 2013, 83rd Leg., R.S., Ch. 329 (H.B. 1952), Sec. 1, eff. June 14, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.019. EMERGENCY PLACEMENT OR EXPULSION. (a) This subchapter does not prevent the principal or the principal's designee from ordering the immediate placement of a student in a disciplinary alternative education program if the principal or the principal's designee reasonably believes the student's behavior is so unruly, disruptive, or abusive that it seriously interferes with a teacher's ability to communicate effectively with the students in a class, with the ability of the student's classmates to learn, or with the operation of school or a school-sponsored activity.

(b) This subchapter does not prevent the principal or the principal's designee from ordering the immediate expulsion of a student if the principal or the principal's designee reasonably believes that action is necessary to protect persons or property from imminent harm.

(c) At the time of an emergency placement or expulsion, the student shall be given oral notice of the reason for the action. The reason must be a reason for which placement in a disciplinary alternative education program or expulsion may be made on a nonemergency basis. Within a reasonable time after the emergency placement or expulsion, but not later than the 10th day after the date of the placement or expulsion, the student shall be accorded the appropriate due process as required under Section 37.009. If the student subject to the emergency placement or expulsion is a student with disabilities who receives special education services, the

emergency placement or expulsion is subject to federal law and regulations and must be consistent with the consequences that would apply under this subchapter to a student without a disability.

(d) A principal or principal's designee is not liable in civil damages for an emergency placement under this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2001, 77th Leg., ch. 767, Sec. 7, eff. June 13, 2001; Acts 2003, 78th Leg., ch. 1055, Sec. 20, eff. June 20, 2003.

Sec. 37.020. REPORTS RELATING TO OUT-OF-SCHOOL SUSPENSIONS, EXPULSIONS, AND DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM PLACEMENTS. (a) In the manner required by the commissioner, each school district shall annually report to the commissioner the information required by this section.

(b) For each placement in a disciplinary alternative education program established under Section 37.008, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency 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 adopted under Section 37.001;

(B) conduct for which a student may be removed from class under Section 37.002(b);

(C) conduct for which placement in a disciplinary alternative education program is required by Section 37.006; or

(D) conduct occurring while a student was enrolled in another district and for which placement in a disciplinary alternative education program is permitted by Section 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 included in the student code of conduct under Section 37.001(a)(5).

(c) For each expulsion under Section 37.007, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency 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 under Section 37.007, including information specifically indicating whether a student was expelled on the basis of Section 37.007(e); or

(B) conduct for which expulsion is permitted under Section 37.007;

(3) the number of full or partial days the student was expelled;

(4) information indicating whether:

(A) the student was placed in a juvenile justice alternative education program under Section 37.011;

(B) the student was placed in a disciplinary alternative education program; or

(C) the student was not placed in a juvenile justice or other disciplinary alternative education program; and

(5) the number of expulsions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(5).

(d) Expired.

(e) Expired.

(f) For each out-of-school suspension under Section 37.005, the district shall report:

(1) information identifying the student, including the student's race, sex, and date of birth, that will enable the agency to compare placement data with information collected through other reports;

(2) information indicating the basis for the suspension;

(3) the number of full or partial days the student was suspended; and

(4) the number of out-of-school suspensions that were inconsistent with the guidelines included in the student code of conduct under Section 37.001(a)(3).

Added by Acts 1997, 75th Leg., ch. 1015, Sec. 11, eff. June 19, 1997. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 21, eff. June 20, 2003. Amended by:

Acts 2017, 85th Leg., R.S., Ch. 691 (H.B. 156), Sec. 2, eff. June 12, 2017.

Acts 2019, 86th Leg., R.S., Ch. 1229 (H.B. 65), Sec. 1, eff. June 14, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1229 (H.B. 65), Sec. 2, eff. June 14, 2019.

Sec. 37.021. OPPORTUNITY TO COMPLETE COURSES DURING IN-SCHOOL AND CERTAIN OTHER PLACEMENTS. (a) If a school district removes a student from the regular classroom and places the student in in-school suspension or another setting other than a disciplinary alternative education program, the district shall offer the student the opportunity to complete before the beginning of the next school year each course in which the student was enrolled at the time of the removal.

(b) The district may provide the opportunity to complete courses by any method available, including a correspondence course, distance learning, or summer school.

Added by Acts 2003, 78th Leg., ch. 1055, Sec. 22, eff. June 20, 2003.

Sec. 37.022. NOTICE OF DISCIPLINARY ACTION. (a) In this section:

(1) "Disciplinary action" means a suspension, expulsion, placement in an alternative education program, or other limitation in enrollment eligibility of a student by a district or school.

(2) "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.

(b) If a district or school 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 governing body of 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.

(c) Subject to Section 37.007(e), the district or school in which the student enrolls may continue the disciplinary action under the terms of the order or may allow the student to attend regular classes without completing the period of disciplinary action.

Added by Acts 2003, 78th Leg., ch. 631, Sec. 1, eff. June 20, 2003. Renumbered from Education Code, Section 37.021 by Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 23.001(16), eff. September 1, 2005.

Sec. 37.023. TRANSITION FROM ALTERNATIVE EDUCATION PROGRAM TO REGULAR CLASSROOM. (a) In this section:

(1) "Alternative education program" includes:

(A) a disciplinary alternative education program operated by a school district or open-enrollment charter school;

(B) a juvenile justice alternative education program; and

(C) a residential program or facility operated by or under contract with the Texas Juvenile Justice Department, a juvenile board, or any other governmental entity.

(2) "Licensed clinical social worker" has the meaning assigned by Section 505.002, Occupations Code.

(b) As soon as practicable after an alternative education program determines the date of a student's release from the program, the alternative education program administrator shall:

(1) provide written notice of that date to:

(A) the student's parent or a person standing in parental relation to the student; and

(B) the administrator of the campus to which the student intends to transition; and

(2) provide the campus administrator:

(A) an assessment of the student's academic growth while attending the alternative education program; and

(B) the results of any assessment instruments administered to the student.

(c) Not later than five instructional days after the date of a student's release from an alternative education program, the campus administrator shall coordinate the student's transition to a regular classroom. The coordination must include assistance and recommendations from:

(1) school counselors;

(2) school district peace officers;

(3) school resource officers;

(4) licensed clinical social workers;

(5) campus behavior coordinators;

(6) classroom teachers who are or may be responsible for implementing the student's personalized transition plan developed under Subsection (d); and

(7) any other appropriate school district personnel.

(d) The assistance required by Subsection (c) must include a personalized transition plan for the student developed by the campus administrator. A personalized transition plan:

(1) must include:

(A) recommendations for the best educational placement of the student; and

(B) the provision of information to the student's parent or a person standing in parental relation to the student regarding the process to request a full individual and initial evaluation of the student for purposes of special education services under Section 29.004; and

(2) may include:

(A) recommendations for counseling, behavioral management, or academic assistance for the student with a concentration on the student's academic or career goals;

(B) recommendations for assistance for obtaining access to mental health services provided by the district or school, a local mental health authority, or another private or public entity; and

(C) a regular review of the student's progress toward the student's academic or career goals.

(e) If practicable, the campus administrator, or the administrator's designee, shall meet with the student's parent or a person standing in parental relation to the student to coordinate plans for the student's transition.

(f) This section applies only to a student subject to compulsory attendance requirements under Section 25.085.

Added by Acts 2019, 86th Leg., R.S., Ch. 803 (H.B. 2184), Sec. 1, eff. June 10, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 542 (H.B. 3928), Sec. 5, eff. June 10, 2023.

SUBCHAPTER B. SCHOOL-COMMUNITY GUIDANCE CENTERS

Sec. 37.051. ESTABLISHMENT. Each school district may establish a school-community guidance center designed to locate and assist children with problems that interfere with education, including juvenile offenders and children with severe behavioral problems or character disorders. Each center shall coordinate the efforts of school district personnel, local police departments, school attendance officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors that adversely affect the education of the children.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.052. COOPERATIVE PROGRAMS. The board of trustees of a school district may develop cooperative programs with state youth agencies for

children found to have engaged in delinquent conduct.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.053. COOPERATION OF GOVERNMENTAL AGENCIES. (a) Each governmental agency that is concerned with children and that has jurisdiction in the school district shall cooperate with the school-community guidance centers on the request of the superintendent of the district and shall designate a liaison to work with the centers in identifying and correcting problems affecting school-age children in the district.

(b) The governmental agency may establish or finance a school-community guidance center jointly with the school district according to terms approved by the governing body of each entity participating in the joint establishment or financing of the center.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.054. PARENTAL NOTICE, CONSENT, AND ACCESS TO INFORMATION. (a) Before a student is admitted to a school-community guidance center, the administrator of the center must notify the student's parent or guardian that the student has been assigned to attend the center.

(b) The notification must include:

(1) the reason that the student has been assigned to the center;

(2) a statement that on request the parent or guardian is entitled to be fully informed in writing of any treatment method or testing program involving the student; and

(3) a statement that the parent or guardian may request to be advised and to give written, signed consent for any psychological testing or treatment involving the student.

(c) If, after notification, a parent refuses to consent to testing or treatment of the student, the center may not provide any further psychological treatment or testing.

(d) A parent or guardian of a student attending a center is entitled to inspect:

(1) any instructional or guidance material to be used by the student, including teachers' manuals, tapes, and films; and

(2) the results of any treatment, testing, or guidance method involving the student.

(e) The administrator of the center may set a schedule for inspection of materials that allows reasonable access but does not interfere with the

conduct of classes or business activities of the school.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.055. PARENTAL INVOLVEMENT. (a) On admitting a student to a school-community guidance center, a representative of the school district, the student, and the student's parent shall develop an agreement that specifies the responsibilities of the parent and the student. The agreement must include:

(1) a statement of the student's behavioral and learning objectives;

(2) a requirement that the parent attend specified meetings and conferences for teacher review of the student's progress; and

(3) the parent's acknowledgement that the parent understands and accepts the responsibilities imposed by the agreement regarding attendance at meetings and conferences and assistance in meeting other objectives, defined by the district, to aid student remediation.

(b) The superintendent of the school district may obtain a court order from a district court in the school district requiring a parent to comply with an agreement made under this section. A parent who violates a court order issued under this subsection may be punished for contempt of court.

(c) In this section, "parent" includes a legal guardian.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.056. COURT SUPERVISION. (a) In this section, "court" means a juvenile court or alternate juvenile court designated under Chapter 51, Family Code. The court may delegate responsibility under this section to a referee appointed under Section 51.04, Family Code.

(b) If a representative of the school district, the student, and the parent or guardian for any reason fail to reach an agreement under Section 37.055, the court may, on the request of any party and after a hearing, enter an order establishing the responsibilities and duties of each of the parties as the court considers appropriate.

(c) The court may compel attendance at any hearing held under this section through any legal process, including subpoena and habeas corpus.

(d) If the parties reach an agreement under Section 37.055, and if the written agreement so provides, the court may enter an order that incorporates the terms of the agreement.

(e) Any party who violates an order issued under this section may be punished for contempt of court.

(f) A school district may enter into an agreement to share the costs incurred by a county under this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER C. LAW AND ORDER

Sec. 37.081. SCHOOL DISTRICT PEACE OFFICERS, SCHOOL RESOURCE OFFICERS, AND SECURITY PERSONNEL. (a) The board of trustees of any school district may:

(1) employ or contract with security personnel;

(2) enter into a memorandum of understanding with a local law enforcement agency or a county or municipality that is the employing political subdivision of commissioned peace officers for the provision of school resource officers;

(3) for the purposes of providing security personnel, contract with a security services contractor licensed under Chapter 1702, Occupations Code, for the provision of a commissioned security officer, as defined by Section 1702.002, Occupations Code, who has completed the Level II or III training course required by the Department of Public Safety; and

(4) commission peace officers to carry out this subchapter.

(a-1) The jurisdiction of a peace officer, a school resource officer, or security personnel under this section shall be determined by the board of trustees and may include all territory in the boundaries of the school district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the school district and the board of trustees that employ or contract with, as applicable, the peace officer or security personnel or that enter into a memorandum of understanding for the provision of a school resource officer.

(a-2) A memorandum of understanding for the provision of school resource officers entered into under Subsection (a) must:

(1) be in the form of an interlocal contract under Chapter 791, Government Code; and

(2) use a proportionate cost allocation methodology to address any costs or fees incurred by the school district or the local law enforcement agency, county, or municipality, as applicable.

(a-3) The cost allocation methodology used under Subsection (a-2)(2) may allow a local law enforcement agency, county, or municipality, as applicable, to recoup direct costs incurred as a result of the contract but

may not allow the agency, county, or municipality to profit under the contract.

(a-4) A school district, local law enforcement agency, county, or municipality that enters into a memorandum of understanding under Subsection (a) may seek funding from federal, state, and private sources to support the cost of providing school resource officers under this section.

(b) In a peace officer's jurisdiction, a peace officer commissioned under this section:

(1) has the powers, privileges, and immunities of peace officers;

(2) may enforce all laws, including municipal ordinances, county ordinances, and state laws;

(3) may, in accordance with Chapter 52, Family Code, or Article 45A.453, Code of Criminal Procedure, take a child into custody; and

(4) may dispose of cases in accordance with Section 52.03 or 52.031, Family Code.

(c) A school district peace officer may provide assistance to another law enforcement agency. A school district may contract with a political subdivision for the jurisdiction of a school district peace officer to include all territory in the jurisdiction of the political subdivision.

(d) The board of trustees of the school district shall determine the law enforcement duties of peace officers, school resource officers, and security personnel. The duties must be included in:

(1) the district improvement plan under Section 11.252;

(2) the student code of conduct adopted under Section 37.001;

(3) any memorandum of understanding providing for a school resource officer; and

(4) any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

(d-1) A school district peace officer, a school resource officer, and security personnel shall perform law enforcement duties for the school district that must include protecting:

(1) the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel; and

(2) the property of the school district.

(d-2) A school district may not assign or require as duties of a school district peace officer, a school resource officer, or security personnel:

(1) routine student discipline or school administrative tasks; or

(2) contact with students unrelated to the law enforcement duties of the peace officer, resource officer, or security personnel.

(d-3) This section does not prohibit a school district peace officer, a school resource officer, or security personnel from informal contact with a student unrelated to:

(1) the assigned duties of the officer or security personnel; or

(2) an incident involving student behavior or law enforcement.

(d-4) In determining the law enforcement duties under Subsection (d), the board of trustees of the school district shall coordinate with district campus behavior coordinators and other district employees to ensure that school district peace officers, school resource officers, and security personnel are tasked only with duties related to law enforcement intervention and not tasked with behavioral or administrative duties better addressed by other district employees.

(e) The board of trustees of the district shall determine the scope of the on-duty and off-duty law enforcement activities of school district peace officers. A school district must authorize in writing any off-duty law enforcement activities performed by a school district peace officer.

(f) The chief of police of the school district police department shall be accountable to the superintendent and shall report to the superintendent. School district police officers shall be supervised by the chief of police of the school district or the chief of police's designee and shall be licensed by the Texas Commission on Law Enforcement.

(g) A school district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts between the department and the agencies.

(h) A peace officer assigned to duty and commissioned under this section shall take and file the oath required of peace officers and shall execute and file a bond in the sum of $1,000, payable to the board of trustees, with two or more sureties, conditioned that the peace officer will fairly, impartially, and faithfully perform all the duties that may be required of the peace officer by law. The bond may be sued on in the name of any person injured until the whole amount of the bond is recovered. Any peace officer commissioned under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 93 (S.B. 686), Sec. 2.11, eff. May 18, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 9, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 4, eff. September 1, 2013.

Acts 2019, 86th Leg., R.S., Ch. 402 (S.B. 1707), Sec. 2, eff. June 2, 2019.

Acts 2019, 86th Leg., R.S., Ch. 402 (S.B. 1707), Sec. 3, eff. June 2, 2019.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.039, eff. January 1, 2025.

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 8, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 870, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.0811. SCHOOL MARSHALS: PUBLIC SCHOOLS.

(a) The board of trustees of a school district or the governing body of an open-enrollment charter school may appoint one or more school marshals for each campus.

(b) The board of trustees of a school district or the governing body of an open-enrollment charter school may select for appointment as a school marshal under this section an applicant who is an employee of the school district or open-enrollment charter school and certified as eligible for appointment under Section 1701.260, Occupations Code. The board of trustees or governing body may, but shall not be required to, reimburse the amount paid by the applicant to participate in the training program under that section.

(c) A school marshal appointed by the board of trustees of a school district or the governing body of an open-enrollment charter school may carry a concealed handgun or possess a handgun on the physical premises of a school, but only:

(1) in the manner provided by written regulations adopted by the board of trustees or the governing body; and

(2) at a specific school as specified by the board of trustees or governing body, as applicable.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun on the

school marshal's person or possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location. The written regulations must also require that a handgun carried or possessed by a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may use a handgun the school marshal is authorized to carry or possess under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A school district or charter school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the district or charter school; or

(4) notice from the board of trustees of the district or the governing body of the charter school that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a school inquires in writing, the school district or open-enrollment charter school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

Added by Acts 2013, 83rd Leg., R.S., Ch. 655 (H.B. 1009), Sec. 3, eff. June 14, 2013.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 437 (H.B. 910), Sec. 8, eff. January 1, 2016.

Acts 2015, 84th Leg., R.S., Ch. 1176 (S.B. 996), Sec. 1, eff. June 19, 2015.

Acts 2017, 85th Leg., R.S., Ch. 988 (H.B. 867), Sec. 2, eff. June 15, 2017.

Acts 2017, 85th Leg., R.S., Ch. 988 (H.B. 867), Sec. 3, eff. June 15, 2017.

Acts 2019, 86th Leg., R.S., Ch. 463 (H.B. 1387), Sec. 1, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 851 (S.B. 741), Sec. 1, eff. September 1, 2021.

Sec. 37.0812. TRAINING POLICY: SCHOOL DISTRICT PEACE OFFICERS AND SCHOOL RESOURCE OFFICERS. (a) A school district peace officer or school resource officer shall complete an active shooter response training program approved by the Texas Commission on Law Enforcement at least once in each four-year period.

(b) A school district that commissions a school district peace officer or at which a school resource officer provides law enforcement shall adopt a policy requiring the officer to complete the education and training program required by Section 1701.263, Occupations Code.

(c) A school district may not contract for the provision of active shooter response training under this section unless the training provider is certified under Section 1701.2515, Occupations Code, to provide the training.

Added by Acts 2015, 84th Leg., R.S., Ch. 1258 (H.B. 2684), Sec. 1, eff. June 20, 2015.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 9, eff. June 6, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1108 (H.B. 2195), Sec. 2, eff. June 14, 2019.

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 9, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 1152 (S.B. 999), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 870, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.0813. SCHOOL MARSHALS: PRIVATE SCHOOLS.

(a) The governing body of a private school may appoint one or more school marshals.

(b) The governing body of a private school may select for appointment as a school marshal under this section an applicant who is an employee of

the school and certified as eligible for appointment under Section 1701.260, Occupations Code.

(c) A school marshal appointed by the governing body of a private school may carry a concealed handgun or possess a handgun on the physical premises of a school, but only in the manner provided by written regulations adopted by the governing body.

(d) Any written regulations adopted for purposes of Subsection (c) must provide that a school marshal may carry a concealed handgun on the school marshal's person or possess the handgun on the physical premises of a school in a locked and secured safe or other locked and secured location. The written regulations must also require that a handgun carried or possessed by a school marshal may be loaded only with frangible duty ammunition approved for that purpose by the Texas Commission on Law Enforcement.

(e) A school marshal may use a handgun the school marshal is authorized to carry or possess under this section only under circumstances that would justify the use of deadly force under Section 9.32 or 9.33, Penal Code.

(f) A private school employee's status as a school marshal becomes inactive on:

(1) expiration of the employee's school marshal license under Section 1701.260, Occupations Code;

(2) suspension or revocation of the employee's license to carry a handgun issued under Subchapter H, Chapter 411, Government Code;

(3) termination of the employee's employment with the private school; or

(4) notice from the governing body that the employee's services as school marshal are no longer required.

(g) The identity of a school marshal appointed under this section is confidential, except as provided by Section 1701.260(j), Occupations Code, and is not subject to a request under Chapter 552, Government Code.

(h) If a parent or guardian of a student enrolled at a private school inquires in writing, the school shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed a school marshal. The notice may not disclose information that is confidential under Subsection (g).

(i) This section does not apply to a school whose students meet the definition provided by Section 29.916(a)(1).

Added by Acts 2017, 85th Leg., R.S., Ch. 988 (H.B. 867), Sec. 4, eff. June 15, 2017.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 463 (H.B. 1387), Sec. 2, eff. September 1, 2019.

Acts 2021, 87th Leg., R.S., Ch. 851 (S.B. 741), Sec. 2, eff. September 1, 2021.

Sec. 37.08131. MEMORANDUM OF UNDERSTANDING BETWEEN PUBLIC AND PRIVATE SCHOOLS REGARDING SCHOOL MARSHALS. (a) In this section, "public or private primary or secondary school" means a school district, open-enrollment charter school, or private school.

(b) A public or private primary or secondary school may enter into a memorandum of understanding with another public or private primary or secondary school under which a school marshal appointed to a campus of the school may temporarily act as a school marshal at a campus of the other school for the duration of an event occurring at the campus of the other school at which both schools are participating. The memorandum of understanding must comply with the requirements for written regulations under Section 37.0811 or 37.0813, as applicable, and may be used to satisfy the requirement for written regulations or written authorization under Section 46.03(a)(1), Penal Code, to allow that school marshal to carry a firearm on the premises of the public or private primary or secondary school at which the event occurs.

Added by Acts 2023, 88th Leg., R.S., Ch. 744 (H.B. 3623), Sec. 1, eff. June 12, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121 and H.B. 1458, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.0814. ARMED SECURITY OFFICER REQUIRED. (a) The board of trustees of each school district shall determine the appropriate number of armed security officers for each district campus. The board must ensure that at least one armed security officer is present during regular school hours at each district campus.

(b) A security officer described by Subsection (a) must be:

(1) a school district peace officer;

(2) a school resource officer; or

(3) a commissioned peace officer employed as security personnel under Section 37.081.

(c) If the board of trustees of a school district is unable to comply with this section, the board may claim a good cause exception from the requirement to comply with this section if the district's noncompliance is due to the availability of:

(1) funding; or

(2) personnel who qualify to serve as a security officer described by Subsection (a).

(d) The board of trustees of a school district that claims a good cause exception under Subsection (c) must develop an alternative standard with which the district is able to comply, which may include providing a person to act as a security officer who is:

(1) a school marshal; or

(2) a school district employee or a person with whom the district contracts who:

(A) has completed school safety training provided by a qualified handgun instructor certified in school safety under Section 411.1901, Government Code; and

(B) carries a handgun on school premises in accordance with written regulations or written authorization of the district under Section 46.03(a)(1)(A), Penal Code.

(e) The board of trustees of a school district must develop and maintain documentation of the district's implementation of and compliance with this section, including documentation related to a good cause exception claimed under Subsection (c), and shall, if requested by the agency, provide that documentation to the agency in the manner prescribed by the agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 10, eff. September 1, 2023.

Sec. 37.0815. TRANSPORTATION OR STORAGE OF FIREARM AND AMMUNITION BY LICENSE HOLDER IN SCHOOL PARKING AREA. (a) A school district or open-enrollment charter school may not prohibit a person, including a school employee, who holds a license to carry a handgun under Subchapter H, Chapter 411, Government Code, 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 or charter school and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

(b) This section does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Section 37.125 of this code, Section 46.03, Penal Code, or other law.

Added by Acts 2017, 85th Leg., R.S., Ch. 925 (S.B. 1566), Sec. 13, eff. September 1, 2017.
Amended by:
Acts 2019, 86th Leg., R.S., Ch. 758 (H.B. 1143), Sec. 1, eff. September 1, 2019.
Acts 2021, 87th Leg., R.S., Ch. 809 (H.B. 1927), Sec. 6, eff. September 1, 2021.

Sec. 37.0818. PRIVATE SCHOOL PEACE OFFICERS. (a) This section applies only to a private school that has an enrollment of at least 1,500 students.

(b) The governing body of a private school to which this section applies may commission peace officers to enforce state and local law on a campus of the school.

(c) A peace officer commissioned by a private school under this section must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement.

Added by Acts 2023, 88th Leg., R.S., Ch. 624 (H.B. 4372), Sec. 1, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 1481, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.082. POSSESSION OF PAGING DEVICES. (a) The board of trustees of a school district may adopt a policy prohibiting a student from possessing a paging device while on school property or while attending a school-sponsored or school-related activity on or off school property. The policy may establish disciplinary measures to be imposed for violation of the prohibition and may provide for confiscation of the paging device.

(b) The policy may provide for the district to:

(1) dispose of a confiscated paging device in any reasonable manner after having provided the student's parent and the company whose name and address or telephone number appear on the device 30 days' prior notice of its intent to dispose of that device. The notice shall include

the serial number of the device and may be made by telephone, telegraph, or in writing; and

(2) charge the owner of the device or the student's parent an administrative fee not to exceed $15 before it releases the device.

(c) In this section, "paging device" means a telecommunications device that emits an audible signal, vibrates, displays a message, or otherwise summons or delivers a communication to the possessor. The term does not include an amateur radio under the control of an operator who holds an amateur radio station license issued by the Federal Communications Commission.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 2.02, eff. September 1, 2007.

Sec. 37.083. DISCIPLINE MANAGEMENT PROGRAMS; SEXUAL HARASSMENT POLICIES. (a) Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Section 11.252. The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles.

(b) Each school district may develop and implement a sexual harassment policy to be included in the district improvement plan under Section 11.252.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2005, 79th Leg., Ch. 920 (H.B. 283), Sec. 4, eff. June 18, 2005.

Acts 2011, 82nd Leg., R.S., Ch. 776 (H.B. 1942), Sec. 6, eff. June 17, 2011.

Sec. 37.0831. DATING VIOLENCE POLICIES; EDUCATIONAL MATERIALS AND RESOURCES. (a) Each school district shall adopt and implement a dating violence policy to be included in the district improvement plan under Section 11.252.

(b) A dating violence policy must:

(1) include:

(A) 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 Section 71.0021, Family Code;

(B) a clear statement that dating violence is not tolerated at school; and

(C) reporting procedures and guidelines for students who are victims of dating violence, including a procedure for immediately notifying the parent or guardian of a student about a report received by the district identifying the student as an alleged victim or perpetrator of dating violence; and

(2) address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators at each district campus that instructs students in grade six or higher, counseling for affected students, and awareness education for students and parents.

(c) To the extent possible, a school district shall make available to students:

(1) age-appropriate educational materials that include information on the dangers of dating violence; and

(2) resources to students seeking help.

Added by Acts 2007, 80th Leg., R.S., Ch. 131 (H.B. 121), Sec. 1, eff. May 18, 2007.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 1045 (S.B. 1267), Sec. 16, eff. June 18, 2021.

Acts 2021, 87th Leg., 2nd C.S., Ch. 13 (S.B. 9), Sec. 3, eff. December 2, 2021.

Acts 2021, 87th Leg., 2nd C.S., Ch. 13 (S.B. 9), Sec. 4, eff. December 2, 2021.

Sec. 37.0832. BULLYING PREVENTION POLICIES AND PROCEDURES. (a) In this section:

(1) "Bullying":

(A) means a single significant act or a pattern of acts by one or more students directed at another student that exploits an imbalance of power and involves engaging in written or verbal expression, expression through electronic means, or physical conduct that satisfies the applicability requirements provided by Subsection (a-1), and that:

(i) has the effect or will have the effect of physically harming a student, damaging a student's property, or placing a student in

reasonable fear of harm to the student's person or of damage to the student's property;

(ii) is sufficiently severe, persistent, or pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student;

(iii) materially and substantially disrupts the educational process or the orderly operation of a classroom or school; or

(iv) infringes on the rights of the victim at school; and

(B) includes cyberbullying.

(2) "Cyberbullying" means bullying that is done through the use of any electronic communication device, including through the use of a cellular or other type of telephone, a computer, a camera, electronic mail, instant messaging, text messaging, a social media application, an Internet website, or any other Internet-based communication tool.

(a-1) This section applies to:

(1) bullying that occurs on or is delivered to school property or to the site of a school-sponsored or school-related activity on or off school property;

(2) bullying that occurs on a publicly or privately owned school bus or vehicle being used for transportation of students to or from school or a school-sponsored or school-related activity; and

(3) cyberbullying that occurs off school property or outside of a school-sponsored or school-related activity if the cyberbullying:

(A) interferes with a student's educational opportunities; or

(B) substantially disrupts the orderly operation of a classroom, school, or school-sponsored or school-related activity.

(b) Repealed by Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 15, eff. September 1, 2017.

(c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:

(1) prohibits the bullying of a student;

(2) prevents and mediates bullying incidents between students that:

(A) interfere with a student's educational opportunities; or

(B) substantially disrupt the orderly operation of a classroom, school, or school-sponsored or school-related activity;

(3) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;

(4) establishes a procedure for providing notice of an incident of bullying to:

(A) a parent or guardian of the alleged victim on or before the third business day after the date the incident is reported; and

(B) a parent or guardian of the alleged bully within a reasonable amount of time after the incident;

(5) establishes the actions a student should take to obtain assistance and intervention in response to bullying;

(6) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;

(7) establishes procedures for reporting an incident of bullying, including procedures for a student to anonymously report an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;

(8) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying;

(9) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

(10) complies with the minimum standards adopted by the agency under Subsection (c-1).

(c-1) The agency shall adopt minimum standards for a school district's policy under Subsection (c). The standards must:

(1) include an emphasis on bullying prevention by focusing on school climate and building healthy relationships between students and staff;

(2) require each district campus to establish a committee to address bullying by focusing on prevention efforts and health and wellness initiatives;

(3) require students at each grade level to meet periodically for instruction on building relationships and preventing bullying, including cyberbullying;

(4) include an emphasis on increasing student reporting of bullying incidents to school employees by:

(A) increasing awareness about district reporting procedures; and

(B) providing for anonymous reporting of bullying incidents;

(5) require districts to:

(A) collect information annually through student surveys on bullying, including cyberbullying; and

(B) use those survey results to develop action plans to address student concerns regarding bullying, including cyberbullying; and

(6) require districts to develop a rubric or checklist to assess an incident of bullying and to determine the district's response to the incident.

(d) The policy and any necessary procedures adopted under Subsection (c) must be included:

(1) annually, in the student and employee school district handbooks; and

(2) in the district improvement plan under Section 11.252.

(e) The procedure for reporting bullying established under Subsection (c) must be posted on the district's Internet website to the extent practicable.

(f) Repealed by Acts 2021, 87th Leg., R.S., Ch. 972 (S.B. 2050), Sec. 3, eff. June 18, 2021.

Added by Acts 2011, 82nd Leg., R.S., Ch. 776 (H.B. 1942), Sec. 7, eff. June 17, 2011.

Amended by:

Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 2, eff. September 1, 2017.

Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 15, eff. September 1, 2017.

Acts 2021, 87th Leg., R.S., Ch. 972 (S.B. 2050), Sec. 1, eff. June 18, 2021.

Acts 2021, 87th Leg., R.S., Ch. 972 (S.B. 2050), Sec. 3, eff. June 18, 2021.

Sec. 37.084. INTERAGENCY SHARING OF RECORDS. (a) A school district superintendent or the superintendent's designee shall disclose information contained in a student's educational records to a juvenile service provider as required by Section 58.0051, Family Code.

(b) The commissioner may enter into an interagency agreement to share educational information for research and analytical purposes with the:

(1) Texas Juvenile Justice Department; and

(2) Texas Department of Criminal Justice.

(c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights

and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

Added by Acts 1999, 76th Leg., ch. 217, Sec. 2, eff. May 24, 1999.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 653 (S.B. 1106), Sec. 1, eff. June 17, 2011.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 34, eff. September 1, 2015.

Sec. 37.085. ARRESTS PROHIBITED FOR CERTAIN CLASS C MISDEMEANORS. Notwithstanding any other provision of law, a warrant may not be issued for the arrest of a person for a Class C misdemeanor under this code committed when the person was younger than 17 years of age.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 5, eff. September 1, 2013.

Sec. 37.086. REQUIRED POSTING OF WARNING SIGNS OF INCREASED TRAFFICKING PENALTIES.

(a) In this section, "school" means a public primary or secondary school.

(b) Each public school shall post warning signs of the increased penalties for trafficking of persons under Section 20A.02(b-1)(2), Penal Code, in a conspicuous place reasonably likely to be viewed by all school employees and visitors.

(c) The agency, in consultation with the human trafficking prevention task force created under Section 402.035, Government Code, shall adopt rules regarding the wording for the warning signs required under this section and requiring that each warning sign:

(1) include a description of the provisions of Section 20A.02(b-1), Penal Code, including the penalties for violating that section;

(2) be written in English and Spanish; and

(3) be at least 8-1/2 by 11 inches in size.

(d) The agency shall provide each school without charge the number of warning signs required to comply with this section and rules adopted under this section. If the agency is unable to provide each school with the number of signs necessary to comply with Subsection (b), the agency may:

(1) provide to a school fewer signs than the number necessary to comply with that section; and

(2) prioritize distribution of signs to schools based on reports of criminal activity in the areas near that school.

Added by Acts 2021, 87th Leg., R.S., Ch. 807 (H.B. 1540), Sec. 58, eff. September 1, 2021.
Added by Acts 2021, 87th Leg., R.S., Ch. 1049 (S.B. 1831), Sec. 2, eff. September 1, 2021.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 66 (S.B. 2069), Sec. 1, eff. September 1, 2023.

Sec. 37.087. IMMUNITY FROM LIABILITY. (a) In this section:

(1) "Retired peace officer" has the meaning assigned by Section 1701.3161, Occupations Code.

(2) "Security personnel" includes:

(A) a school district peace officer;

(B) a school marshal;

(C) a school resource officer; and

(D) a retired peace officer who:

(i) has been hired by a school district, open-enrollment charter school, or private school to provide security services; or

(ii) volunteers to provide security services to the school district, open-enrollment charter school, or private school.

(b) A school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by security personnel to maintain the safety of the school campus, including action relating to possession or use of a firearm.

(c) A school district, open-enrollment charter school, or private school is immune from liability as provided by Subsection (b) for any damages resulting from any reasonable action taken by a school district, open-enrollment charter school, or private school employee who has written permission from the board of trustees of the school district or the governing body of the open-enrollment charter school or the private school to carry a firearm on campus.

(d) Any security personnel employed by a school district, open-enrollment charter school, or private school is immune from liability for any damages resulting from any reasonable action taken by the security personnel to maintain the safety of the school campus, including action relating to possession or use of a firearm.

(e) The statutory immunity provided by this section is in addition to and does not preempt the common law doctrine of official and governmental immunity. To the extent that another statute provides greater immunity to

a school district, open-enrollment charter school, or private school than this section, that statute prevails.

Added by Acts 2021, 87th Leg., R.S., Ch. 671 (H.B. 1788), Sec. 1, eff. September 1, 2021.

Sec. 37.089. ROLE OF PERSONS CARRYING A FIREARM ON SCHOOL GROUNDS. (a) Subject to Subsection (b), a person permitted to carry a firearm on the campus of a school district may not perform the routine law enforcement duties of a peace officer, including making arrests, unless the duty is performed in response to an emergency that poses a threat of death or serious bodily injury to a student, school district employee, or other individual at the district campus.

(b) Subsection (a) does not apply to a commissioned peace officer who is assigned law enforcement duties that are included in campus and district documents describing the role of peace officers in the district as required by Section 37.081(d).

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 11, eff. September 1, 2023.

SUBCHAPTER D. PROTECTION OF BUILDINGS AND GROUNDS

Sec. 37.101. APPLICABILITY OF CRIMINAL LAWS. The criminal laws of the state apply in the areas under the control and jurisdiction of the board of trustees of any school district in this state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.102. RULES; PENALTY. (a) The board of trustees of a school district may adopt rules for the safety and welfare of students, employees, and property and other rules it considers necessary to carry out this subchapter and the governance of the district, including rules providing for the operation and parking of vehicles on school property. The board may adopt and charge a reasonable fee for parking and for providing traffic control.

(b) A law or ordinance regulating traffic on a public highway or street applies to the operation of a vehicle on school property, except as modified by this subchapter.

(c) A person who violates any rule adopted under this subchapter providing for the operation and parking of vehicles on school property

commits an offense. An offense under this section is a Class C misdemeanor.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:
Acts 2007, 80th Leg., R.S., Ch. 1167 (H.B. 278), Sec. 1, eff. September 1, 2007.

Sec. 37.103. ENFORCEMENT OF RULES. Notwithstanding any other provision of this subchapter, the board of trustees of a school district may authorize any officer commissioned by the board to enforce rules adopted by the board. This subchapter is not intended to restrict the authority of each district to adopt and enforce appropriate rules for the orderly conduct of the district in carrying out its purposes and objectives or the right of separate jurisdiction relating to the conduct of its students and personnel.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.104. COURTS HAVING JURISDICTION. The judge of a municipal court of a municipality in which, or any justice of the peace of a county in which, property under the control and jurisdiction of a school district is located may hear and determine criminal cases involving violations of this subchapter or rules adopted under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 2929, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.105. UNAUTHORIZED PERSONS: REFUSAL OF ENTRY, EJECTION, IDENTIFICATION. (a) A school administrator, school resource officer, or school district peace officer of a school district may refuse to allow a person to enter on or may eject a person from property under the district's control if the person refuses to leave peaceably on request and:

(1) the person poses a substantial risk of harm to any person; or

(2) the person behaves in a manner that is inappropriate for a school setting and:

(A) the administrator, resource officer, or peace officer issues a verbal warning to the person that the person's behavior is

inappropriate and may result in the person's refusal of entry or ejection; and

(B) the person persists in that behavior.

(b) Identification may be required of any person on the property.

(c) Each school district shall maintain a record of each verbal warning issued under Subsection (a)(2)(A), including the name of the person to whom the warning was issued and the date of issuance.

(d) At the time a person is refused entry to or ejected from a school district's property under this section, the district shall provide to the person written information explaining the appeal process established under Subsection (h).

(e) If a parent or guardian of a child enrolled in a school district is refused entry to the district's property under this section, the district shall accommodate the parent or guardian to ensure that the parent or guardian may participate in the child's admission, review, and dismissal committee or in the child's team established under Section 504, Rehabilitation Act of 1973 (29 U.S.C. Section 794), in accordance with federal law.

(f) The term of a person's refusal of entry to or ejection from a school district's property under this section may not exceed two years.

(g) A school district shall post on the district's Internet website and each district campus shall post on any Internet website of the campus a notice regarding the provisions of this section, including the appeal process established under Subsection (h).

(h) The commissioner shall adopt rules to implement this section, including rules establishing a process for a person to appeal to the board of trustees of the school district the decision under Subsection (a) to refuse the person's entry to or eject the person from the district's property.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2017, 85th Leg., R.S., Ch. 924 (S.B. 1553), Sec. 5, eff. June 15, 2017.

Sec. 37.106. VEHICLE IDENTIFICATION INSIGNIA. The board of trustees of a school district may provide for the issuance and use of suitable vehicle identification insignia. The board may bar or suspend a person from driving or parking a vehicle on any school property as a result of the person's violation of any rule adopted by the board or of this subchapter.

Reinstatement of the privileges may be permitted and a reasonable fee assessed.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.107. TRESPASS ON SCHOOL GROUNDS. An unauthorized person who trespasses on the grounds of any school district of this state commits an offense. An offense under this section is a Class C misdemeanor.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, H.B. 33, H.B. 2 and S.B. 57, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.108. MULTIHAZARD EMERGENCY OPERATIONS PLAN; SAFETY AND SECURITY AUDIT. (a) Each school district or public junior college district shall adopt and implement a multihazard emergency operations plan for use in the district's facilities. The plan must address prevention, mitigation, preparedness, response, and recovery as defined by the Texas School Safety Center in conjunction with the governor's office of homeland security, the commissioner of education, and the commissioner of higher education. The plan must provide for:

(1) training in responding to an emergency for district employees, including substitute teachers;

(2) measures to ensure district employees, including substitute teachers, have classroom access to a telephone, including a cellular telephone, or another electronic communication device allowing for immediate contact with district emergency services or emergency services agencies, law enforcement agencies, health departments, and fire departments;

(3) measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;

(4) if the plan applies to a school district, mandatory school drills and exercises, including drills required under Section 37.114, to prepare district students and employees for responding to an emergency;

(5) measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency;

(6) the implementation of a safety and security audit as required by Subsection (b); and

(7) any other requirements established by the Texas School Safety Center in consultation with the agency and relevant local law enforcement agencies.

(b) At least once every three years, each school district or public junior college district shall conduct a safety and security audit of the district's facilities. A district, or a person included in the registry established by the Texas School Safety Center under Section 37.2091 who is engaged by the district to conduct a safety and security audit, shall follow safety and security audit procedures developed by the Texas School Safety Center in coordination with the commissioner of education or commissioner of higher education, as applicable.

(b-1) In a school district's safety and security audit required under Subsection (b), the district must certify that the district used the funds provided to the district through the school safety allotment under Section 48.115 only for the purposes provided by that section.

(c) A school district or public junior college district shall report the results of the safety and security audit conducted under Subsection (b) to the district's board of trustees and, in the manner required by the Texas School Safety Center, to the Texas School Safety Center. The report provided to the Texas School Safety Center under this subsection must be signed by:

(1) for a school district, the district's board of trustees and superintendent; or

(2) for a public junior college district, the president of the junior college district.

(c-1) Except as provided by Subsection (c-2), any document or information collected, developed, or produced during a safety and security audit conducted under Subsection (b) is not subject to disclosure under Chapter 552, Government Code.

(c-2) A document relating to a school district's or public junior college district's multihazard emergency operations plan is subject to disclosure if the document enables a person to:

(1) verify that the district has established a plan and determine the agencies involved in the development of the plan and the agencies coordinating with the district to respond to an emergency, including the Department of State Health Services, local emergency services agencies, law enforcement agencies, health departments, and fire departments;

(2) verify that the district's plan was reviewed within the last 12 months and determine the specific review dates;

(3) verify that the plan addresses the five phases of emergency management under Subsection (a);

(4) verify that district employees have been trained to respond to an emergency and determine the types of training, the number of employees trained, and the person conducting the training;

(5) verify that each campus in the district has conducted mandatory emergency drills and exercises in accordance with the plan and determine the frequency of the drills;

(6) if the district is a school district, verify that the district has established a plan for responding to a train derailment if required under Subsection (d);

(7) verify that the district has completed a safety and security audit under Subsection (b) and determine the date the audit was conducted, the person conducting the audit, and the date the district presented the results of the audit to the district's board of trustees;

(8) verify that the district has addressed any recommendations by the district's board of trustees for improvement of the plan and determine the district's progress within the last 12 months; and

(9) if the district is a school district, verify that the district has established a visitor policy and identify the provisions governing access to a district building or other district property.

(d) A school district shall include in its multihazard emergency operations plan a policy for responding to a train derailment near a district school. A school district is only required to adopt the policy described by this subsection if a school district facility is located within 1,000 yards of a railroad track, as measured from any point on the school's real property boundary line. The school district may use any available community resources in developing the policy described by this subsection.

(e) A school district shall include in its multihazard emergency operations plan a policy for school district property selected for use as a polling place under Section 43.031, Election Code. In developing the policy under this subsection, the board of trustees may consult with the local law enforcement agency with jurisdiction over the school district property selected as a polling place regarding reasonable security accommodations that may be made to the property. This subsection may not be interpreted to require the board of trustees to obtain or contract for the presence of law enforcement or security personnel for the purpose of

securing a polling place located on school district property. Failure to comply with this subsection does not affect the requirement of the board of trustees to make a school facility available for use as a polling place under Section 43.031, Election Code.

(f) A school district shall include in its multihazard emergency operations plan:

(1) a chain of command that designates the individual responsible for making final decisions during a disaster or emergency situation and identifies other individuals responsible for making those decisions if the designated person is unavailable;

(2) provisions that address physical and psychological safety for responding to a natural disaster, active shooter, and any other dangerous scenario identified for purposes of this section by the agency or the Texas School Safety Center;

(3) provisions for ensuring the safety of students in portable buildings;

(4) provisions for ensuring that students and district personnel with disabilities are provided equal access to safety during a disaster or emergency situation;

(5) provisions for providing immediate notification to parents, guardians, and other persons standing in parental relation in circumstances involving a significant threat to the health or safety of students, including identification of the individual with responsibility for overseeing the notification;

(6) provisions for supporting the psychological safety of students, district personnel, and the community during the response and recovery phase following a disaster or emergency situation that:

(A) are aligned with best practice-based programs and research-based practices recommended under Section 38.351;

(B) include strategies for ensuring any required professional development training for suicide prevention and grief-informed and trauma-informed care is provided to appropriate school personnel;

(C) include training on integrating psychological safety and suicide prevention strategies into the district's plan, such as psychological first aid for schools training, from an approved list of recommended training established by the commissioner and Texas School Safety Center for:

(i) members of the district's school safety and security committee under Section 37.109;

(ii) district school counselors and mental health professionals; and

(iii) educators and other district personnel as determined by the district;

(D) include strategies and procedures for integrating and supporting physical and psychological safety that align with the provisions described by Subdivision (2); and

(E) implement trauma-informed policies;

(7) a policy for providing a substitute teacher access to school campus buildings and materials necessary for the substitute teacher to carry out the duties of a district employee during an emergency or a mandatory emergency drill;

(8) the name of each individual on the district's school safety and security committee established under Section 37.109 and the date of each committee meeting during the preceding year; and

(9) certification that the district is in compliance with Section 37.117.

(g) A school district shall include in its multihazard emergency operations plan a policy for responding to an active shooter emergency. The school district may use any available community resources in developing the policy described by this subsection.

(h) The Texas School Safety Center and the agency shall provide school safety-related data collected by the center or agency to each other on request.

Added by Acts 2005, 79th Leg., Ch. 780 (S.B. 11), Sec. 1, eff. September 1, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.02, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1326 (S.B. 1504), Sec. 2, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.01, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.02, eff. September 1, 2009.

Acts 2017, 85th Leg., R.S., Ch. 809 (H.B. 332), Sec. 1, eff. September 1, 2017.

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 10, eff. June 6, 2019.

Acts 2019, 86th Leg., R.S., Ch. 1108 (H.B. 2195), Sec. 1, eff. June 14, 2019.

Acts 2021, 87th Leg., R.S., Ch. 806 (H.B. 1525), Sec. 16, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 5.010, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 1, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 12, eff. September 1, 2023.

Sec. 37.1081. PUBLIC HEARING ON MULTIHAZARD EMERGENCY OPERATIONS PLAN NONCOMPLIANCE. (a) If the board of trustees of a school district receives notice of noncompliance under Section 37.207(e) or 37.2071(d) or (g), the board shall hold a public hearing to notify the public of:

(1) the district's failure to:

(A) submit or correct deficiencies in a multihazard emergency operations plan; or

(B) report the results of a safety and security audit to the Texas School Safety Center as required by law;

(2) the dates during which the district has not been in compliance; and

(3) the names of each member of the board of trustees and the superintendent serving in that capacity during the dates the district was not in compliance.

(b) The school district shall provide the information required under Subsection (a)(3) in writing to each person in attendance at the hearing.

(c) The board shall give members of the public a reasonable opportunity to appear before the board and to speak on the issue of the district's failure to submit or correct deficiencies in a multihazard emergency operations plan or report the results of a safety and security audit during a hearing held under this section.

(d) A school district required to hold a public hearing under Subsection (a) shall provide written confirmation to the Texas School Safety Center that the district held the hearing.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 11, eff. June 6, 2019.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 13, eff. September 1, 2023.

Sec. 37.1082. MULTIHAZARD EMERGENCY OPERATIONS PLAN NONCOMPLIANCE; APPOINTMENT OF CONSERVATOR OR BOARD OF MANAGERS. (a) If the agency receives notice from the Texas School Safety Center of a school district's failure to submit a multihazard emergency operations plan, the commissioner may appoint a conservator for the district under Chapter 39A. The conservator may order the district to adopt, implement, and submit a multihazard emergency operations plan.

(b) If a district fails to comply with a conservator's order to adopt, implement, and submit a multihazard emergency operations plan within the time frame imposed by the commissioner, the commissioner may appoint a board of managers under Chapter 39A to oversee the operations of the district.

(c) The commissioner may adopt rules as necessary to administer this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 11, eff. June 6, 2019.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 33 and H.B. 121, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.1083. AGENCY MONITORING OF SCHOOL DISTRICT SAFETY AND SECURITY REQUIREMENTS. (a) The agency shall monitor the implementation and operation of requirements related to school district safety and security, including school district:

(1) multihazard emergency operations plans; and

(2) safety and security audits.

(b) The agency shall establish an office of school safety and security within the agency that consists of individuals with substantial expertise and experience in school or law enforcement safety and security operations and oversight at the local, state, or federal level to coordinate the agency's monitoring of school district safety and security requirements under this section. The director of the office is appointed by the governor and confirmed by the senate and must report directly to the commissioner.

(c) The agency shall, in coordination with the Texas School Safety Center and relevant local law enforcement agencies, provide technical

assistance to school districts to support the implementation and operation of safety and security requirements.

(d) As part of the technical assistance provided under Subsection (c), the agency shall conduct a detailed vulnerability assessment of each school district on a random basis determined by the agency once every four years. The assessment must:

(1) assess facility access controls, emergency operations procedures, and other school safety requirements; and

(2) to the greatest extent practicable, coincide with the safety and security audit required under Section 37.108.

(e) The agency shall use a rubric developed by the office of school safety and security in collaboration with the Texas School Safety Center to conduct a vulnerability assessment of a school district under Subsection (d).

(f) On completion of a vulnerability assessment under Subsection (d), the agency shall provide to the superintendent and school safety and security committee established under Section 37.109 for the applicable school district a report on the results of the assessment that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the agency.

(g) The agency may engage a third party as necessary to enable the agency to monitor the implementation and operation of school district safety and security requirements under this section.

(h) The agency may require a school district to submit information necessary for the agency to monitor the implementation and operation of school district safety and security requirements under this section, including:

(1) notice of an event requiring a district's emergency response including the discovery of a firearm on a campus; and

(2) information regarding the district's response and use of emergency operations procedures during an event described by Subdivision (1).

(i) The agency may review school district records as necessary to ensure compliance with this subchapter and Subchapter G.

(j) Any document or information collected, identified, developed, or produced relating to the monitoring of school district safety and security requirements under this section is confidential under Sections 418.177 and 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code.

(k) The commissioner may adopt rules as necessary to administer this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 14, eff. September 1, 2023.

Sec. 37.1084. REGIONAL SCHOOL SAFETY REVIEW TEAMS. (a) In this section:

(1) "Office" means the office of school safety and security established under Section 37.1083.

(2) "Team" means a school safety review team established under this section.

(b) The office shall establish a school safety review team in each region served by a regional education service center. A team shall annually conduct on-site general intruder detection audits of school district campuses in the team's region. In conducting an intruder detection audit, a team must:

(1) use a rubric developed by the office in consultation with the Texas School Safety Center;

(2) not later than the seventh day before the date of a scheduled audit, notify the superintendent of the school district in which the campus being audited is located; and

(3) on completion of the audit, provide to the superintendent and school safety and security committee established under Section 37.109 for the school district in which the campus is located a report on the results of the audit that includes recommendations and required corrective actions to address any deficiencies in campus security identified by the team.

(c) A regional education service center shall provide support as necessary to assist the region's team in conducting intruder detection audits under this section.

(d) A report produced by a team under this section is confidential and not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 14, eff. September 1, 2023.

Sec. 37.1085. ASSIGNMENT OF CONSERVATOR FOR NONCOMPLIANCE WITH SCHOOL SAFETY AND SECURITY REQUIREMENTS. (a) Except as provided by Subsection (c), the commissioner may assign a conservator under Chapter 39A if a school district fails to:

(1) submit to any required monitoring, assessment, or audit under Section 37.1083 or 37.1084;

(2) comply with applicable safety and security requirements; or

(3) address in a reasonable time period, as determined by commissioner rule, issues raised by the agency's monitoring, assessment, or audit of the district under Section 37.1083 or 37.1084.

(b) A conservator assigned to a district under this section may exercise the powers and duties of a conservator under Section 39A.003 only to correct a failure identified under Subsection (a).

(c) This section does not apply to a school district's failure to comply with Section 37.0814 or a good cause exception claimed under that section.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 14, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 57, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.1086. GUIDELINES FOR MULTIHAZARD EMERGENCY OPERATIONS PLAN PROVISIONS FOR INDIVIDUALS WITH DISABILITIES OR IMPAIRMENTS. (a) The agency shall establish guidelines for the provisions in a school district's multihazard emergency operations plan under Section 37.108(f)(4) to ensure the safety of students and district personnel with disabilities or impairments during a disaster or emergency situation, in consultation with:

(1) the Texas School Safety Center;

(2) regional education service centers;

(3) public school educators who work with students with disabilities or impairments; and

(4) advocacy groups representing individuals with disabilities or impairments.

(b) A school district must follow the guidelines established by the agency under Subsection (a) in adopting and implementing the district's multihazard emergency operations plan under Section 37.108.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 14, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 57, 89th Legislature, Regular

Session, for amendments affecting the following section.

Sec. 37.109. SCHOOL SAFETY AND SECURITY COMMITTEE. (a) In accordance with guidelines established by the Texas School Safety Center, each school district shall establish a school safety and security committee.

(a-1) The committee, to the greatest extent practicable, must include:

(1) one or more representatives of an office of emergency management of a county or city in which the district is located;

(2) one or more representatives of the local police department or sheriff's office;

(3) one or more representatives of the district's police department, if applicable;

(4) the president of the district's board of trustees;

(5) a member of the district's board of trustees other than the president;

(6) the district's superintendent;

(7) one or more designees of the district's superintendent, one of whom must be a classroom teacher in the district;

(8) if the district partners with an open-enrollment charter school to provide instruction to students, a member of the open-enrollment charter school's governing body or a designee of the governing body; and

(9) two parents or guardians of students enrolled in the district.

(b) The committee shall:

(1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan required by Section 37.108(a) to ensure that the plans reflect specific campus, facility, or support services needs;

(2) periodically provide recommendations to the district's board of trustees and district administrators regarding updating the district multihazard emergency operations plan required by Section 37.108(a) in accordance with best practices identified by the agency, the Texas School Safety Center, or a person included in the registry established by the Texas School Safety Center under Section 37.2091;

(3) provide the district with any campus, facility, or support services information required in connection with a safety and security audit required by Section 37.108(b), a safety and security audit report required by Section 37.108(c), or another report required to be submitted by the district to the Texas School Safety Center;

(4) review each report required to be submitted by the district to the Texas School Safety Center to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the center; and

(5) consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

(c) Except as otherwise provided by this subsection, the committee shall meet at least once during each academic semester and at least once during the summer. A committee established by a school district that operates schools on a year-round system or in accordance with another alternative schedule shall meet at least three times during each calendar year, with an interval of at least two months between each meeting.

(d) The committee is subject to Chapter 551, Government Code, and may meet in executive session as provided by that chapter. Notice of a committee meeting must be posted in the same manner as notice of a meeting of the district's board of trustees.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.03, eff. September 1, 2009.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 12, eff. June 6, 2019.

Sec. 37.110. INFORMATION REGARDING GANG-FREE ZONES. The superintendent of each public school district and the administrator of each private elementary or secondary school located in the public school district shall ensure that the student handbook for each campus in the public school district includes information on gang-free zones and the consequences of engaging in organized criminal activity within those zones.

Added by Acts 2009, 81st Leg., R.S., Ch. 1130 (H.B. 2086), Sec. 4, eff. June 19, 2009.

Sec. 37.113. NOTIFICATION REGARDING BOMB THREAT OR TERRORISTIC THREAT. A school district that receives a bomb threat or terroristic threat relating to a campus or other district facility at which students are present shall provide notification of the threat as soon as possible to the parent or guardian of or other person standing in parental relation to each student who is assigned to the campus or who regularly uses the facility, as applicable.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 13, eff. June 6, 2019.

Sec. 37.1131. NOTIFICATION REGARDING VIOLENT ACTIVITY. (a) The agency shall develop model standards for providing notice regarding violent activity that has occurred or is being investigated at a school district campus or other district facility or at a district-sponsored activity to parents, guardians, and other persons standing in parental relation to students who are assigned to the campus, regularly use the facility, or are attending the activity, as applicable. The standards must:

(1) include electronic notification through text messaging and e-mail;

(2) provide an option for real-time notification; and

(3) protect student privacy.

(b) Each school district shall adopt a policy for providing notice described by Subsection (a) in a manner that meets the standards adopted under that subsection.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 14, eff. September 1, 2023.

Sec. 37.114. BEST PRACTICES FOR EMERGENCY SCHOOL DRILLS AND EXERCISES; MANDATORY SCHOOL DRILLS. The commissioner, in consultation with the Texas School Safety Center and the state fire marshal, shall adopt rules:

(1) providing best practices for conducting emergency school drills and exercises, including definitions for relevant terms; and

(2) designating the number and type of mandatory school drills to be conducted each semester of the school year, not to exceed a total of eight drills.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 13, eff. June 6, 2019.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 542 (S.B. 168), Sec. 1, eff. June 14, 2021.

Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 2, eff. June 18, 2021.

Sec. 37.1141. ACTIVE THREAT EXERCISES. (a) Before a school district may conduct an active threat exercise, including an active shooter simulation, the district shall ensure that:

(1) adequate notice of the exercise is provided to students expected to participate in the exercise, the parents of those students, and staff likely to be part of the exercise, including information regarding:

(A) the date on which the exercise will occur;

(B) the content, form, and tone of the exercise; and

(C) whether the exercise will include a live simulation that mimics or appears to be an actual shooting incident;

(2) the exercise is announced to students and faculty before the start of the exercise, including, if applicable, an announcement that the exercise will include a live simulation that mimics or appears to be an actual threat, such as a shooting incident;

(3) first responder organizations that would likely respond in the event of a false report or alarm are notified regarding the exercise;

(4) a safe zone is created around the area in which the exercise will be conducted to keep out actual firearms, ammunition, and other weapons, other than firearms, ammunition, or other weapons carried by a peace officer, school resource officer, or school marshal or any other person authorized by the district to carry those items on school grounds;

(5) the content of the exercise:

(A) is age appropriate and developmentally appropriate;

(B) has been developed by a team of school administrators, teachers, school-based mental health professionals, and law enforcement officers, with input from parents and students; and

(C) is designed to support the well-being of students who participate in the exercise before, during, and after the exercise is conducted; and

(6) data regarding the efficacy and impact of the exercise will be tracked, including any feedback regarding the exercise from students, staff, or family members of students or staff.

(b) Subsection (a)(4) may not be construed to prohibit a parent, legal guardian, or other person acting on a parent's or legal guardian's behalf from transporting or storing in the person's motor vehicle a firearm, ammunition, or other weapon that the person is legally authorized to possess while the person is picking up a child from school.

(c) A school district shall submit data collected under Subsection (a)(6) to the Texas School Safety Center.

(d) The commissioner may adopt rules as necessary to implement this section.

Added by Acts 2021, 87th Leg., R.S., Ch. 542 (S.B. 168), Sec. 2, eff. June 14, 2021.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 6, H.B. 121, H.B. 2 and H.B. 1620, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.115. THREAT ASSESSMENT AND SAFE AND SUPPORTIVE SCHOOL PROGRAM AND TEAM. (a) In this section:

(1) "Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

(A) specific interventions, including mental health or behavioral supports;

(B) in-school suspension;

(C) out-of-school suspension; or

(D) the student's expulsion or removal to a disciplinary alternative education program or a juvenile justice alternative education program.

(2) "Team" means a threat assessment and safe and supportive school team established by the board of trustees of a school district under this section.

(b) The agency, in coordination with the Texas School Safety Center, shall adopt rules to establish a safe and supportive school program. The rules shall incorporate research-based best practices for school safety, including providing for:

(1) physical and psychological safety;

(2) a multiphase and multihazard approach to prevention, mitigation, preparedness, response, and recovery in a crisis situation;

(3) a systemic and coordinated multitiered support system that addresses school climate, the social and emotional domain, and behavioral and mental health; and

(4) multidisciplinary and multiagency collaboration to assess risks and threats in schools and provide appropriate interventions, including rules for the establishment and operation of teams.

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 948 (S.B. 1720), Sec. 1

(c) The board of trustees of each school district shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Subsection (b) at the district campus served by the team. The policies and procedures adopted under this section must:

(1) be consistent with the model policies and procedures developed by the Texas School Safety Center;

(2) require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs;

(3) require each team established under this section to report the information required under Subsection (k) regarding the team's activities to the agency; and

(4) provide for:

(A) a district employee who reports a potential threat to a team to elect for the employee's identity to be confidential and not subject to disclosure under Chapter 552, Government Code, except as necessary for the team, the district, or law enforcement to investigate the potential threat; and

(B) the district to maintain a record of the identity of a district employee who elects for the employee's identity to be confidential under Paragraph (A).

Text of subsection as amended by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 15

(c) The board of trustees of each school district shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams. The team is responsible for developing and implementing the safe and supportive school program under Subsection (b) at the district campus served by the team. The policies and procedures adopted under this section must:

(1) be consistent with the model policies and procedures developed by the Texas School Safety Center;

(2) require each team to complete training provided by the Texas School Safety Center or a regional education service center regarding evidence-based threat assessment programs;

(3) require each team established under this section to report the information required under Subsection (k) regarding the team's activities to the agency; and

(4) require each district campus to establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate school employee.

(d) The superintendent of the district shall ensure, to the greatest extent practicable, that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a school district, provided that each district campus is assigned a team.

(e) The superintendent of a school district may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility under this subsection must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

(f) Each team shall:

(1) conduct a threat assessment that includes:

(A) assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with the policies and procedures adopted under Subsection (c); and

(B) gathering and analyzing data to determine the level of risk and appropriate intervention, including:

(i) referring a student for mental health assessment; and

(ii) implementing an escalation procedure, if appropriate based on the team's assessment, in accordance with district policy;

(2) provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a

threat to the community, school, or individual; and

(3) support the district in implementing the district's multihazard emergency operations plan.

(f-1) Before a team may conduct a threat assessment of a student, the team must notify the parent of or person standing in parental relation to the student regarding the assessment. In conducting the assessment, the team shall provide an opportunity for the parent or person to:

(1) participate in the assessment, either in person or remotely; and

(2) submit to the team information regarding the student.

(f-2) After completing a threat assessment of a student, the team shall provide to the parent of or person standing in parental relation to the student the team's findings and conclusions regarding the student.

(g) A team may not provide a mental health care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or person standing in parental relation to the student before providing the mental health care service. The consent required by this subsection must be submitted on a form developed by the school district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

(h) On a determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. The requirements of this subsection do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

(i) A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

(j) A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

(j-1) Materials and information provided to or produced by a team during a threat assessment of a student under this section must be

maintained in the student's school record until the student's 24th birthday.

(k) A team must report to the agency in accordance with guidelines developed by the agency the following information regarding the team's activities and other information for each school district campus the team serves:

(1) the occupation of each person appointed to the team;

(2) the number of threats and a description of the type of the threats reported to the team;

(3) the outcome of each assessment made by the team, including:

(A) any disciplinary action taken, including a change in school placement;

(B) any action taken by law enforcement; or

(C) a referral to or change in counseling, mental health, special education, or other services;

(4) the total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:

(A) citations issued for Class C misdemeanor offenses;

(B) arrests;

(C) incidents of uses of restraint;

(D) changes in school placement, including placement in a juvenile justice alternative education program or disciplinary alternative education program;

(E) referrals to or changes in counseling, mental health, special education, or other services;

(F) placements in in-school suspension or out-of-school suspension and incidents of expulsion;

(G) unexcused absences of 15 or more days during the school year; and

(H) referrals to juvenile court for truancy; and

(5) the number and percentage of school personnel trained in:

(A) a best-practices program or research-based practice under Section 38.351, including the number and percentage of school personnel trained in:

(i) suicide prevention; or

(ii) grief and trauma-informed practices;

(B) mental health or psychological first aid for schools;

(C) training relating to the safe and supportive school program established under Subsection (b); or

(D) any other program relating to safety identified by the commissioner.

(l) The commissioner may adopt rules to implement this section.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 13, eff. June 6, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 915 (H.B. 3607), Sec. 5.011, eff. September 1, 2021.

Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 3, eff. June 18, 2021.

Acts 2023, 88th Leg., R.S., Ch. 803 (H.B. 473), Sec. 1, eff. June 13, 2023.

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 15, eff. September 1, 2023.

Acts 2023, 88th Leg., R.S., Ch. 948 (S.B. 1720), Sec. 1, eff. June 18, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, H.B. 1620 and H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1 (S.B. 838), Sec. 2

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 16, see other Sec. 37.117.

Sec. 37.117. SILENT PANIC ALERT TECHNOLOGY. (a) Each school district and open-enrollment charter school shall provide each classroom in the district or school with silent panic alert technology that allows for immediate contact with district or school emergency services and emergency services agencies, law enforcement agencies, health departments, and fire departments.

(b) Silent panic alert technology provided by a school district or open-enrollment charter school under this section does not satisfy the requirement under Section 37.108(a)(2) for the district or school to ensure

employees have classroom access to a telephone or another electronic communication device.

(c) To comply with this section, a school district or open-enrollment charter school may:

(1) use funds provided to the district or school through the school safety allotment under Section 48.115 or other available funds; and

(2) use the district's or school's customary procurement process.

Added by Acts 2023, 88th Leg., R.S., Ch. 1 (S.B. 838), Sec. 2, eff. May 5, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, H.B. 1620 and H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Text of section as added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 16

For text of section as added by Acts 2023, 88th Leg., R.S., Ch. 1 (S.B. 838), Sec. 2, see other Sec. 37.117.

Sec. 37.117. EMERGENCY RESPONSE MAP AND WALK-THROUGH. Each school district and open-enrollment charter school shall provide to the Department of Public Safety and all appropriate local law enforcement agencies and emergency first responders:

(1) an accurate map of each district campus and school building that is developed and documented in accordance with the standards described by Section 37.351 related to developing site and floor plans, access control, and exterior door numbering; and

(2) an opportunity to conduct a walk-through of each district campus and school building using the map described by Subdivision (1).

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 16, eff. September 1, 2023.

Sec. 37.119. CERTAIN PRIVATE PROVIDER ACCESS TO SCHOOL SAFETY TRAINING. (a) In this section:

(1) "Accredited private school" means a private school accredited by an organization recognized by the Texas Private School Accreditation Commission or the agency.

(2) "Child-care facility" has the meaning assigned by Section 42.002, Human Resources Code.

(3) "Organization providing out-of-school-time care" includes a faith-based organization, a before-school or after-school program, a summer camp, a Texas 4-H or other agricultural program, and a youth sports organization.

(b) From money available for the purpose, a school district may make available at no cost school safety training courses, including active shooter training courses, approved under Section 25.0815 and determined to be appropriate by the district's school safety and security committee established under Section 37.109, to employees of accredited private schools located in the district or child-care facilities or other organizations providing out-of-school-time care to children younger than 18 years of age who reside in the district.

(c) The agency may solicit and accept gifts, grants, and donations from any public or private source to pay the cost of offering a school safety training course under this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 701 (H.B. 1905), Sec. 1, eff. September 1, 2023.

SUBCHAPTER E. PENAL PROVISIONS

Sec. 37.121. FRATERNITIES, SORORITIES, SECRET SOCIETIES, AND GANGS. (a) A person commits an offense if the person:

(1) is a member of, pledges to become a member of, joins, or solicits another person to join or pledge to become a member of a public school fraternity, sorority, secret society, or gang; or

(2) is not enrolled in a public school and solicits another person to attend a meeting of a public school fraternity, sorority, secret society, or gang or a meeting at which membership in one of those groups is encouraged.

(b) A school district board of trustees or an educator shall recommend placing in a disciplinary alternative education program any student under the person's control who violates Subsection (a).

(c) An offense under this section is a Class C misdemeanor.

(d) In this section, "public school fraternity, sorority, secret society, or gang" means an organization composed wholly or in part of students of public primary or secondary schools that seeks to perpetuate itself by taking in additional members from the students enrolled in school on the basis of the decision of its membership rather than on the free

choice of a student in the school who is qualified by the rules of the school to fill the special aims of the organization. The term does not include an agency for public welfare, including Boy Scouts, Hi-Y, Girl Reserves, DeMolay, Rainbow Girls, Pan-American Clubs, scholarship societies, or other similar educational organizations sponsored by state or national education authorities.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1055, Sec. 23, eff. June 20, 2003.

Sec. 37.122. POSSESSION OF INTOXICANTS ON PUBLIC SCHOOL GROUNDS. (a) A person commits an offense if the person possesses an intoxicating beverage for consumption, sale, or distribution while:

(1) on the grounds or in a building of a public school; or

(2) entering or inside any enclosure, field, or stadium where an athletic event sponsored or participated in by a public school of this state is being held.

(a-1) It is a defense to prosecution under this section that the person possessed the intoxicating beverage:

(1) at a performing arts facility; and

(2) during an event held outside of regular school hours and not sponsored or sanctioned by a school district.

(b) An officer of this state who sees a person violating this section shall immediately seize the intoxicating beverage and, within a reasonable time, deliver it to the county or district attorney to be held as evidence until the trial of the accused possessor.

(c) An offense under this section is a Class C misdemeanor.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by:

Acts 2019, 86th Leg., R.S., Ch. 834 (H.B. 2633), Sec. 3, eff. September 1, 2019.

Sec. 37.123. DISRUPTIVE ACTIVITIES. (a) A person commits an offense if the person, alone or in concert with others, intentionally engages in disruptive activity on the campus or property of any private or public school.

(b) For purposes of this section, disruptive activity is:

(1) obstructing or restraining the passage of persons in an exit, entrance, or hallway of a building without the authorization of the administration of the school;

(2) seizing control of a building or portion of a building to interfere with an administrative, educational, research, or other authorized activity;

(3) preventing or attempting to prevent by force or violence or the threat of force or violence a lawful assembly authorized by the school administration so that a person attempting to participate in the assembly is unable to participate due to the use of force or violence or due to a reasonable fear that force or violence is likely to occur;

(4) disrupting by force or violence or the threat of force or violence a lawful assembly in progress; or

(5) obstructing or restraining the passage of a person at an exit or entrance to the campus or property or preventing or attempting to prevent by force or violence or by threats of force or violence the ingress or egress of a person to or from the property or campus without the authorization of the administration of the school.

(c) An offense under this section is a Class B misdemeanor.

(d) Any person who is convicted the third time of violating this section is ineligible to attend any institution of higher education receiving funds from this state before the second anniversary of the third conviction.

(e) This section may not be construed to infringe on any right of free speech or expression guaranteed by the constitution of the United States or of this state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.124. DISRUPTION OF CLASSES. (a) A person other than a primary or secondary grade student enrolled in the school commits an offense if the person, on school property or on public property within 500 feet of school property, alone or in concert with others, intentionally disrupts the conduct of classes or other school activities.

(b) An offense under this section is a Class C misdemeanor.

(c) In this section:

(1) "Disrupting the conduct of classes or other school activities" includes:

(A) emitting noise of an intensity that prevents or hinders classroom instruction;

(B) enticing or attempting to entice a student away from a class or other school activity that the student is required to attend;

(C) preventing or attempting to prevent a student from attending a class or other school activity that the student is required to

attend; and

(D) entering a classroom without the consent of either the principal or the teacher and, through either acts of misconduct or the use of loud or profane language, disrupting class activities.

(2) "Public property" includes a street, highway, alley, public park, or sidewalk.

(3) "School property" includes a public school campus or school grounds on which a public school is located and any grounds or buildings used by a school for an assembly or other school-sponsored activity.

(d) It is an exception to the application of Subsection (a) that, at the time the person engaged in conduct prohibited under that subsection, the person was younger than 12 years of age.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 4, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 10, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 6, eff. September 1, 2013.

Sec. 37.125. EXHIBITION, USE, OR THREAT OF EXHIBITION OR USE OF FIREARMS. (a) A person commits an offense if, in a manner intended to cause alarm or personal injury to another person or to damage school property, the person intentionally:

(1) exhibits or uses a firearm:

(A) in or on any property, including a parking lot, parking garage, or other parking area, that is owned by a private or public school; or

(B) on a school bus being used to transport children to or from school-sponsored activities of a private or public school;

(2) threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B) and was in possession of or had immediate access to the firearm; or

(3) threatens to exhibit or use a firearm in or on property described by Subdivision (1)(A) or on a bus described by Subdivision (1)(B).

(b) An offense under Subsection (a)(1) or (2) is a third degree felony.

(c) An offense under Subsection (a)(3) is a Class A misdemeanor.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 704 (H.B. 2112), Sec. 1, eff. September 1, 2007.

Acts 2017, 85th Leg., R.S., Ch. 795 (H.B. 2880), Sec. 1, eff. September 1, 2017.

Sec. 37.126. DISRUPTION OF TRANSPORTATION. (a) Except as provided by Section 37.125, a person other than a primary or secondary grade student commits an offense if the person intentionally disrupts, prevents, or interferes with the lawful transportation of children:

(1) to or from school on a vehicle owned or operated by a county or independent school district; or

(2) to or from an activity sponsored by a school on a vehicle owned or operated by a county or independent school district.

(b) An offense under this section is a Class C misdemeanor.

(c) It is an exception to the application of Subsection (a)(1) that, at the time the person engaged in conduct prohibited under that subdivision, the person was younger than 12 years of age.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 691 (H.B. 359), Sec. 5, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 11, eff. September 1, 2013.

Acts 2013, 83rd Leg., R.S., Ch. 1409 (S.B. 1114), Sec. 7, eff. September 1, 2013.

SUBCHAPTER E-1. CRIMINAL PROCEDURE

Sec. 37.141. DEFINITIONS. In this subchapter:

(1) "Child" means a person who is:

(A) a student; and

(B) at least 10 years of age and younger than 18 years of age.

(2) "School offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a school district.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1132 (S.B. 108), Sec. 4, eff. September 1, 2015.

Sec. 37.142. CONFLICT OF LAW. To the extent of any conflict, this subchapter controls over any other law applied to a school offense alleged to have been committed by a child.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.

Sec. 37.143. CITATION PROHIBITED; CUSTODY OF CHILD. (a) A peace officer, law enforcement officer, or school resource officer may not issue a citation to a child who is alleged to have committed a school offense.

(b) This subchapter does not prohibit a child from being taken into custody under Section 52.01, Family Code.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.
Amended by:
Acts 2015, 84th Leg., R.S., Ch. 1132 (S.B. 108), Sec. 5, eff. September 1, 2015.

Sec. 37.144. GRADUATED SANCTIONS FOR CERTAIN SCHOOL OFFENSES. (a) A school district that commissions peace officers under Section 37.081 may develop a system of graduated sanctions that the school district may require to be imposed on a child before a complaint is filed under Section 37.145 against the child for a school offense that is an offense under Section 37.124 or 37.126 or under Section 42.01(a)(1), (2), (3), (4), or (5), Penal Code. A system adopted under this section must include multiple graduated sanctions. The system may require:

(1) a warning letter to be issued to the child and the child's parent or guardian that specifically states the child's alleged school offense and explains the consequences if the child engages in additional misconduct;

(2) a behavior contract with the child that must be signed by the child, the child's parent or guardian, and an employee of the school and that includes a specific description of the behavior that is required or

prohibited for the child and the penalties for additional alleged school offenses, including additional disciplinary action or the filing of a complaint in a criminal court;

(3) the performance of school-based community service by the child; and

(4) the referral of the child to counseling, community-based services, or other in-school or out-of-school services aimed at addressing the child's behavioral problems.

(b) A referral made under Subsection (a)(4) may include participation by the child's parent or guardian if necessary.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.

Sec. 37.145. COMPLAINT. If a child fails to comply with or complete graduated sanctions under Section 37.144, or if the school district has not elected to adopt a system of graduated sanctions under that section, the school may file a complaint against the child with a criminal court in accordance with Section 37.146.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2 and S.B. 568, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.146. REQUISITES OF COMPLAINT. (a) A complaint alleging the commission of a school offense must, in addition to the requirements imposed by Article 45A.101, Code of Criminal Procedure:

(1) be sworn to by a person who has personal knowledge of the underlying facts giving rise to probable cause to believe that an offense has been committed; and

(2) be accompanied by a statement from a school employee stating:

(A) whether the child is eligible for or receives special services under Subchapter A, Chapter 29; and

(B) the graduated sanctions, if required under Section 37.144, that were imposed on the child before the complaint was filed.

(b) After a complaint has been filed under this subchapter, a summons may be issued under Articles 23.04 and 45A.457(e), Code of Criminal

Procedure.

(c) A complaint under this subchapter may include a recommendation by a school employee that the child attend a teen court program under Article 45A.401, Code of Criminal Procedure, if the school employee believes attending a teen court program is in the best interest of the child.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.
Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1132 (S.B. 108), Sec. 6, eff. September 1, 2015.

Acts 2023, 88th Leg., R.S., Ch. 765 (H.B. 4504), Sec. 2.040, eff. January 1, 2025.

Sec. 37.147. PROSECUTING ATTORNEYS. An attorney representing the state in a court with jurisdiction may adopt rules pertaining to the filing of a complaint under this subchapter that the state considers necessary in order to:

(1) determine whether there is probable cause to believe that the child committed the alleged offense;

(2) review the circumstances and allegations in the complaint for legal sufficiency; and

(3) see that justice is done.

Added by Acts 2013, 83rd Leg., R.S., Ch. 1407 (S.B. 393), Sec. 12, eff. September 1, 2013.

Sec. 37.148. RIGHT TO REPORT CRIME. (a) An employee of a school district or open-enrollment charter school may report a crime witnessed at the school to any peace officer with authority to investigate the crime.

(b) A school district or open-enrollment charter school may not adopt a policy requiring a school employee to:

(1) refrain from reporting a crime witnessed at the school; or

(2) report a crime witnessed at the school only to certain persons or peace officers.

Added by Acts 2015, 84th Leg., R.S., Ch. 1043 (H.B. 1783), Sec. 4, eff. September 1, 2015.

SUBCHAPTER F. HAZING

Sec. 37.151. DEFINITIONS. In this subchapter:

(1) "Educational institution" includes a public or private high school.

(2) "Pledge" means any person who has been accepted by, is considering an offer of membership from, or is in the process of qualifying for membership in an organization.

(3) "Pledging" means any action or activity related to becoming a member of an organization.

(4) "Student" means any person who:

(A) is registered in or in attendance at an educational institution;

(B) has been accepted for admission at the educational institution where the hazing incident occurs; or

(C) intends to attend an educational institution during any of its regular sessions after a period of scheduled vacation.

(5) "Organization" means a fraternity, sorority, association, corporation, order, society, corps, club, or student government, a band or musical group or an academic, athletic, cheerleading, or dance team, including any group or team that participates in National Collegiate Athletic Association competition, or a service, social, or similar group, whose members are primarily students.

(6) "Hazing" means any intentional, knowing, or reckless act, occurring on or off the campus of an educational institution, by one person alone or acting with others, directed against a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in an organization if the act:

(A) is any type of physical brutality, such as whipping, beating, striking, branding, electronic shocking, placing of a harmful substance on the body, or similar activity;

(B) involves sleep deprivation, exposure to the elements, confinement in a small space, calisthenics, or other similar activity that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(C) involves consumption of a food, liquid, alcoholic beverage, liquor, drug, or other substance, other than as described by Paragraph (E), that subjects the student to an unreasonable risk of harm or that adversely affects the mental or physical health or safety of the student;

(D) is any activity that induces, causes, or requires the student to perform a duty or task that involves a violation of the Penal

Code; or

(E) involves coercing, as defined by Section 1.07, Penal Code, the student to consume:

(i) a drug; or

(ii) an alcoholic beverage or liquor in an amount that would lead a reasonable person to believe that the student is intoxicated, as defined by Section 49.01, Penal Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 1, eff. September 1, 2019.

Sec. 37.152. PERSONAL HAZING OFFENSE. (a) A person commits an offense if the person:

(1) engages in hazing;

(2) solicits, encourages, directs, aids, or attempts to aid another in engaging in hazing;

(3) recklessly permits hazing to occur; or

(4) has firsthand knowledge of the planning of a specific hazing incident involving a student in an educational institution, or has firsthand knowledge that a specific hazing incident has occurred, and knowingly fails to report that knowledge to the dean of students or other appropriate official of the institution, a peace officer, or a law enforcement agency.

(b) The offense of failing to report is a Class B misdemeanor.

(c) Any other offense under this section that does not cause serious bodily injury to another is a Class B misdemeanor.

(d) Any other offense under this section that causes serious bodily injury to another is a Class A misdemeanor.

(e) Any other offense under this section that causes the death of another is a state jail felony.

(f) Except if an offense causes the death of a student, in sentencing a person convicted of an offense under this section, the court may require the person to perform community service, subject to the same conditions imposed on a person placed on community supervision under Chapter 42A, Code of Criminal Procedure, for an appropriate period of time in lieu of confinement in county jail or in lieu of a part of the time the person is sentenced to confinement in county jail.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 770 (H.B. 2299), Sec. 2.30, eff. January 1, 2017.

Acts 2023, 88th Leg., R.S., Ch. 1036 (S.B. 37), Sec. 1, eff. September 1, 2023.

Sec. 37.153. ORGANIZATION HAZING OFFENSE. (a) An organization commits an offense if the organization condones or encourages hazing or if an officer or any combination of members, pledges, or alumni of the organization commits or assists in the commission of hazing.

(b) An offense under this section is a misdemeanor punishable by:

(1) a fine of not less than $5,000 nor more than $10,000; or

(2) if the court finds that the offense caused personal injury, property damage, or other loss, a fine of not less than $5,000 nor more than double the amount lost or expenses incurred because of the injury, damage, or loss.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.154. CONSENT NOT A DEFENSE. It is not a defense to prosecution of an offense under this subchapter that the person against whom the hazing was directed consented to or acquiesced in the hazing activity.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.155. IMMUNITY FROM PROSECUTION OR CIVIL LIABILITY AVAILABLE. (a) In the prosecution of an offense under this subchapter, the court may grant immunity from prosecution for the offense to each person who is subpoenaed to testify for the prosecution and who does testify for the prosecution.

(b) Any person, including an entity organized to support an organization, who voluntarily reports a specific hazing incident involving a student in an educational institution to the dean of students or other appropriate official of the institution, a peace officer, or a law enforcement agency is immune from civil or criminal liability that might otherwise be incurred or imposed as a result of the reported hazing incident if the person:

(1) reports the incident before being contacted by the institution or a law enforcement agency concerning the incident or

otherwise being included in the institution's or a law enforcement agency's investigation of the incident; and

(2) cooperates in good faith throughout:

(A) any institutional process regarding the incident, as determined by the dean of students or other appropriate official of the institution designated by the institution; or

(B) any law enforcement agency's investigation regarding the incident, as determined by the chief or other appropriate official of the law enforcement agency designated by the law enforcement agency.

(c) Immunity under Subsection (b) extends to participation in any judicial proceeding resulting from the report.

(d) A person is not immune under Subsection (b) if the person:

(1) reports the person's own act of hazing; or

(2) reports an incident of hazing in bad faith or with malice.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.
Amended by:

Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 2, eff. September 1, 2019.

Acts 2023, 88th Leg., R.S., Ch. 1036 (S.B. 37), Sec. 2, eff. September 1, 2023.

Sec. 37.156. OFFENSES IN ADDITION TO OTHER PENAL PROVISIONS. This subchapter does not affect or repeal any penal law of this state. This subchapter does not limit or affect the right of an educational institution to enforce its own penalties against hazing.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.157. REPORTING BY MEDICAL AUTHORITIES. A doctor or other medical practitioner who treats a student who may have been subjected to hazing activities:

(1) may report the suspected hazing activities to police or other law enforcement officials; and

(2) is immune from civil or other liability that might otherwise be imposed or incurred as a result of the report, unless the report is made in bad faith or with malice.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 37.158. VENUE. (a) In this section, "prosecuting attorney" means a county attorney, district attorney, or criminal district attorney.

(b) An offense under this subchapter may be prosecuted:

(1) in any county in which the offense may be prosecuted under other law; or

(2) if the consent required by Subsection (c) is provided, in a county, other than a county described by Subdivision (1), in which is located the educational institution campus at which a victim of the offense is enrolled.

(c) An offense under this subchapter may be prosecuted in a county described by Subsection (b)(2) only with the written consent of a prosecuting attorney of a county described by Subsection (b)(1) who has authority to prosecute an offense under this subchapter.

Added by Acts 2019, 86th Leg., R.S., Ch. 1371 (S.B. 38), Sec. 3, eff. September 1, 2019.

SUBCHAPTER G. TEXAS SCHOOL SAFETY CENTER

Sec. 37.201. DEFINITION. In this subchapter, "center" means the Texas School Safety Center.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.

Sec. 37.202. PURPOSE. The purpose of the center is to serve as:

(1) a central location for school safety and security information, including research, training, and technical assistance related to successful school safety and security programs;

(2) a central registry of persons providing school safety and security consulting services in the state; and

(3) a resource for the prevention of youth violence and the promotion of safety in the state.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.04, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.203. BOARD.

(a) The center is advised by a board of directors composed of:

(1) the attorney general, or the attorney general's designee;

(2) the commissioner, or the commissioner's designee;

(3) the executive director of the Texas Juvenile Justice Department, or the executive director's designee;

(4) the commissioner of the Department of State Health Services, or the commissioner's designee;

(5) the commissioner of higher education, or the commissioner's designee; and

(6) the following members appointed by the governor with the advice and consent of the senate:

(A) a juvenile court judge;

(B) a member of a school district's board of trustees;

(C) an administrator of a public primary school;

(D) an administrator of a public secondary school;

(E) a member of the state parent-teacher association;

(F) a teacher from a public primary or secondary school;

(G) a public school superintendent who is a member of the Texas Association of School Administrators;

(H) a school district police officer or a peace officer whose primary duty consists of working in a public school;

(I) a professional architect who is registered in this state and a member of the Texas Society of Architects; and

(J) three members of the public.

(b) Members of the board appointed under Subsection (a)(6) serve staggered two-year terms, with the terms of the members described by Subsections (a)(6)(A)-(F) expiring on February 1 of each odd-numbered year and the terms of the members described by Subsections (a)(6)(G)-(J) expiring on February 1 of each even-numbered year. A member may serve more than one term.

(c) The board may form committees as necessary.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 780 (S.B. 11), Sec. 2, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.03, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 263 (S.B. 103), Sec. 4, eff. June 8, 2007.

Acts 2009, 81st Leg., R.S., Ch. 87 (S.B. 1969), Sec. 7.005, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.05, eff. September 1, 2009.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.06, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 734 (H.B. 1549), Sec. 35, eff. September 1, 2015.

Acts 2019, 86th Leg., R.S., Ch. 924 (H.B. 4342), Sec. 1, eff. September 1, 2019.

Sec. 37.204. OFFICERS; MEETINGS; COMPENSATION. (a) The board shall annually elect from among its members a chairperson and a vice chairperson.

(b) The board shall meet at least four times each year.

(c) A member of the board may not receive compensation but is entitled to reimbursement of the travel expenses incurred by the member while conducting the business of the board as provided by the General Appropriations Act.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.

Sec. 37.205. SAFETY TRAINING PROGRAMS. The center shall conduct for school districts a safety training program that includes:

(1) development of a positive school environment and proactive safety measures designed to address local concerns;

(2) school safety courses for law enforcement officials, with a focus on school district police officers and school resource officers;

(3) discussion of school safety issues with parents and community members; and

(4) assistance in developing a multihazard emergency operations plan for adoption under Section 37.108.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 780 (S.B. 11), Sec. 3, eff. September 1, 2005.

Sec. 37.207. MODEL SAFETY AND SECURITY AUDIT PROCEDURE. (a) The center shall develop a model safety and security audit procedure for use by

school districts and public junior college districts that includes:

(1) providing each district with guidelines showing proper audit procedures;

(2) reviewing elements of each district audit and making recommendations for improvements in the state based on that review; and

(3) incorporating the findings of district audits in a statewide report on school safety and security made available by the center to the public.

(b) Each school district shall report the results of its audits to the center in the manner required by the center.

(c) In addition to a review of a district's multihazard emergency operations plan under Section 37.2071, the center may require a district to submit its plan for immediate review if the district's audit results indicate that the district is not complying with applicable standards.

(d) If a district fails to report the results of its audit as required under Subsection (b), the center shall provide the district with written notice that the district has failed to report its audit results and must immediately report the results to the center.

(e) If three months after the date of the initial notification required by Subsection (d) the district has still not reported the results of its audit to the center, the center shall notify the agency and the district of the district's requirement to conduct a public hearing under Section 37.1081. This subsection applies only to a school district.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.04, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.07, eff. September 1, 2009.

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 14, eff. June 6, 2019.

Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 4, eff. June 18, 2021.

Sec. 37.2071. DISTRICT MULTIHAZARD EMERGENCY OPERATIONS PLAN REVIEW AND VERIFICATION. (a) The center shall establish a random or need-based cycle for the center's review and verification of school district and public junior college district multihazard emergency operations plans adopted under Section 37.108. The cycle must provide for each district's plan to be reviewed at regular intervals as determined by the center.

(b) A school district or public junior college district shall submit its multihazard emergency operations plan to the center:

(1) not later than the 30th day after the date the center requests the submission; and

(2) in accordance with the center's review cycle developed under Subsection (a).

(c) The center shall review each district's multihazard emergency operations plan submitted under Subsection (b) and:

(1) verify the plan meets the requirements of Section 37.108; or

(2) provide the district with written notice:

(A) describing the plan's deficiencies;

(B) including specific recommendations to correct the deficiencies; and

(C) stating that the district must correct the deficiencies in its plan and resubmit the revised plan to the center.

(d) If a district fails to submit its multihazard emergency operations plan to the center for review following a notification by the center that the district has failed to submit the district's plan, the center shall provide the district with written notice stating that the district must hold a public hearing under Section 37.1081.

(e) The center may approve a district multihazard emergency operations plan that has deficiencies if the district submits a revised plan that the center determines will correct the deficiencies.

(f) If one month after the date of initial notification of a plan's deficiencies under Subsection (c)(2) a district has not corrected the plan deficiencies, the center shall provide written notice to the district and agency that the district has not complied with the requirements of this section and must comply immediately.

(g) If a school district still has not corrected the plan deficiencies three months after the date of initial notification under Subsection (c)(2), the center shall provide written notice to the school district stating that the district must hold a public hearing under Section 37.1081.

(h) If a school district has failed to submit a plan, the notice required by Subsection (d) must state that the commissioner is authorized to appoint a conservator under Section 37.1082.

(i) Any document or information collected, developed, or produced during the review and verification of multihazard emergency operations plans under this section is not subject to disclosure under Chapter 552, Government Code.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 15, eff. June 6, 2019.
Amended by:
Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 17, eff. September 1, 2023.

Sec. 37.208. ON-SITE ASSISTANCE. On request of a school district, the center may provide on-site technical assistance to the district for:

(1) school safety and security audits; and

(2) school safety and security information and presentations.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2005, 79th Leg., Ch. 780 (S.B. 11), Sec. 5, eff. September 1, 2005.

Sec. 37.209. CENTER WEBSITE. The center shall develop and maintain an interactive Internet website that includes:

(1) quarterly news updates related to school safety and security and violence prevention;

(2) school crime data;

(3) a schedule of training and special events; and

(4) a list of persons who provide school safety or security consulting services in this state and are registered in accordance with Section 37.2091.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:
Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.08, eff. September 1, 2009.

Sec. 37.2091. REGISTRY OF PERSONS PROVIDING SCHOOL SAFETY OR SECURITY CONSULTING SERVICES. (a) In this section, "school safety or security consulting services" includes any service provided to a school district, institution of higher education, district facility, or campus by a person consisting of advice, information, recommendations, data collection, or safety and security audit services relevant to school safety and security, regardless of whether the person is paid for those services.

(b) The center shall establish a registry of persons providing school safety or security consulting services in this state.

(b-1) A school district must confirm that a person is included in the registry established under Subsection (b) before the district may engage the person to provide school safety or security consulting services to the district.

(c) Each person providing school safety or security consulting services in this state shall register with the center in accordance with requirements established by the center. The requirements must include provisions requiring a person registering with the center to provide information regarding:

(1) the person's background, education, and experience that are relevant to the person's ability to provide knowledgeable and effective school safety or security consulting services; and

(2) any complaints or pending litigation relating to the person's provision of school safety or security consulting services.

(d) The center shall verify the information provided by a person under Subsection (c) to confirm the person's qualifications and ability to provide school safety or security consulting services before adding the person to the registry.

(e) The center shall include information regarding the registry, including the number of persons registered and the general degree of school safety or security experience possessed by those persons, in the biennial report required by Section 37.216.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.09, eff. September 1, 2009.

Amended by:

Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 16, eff. June 6, 2019.

Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 18, eff. September 1, 2023.

Sec. 37.211. RECOGNITION OF SCHOOLS. The center shall provide for the public recognition of schools that implement effective school safety measures and violence prevention.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.

Sec. 37.212. INTERAGENCY COOPERATION. The center shall promote cooperation between state agencies, institutions of higher education, and any local juvenile delinquency prevention councils to address discipline and safety issues in the state.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.

Sec. 37.2121. MEMORANDA OF UNDERSTANDING AND MUTUAL AID AGREEMENTS. (a) The center shall identify and inform school districts of the types of entities, including local and regional authorities, other school districts, and emergency first responders, with whom school districts should customarily make efforts to enter into memoranda of understanding or mutual aid agreements addressing issues that affect school safety and security.

(b) The center shall develop guidelines regarding memoranda of understanding and mutual aid agreements between school districts and the entities identified in accordance with Subsection (a). The guidelines:

(1) must include descriptions of the provisions that should customarily be included in each memorandum or agreement with a particular type of entity;

(2) may include sample language for those provisions; and

(3) must be consistent with the Texas Statewide Mutual Aid System established under Subchapter E-1, Chapter 418, Government Code.

(c) The center shall encourage school districts to enter into memoranda of understanding and mutual aid agreements with entities identified in accordance with Subsection (a) that comply with the guidelines developed under Subsection (b).

(d) Each school district that enters into a memorandum of understanding or mutual aid agreement addressing issues that affect school safety and security shall, at the center's request, provide a copy of the memorandum or agreement to the center.

(d-1) A copy of a memorandum of understanding or mutual aid agreement provided to the center under Subsection (d) is confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The center shall include information regarding the center's efforts under this section in the report required by Section 37.216.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.09, eff. September 1, 2009.
Amended by:

Acts 2021, 87th Leg., R.S., Ch. 928 (H.B. 3597), Sec. 5, eff. June 18, 2021.

Sec. 37.213. PUBLIC JUNIOR COLLEGES. (a) In this section, "public junior college" has the meaning assigned by Section 61.003.

(b) The center shall research best practices regarding emergency preparedness of public junior colleges and serve as a clearinghouse for that information.

(c) The center shall provide public junior colleges with training, technical assistance, and published guidelines or templates, as appropriate, in the following areas:

(1) multihazard emergency operations plan development;

(2) drill and exercise development and implementation;

(3) mutual aid agreements;

(4) identification of equipment and funds that may be used by public junior colleges in an emergency; and

(5) reporting in accordance with 20 U.S.C. Section 1092(f).

Added by Acts 2007, 80th Leg., R.S., Ch. 258 (S.B. 11), Sec. 3.05, eff. September 1, 2007.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.10, eff. September 1, 2009.

Sec. 37.214. AUTHORITY TO ACCEPT CERTAIN FUNDS. The center may solicit and accept gifts, grants, and donations from public and private entities to use for the purposes of this subchapter.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.

Sec. 37.215. BUDGET. (a) The board shall annually approve a budget for the center.

(b) The center shall biannually prepare a budget request for submission to the legislature.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2005, 79th Leg., Ch. 780 (S.B. 11), Sec. 6, eff. September 1, 2005.

Sec. 37.216. BIENNIAL REPORT. (a) Not later than January 1 of each odd-numbered year, the board shall provide a report to the governor, the legislature, the State Board of Education, and the agency.

(b) The biennial report must include any findings made by the center regarding school safety and security and the center's functions, budget information, and strategic planning initiatives of the center.

Added by Acts 2001, 77th Leg., ch. 923, Sec. 1, eff. Sept. 1, 2001.
Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.11, eff. September 1, 2009.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.2161. SCHOOL SAFETY AND SECURITY PROGRESS REPORT. (a) The center shall periodically provide a school safety and security progress report to the governor, the legislature, the State Board of Education, and the agency that contains current information regarding school safety and security in the school districts and public junior college districts of this state based on:

(1) elements of each district's multihazard emergency operations plan required by Section 37.108(a);

(2) elements of each district's safety and security audit required by Section 37.108(b); and

(3) any other report required to be submitted to the center.

(b) The center shall establish guidelines regarding the specific information to be included in the report required by this section.

(c) The center may provide the report required by this section in conjunction with the report required by Section 37.216.

Added by Acts 2009, 81st Leg., R.S., Ch. 1280 (H.B. 1831), Sec. 6.12, eff. September 1, 2009.

Sec. 37.217. COMMUNITY EDUCATION RELATING TO INTERNET SAFETY. (a) The center, in cooperation with the attorney general, shall develop a program that provides instruction concerning Internet safety, including instruction relating to:

(1) the potential dangers of allowing personal information to appear on an Internet website;

(2) the manner in which to report an inappropriate online solicitation; and

(3) the prevention, detection, and reporting of bullying or threats occurring over the Internet.

(b) In developing the program, the center shall:

(1) solicit input from interested stakeholders; and

(2) to the extent practicable, draw from existing resources and programs.

(c) The center shall make the program available to public schools.

Added by Acts 2007, 80th Leg., R.S., Ch. 343 (S.B. 136), Sec. 1, eff. June 15, 2007.

Sec. 37.218. PROGRAMS ON DANGERS OF STUDENTS SHARING VISUAL MATERIAL DEPICTING MINOR ENGAGED IN SEXUAL CONDUCT. (a) In this section:

(1) "Bullying" has the meaning assigned by Section 37.0832.

(2) "Cyberbullying" has the meaning assigned by Section 37.0832.

(3) "Harassment" has the meaning assigned by Section 37.001.

(4) "Sexual conduct" has the meaning assigned by Section 43.25, Penal Code.

(b) The center, in consultation with the office of the attorney general, shall develop programs for use by school districts that address:

(1) the possible legal consequences, including criminal penalties, of sharing visual material depicting a minor engaged in sexual conduct;

(2) other possible consequences of sharing visual material depicting a minor engaged in sexual conduct, including:

(A) negative effects on relationships;

(B) loss of educational and employment opportunities; and

(C) possible removal, if applicable, from certain school programs or extracurricular activities;

(3) the unique characteristics of the Internet and other communications networks that could affect visual material depicting a minor engaged in sexual conduct, including:

(A) search and replication capabilities; and

(B) a potentially worldwide audience;

(4) the prevention of, identification of, responses to, and reporting of incidents of bullying; and

(5) the connection between bullying, cyberbullying, harassment, and a minor sharing visual material depicting a minor engaged in sexual conduct.

(c) Each school district shall annually provide or make available information on the programs developed under Subsection (b) to parents and students in a grade level the district considers appropriate. Each district shall provide or make available the information by any means the district considers appropriate.

Added by Acts 2011, 82nd Leg., R.S., Ch. 1322 (S.B. 407), Sec. 22, eff. September 1, 2011.
Amended by:
Acts 2017, 85th Leg., R.S., Ch. 522 (S.B. 179), Sec. 5, eff. September 1, 2017.

Sec. 37.220. MODEL THREAT ASSESSMENT TEAM POLICIES AND PROCEDURES. (a) The center, in coordination with the agency, shall develop model policies and procedures to assist school districts in establishing and training threat assessment teams.

(b) The model policies and procedures developed under Subsection (a) must include procedures, when appropriate, for:

(1) the referral of a student to a local mental health authority or health care provider for evaluation or treatment;

(2) the referral of a student for a full individual and initial evaluation for special education services under Section 29.004; and

(3) a student or school personnel to anonymously report dangerous, violent, or unlawful activity that occurs or is threatened to occur on school property or that relates to a student or school personnel.

Added by Acts 2019, 86th Leg., R.S., Ch. 464 (S.B. 11), Sec. 17, eff. June 6, 2019.

Sec. 37.221. FACILITIES STANDARDS REVIEW. (a) At least once every five years, the center shall review the facilities standards for instructional facilities adopted under Section 7.061 and make recommendations to the commissioner regarding any changes necessary to ensure that the facilities standards:

(1) reflect best practices for improving school safety through the design and construction of school facilities; and

(2) are consistent with standards adopted under Chapter 469, Government Code, regarding the elimination of architectural barriers.

(b) The center and commissioner may consult with stakeholders with relevant expertise regarding whether any updates to requirements for the use of funds granted or allocated to school districts for purposes of improving the safety and security of school facilities are necessary to align with best practices.

(c) In updating facilities standards, the commissioner shall:

(1) incorporate input from the center and stakeholders with relevant expertise regarding best practices for standards applicable to the

design and construction of school facilities; and

(2) ensure the standards are updated as necessary to ensure compliance with any changes to state law and local building codes.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 19, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.222. RESOURCES ON SAFE FIREARM STORAGE. (a) The center, in collaboration with the Department of Public Safety, shall provide to each school district and open-enrollment charter school information and other resources regarding the safe storage of firearms for distribution by the district or school under Subsection (b), including information on:

(1) the offense under Section 46.13, Penal Code; and

(2) ways in which parents and guardians can effectively prevent children from accessing firearms.

(b) Each school district and open-enrollment charter school shall provide the information and other resources described under Subsection (a) to the parent or guardian of each student enrolled in the district or school.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 19, eff. September 1, 2023.

SUBCHAPTER I. PLACEMENT OF REGISTERED SEX OFFENDERS

Sec. 37.301. DEFINITION. In this subchapter, "board of trustees" includes the board's designee.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.302. APPLICABILITY. This subchapter:

(1) applies to a student who is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; and

(2) does not apply to a student who is no longer required to register as a sex offender under Chapter 62, Code of Criminal Procedure,

including a student who receives an exemption from registration under Subchapter H, Chapter 62, Code of Criminal Procedure, or a student who receives an early termination of the obligation to register under Subchapter I, Chapter 62, Code of Criminal Procedure.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.303. REMOVAL OF REGISTERED SEX OFFENDER FROM REGULAR CLASSROOM. Notwithstanding any provision of Subchapter A, on receiving notice under Article 15.27, Code of Criminal Procedure, or Chapter 62, Code of Criminal Procedure, that a student is required to register as a sex offender under that chapter, a school district shall remove the student from the regular classroom and determine the appropriate placement of the student in the manner provided by this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.304. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS UNDER COURT SUPERVISION. (a) A school district shall place a student to whom this subchapter applies and who is under any form of court supervision, including probation, community supervision, or parole, in the appropriate alternative education program as provided by Section 37.309 for at least one semester.

(b) If a student transfers to another school district during the student's mandatory placement in an alternative education program under Subsection (a), the district to which the student transfers may:

(1) require the student to complete an additional semester in the appropriate alternative education program without conducting a review of the student's placement for that semester under Section 37.306; or

(2) count any time spent by the student in an alternative education program in the district from which the student transfers toward the mandatory placement requirement under Subsection (a).

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.305. PLACEMENT OF REGISTERED SEX OFFENDER WHO IS NOT UNDER COURT SUPERVISION. A school district may place a student to whom this subchapter applies and who is not under any form of court supervision in the appropriate alternative education program as provided by Section 37.309 for one semester or in the regular classroom. The district may not place the student in the regular classroom if the district board of trustees determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.306. REVIEW OF PLACEMENT IN ALTERNATIVE EDUCATION PROGRAM. (a) At the end of the first semester of a student's placement in an alternative education program under Section 37.304 or 37.305, the school district board of trustees shall convene a committee to review the student's placement in the alternative education program. The committee must be composed of:

(1) a classroom teacher from the campus to which the student would be assigned were the student not placed in an alternative education program;

(2) the student's parole or probation officer or, in the case of a student who does not have a parole or probation officer, a representative of the local juvenile probation department;

(3) an instructor from the alternative education program to which the student is assigned;

(4) a school district designee selected by the board of trustees; and

(5) a school counselor employed by the school district.

(b) The committee by majority vote shall determine and recommend to the school district board of trustees whether the student should be returned to the regular classroom or remain in the alternative education program.

(c) If the committee recommends that the student be returned to the regular classroom, the board of trustees shall return the student to the regular classroom unless the board determines that the student's presence in the regular classroom:

(1) threatens the safety of other students or teachers;

(2) will be detrimental to the educational process; or

(3) is not in the best interests of the district's students.

(d) If the committee recommends that the student remain in the alternative education program, the board of trustees shall continue the student's placement in the alternative education program unless the board determines that the student's presence in the regular classroom:

(1) does not threaten the safety of other students or teachers;

(2) will not be detrimental to the educational process; and

(3) is not contrary to the best interests of the district's students.

(e) If, after receiving a recommendation under Subsection (b), the school district board of trustees determines that the student should remain in an alternative education program, the board shall before the beginning of each school year convene the committee described by Subsection (a) to review, in the manner provided by Subsections (b), (c), and (d), the student's placement in an alternative education program.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.
Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 443 (S.B. 715), Sec. 33, eff. June 14, 2013.

Sec. 37.307. PLACEMENT AND REVIEW OF STUDENT WITH DISABILITY. (a) The placement under this subchapter of a student with a disability who receives special education services must be made in compliance with the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

(b) The review under Section 37.306 of the placement of a student with a disability who receives special education services may be made only by a duly constituted admission, review, and dismissal committee. The admission, review, and dismissal committee may request that the board of trustees convene a committee described by Section 37.306(a) to assist the admission, review, and dismissal committee in conducting the review.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.308. TRANSFER OF REGISTERED SEX OFFENDER. Except as provided by Section 37.304(b), a school district shall determine whether to place a student to whom this subchapter applies and who transfers to the district in the appropriate alternative education program as provided by Section 37.309 or in a regular classroom. The school district shall follow the procedures specified under Section 37.306 in making the determination.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.309. PLACEMENT IN DISCIPLINARY ALTERNATIVE EDUCATION PROGRAM OR JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. (a) Except as provided by Subsection (b), a school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a disciplinary alternative education program.

(b) A school district shall place a student who is required by the board of trustees to attend an alternative education program under this subchapter in a juvenile justice alternative education program if:

(1) the memorandum of understanding entered into between the school district and juvenile board under Section 37.011(k) provides for the placement of students to whom this subchapter applies in the juvenile justice alternative education program; or

(2) a court orders the placement of the student in a juvenile justice alternative education program.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.310. FUNDING FOR REGISTERED SEX OFFENDER PLACED IN JUVENILE JUSTICE ALTERNATIVE EDUCATION PROGRAM. A juvenile justice alternative education program is entitled to funding for a student who is placed in the

program under this subchapter in the same manner as a juvenile justice alternative education program is entitled to funding under Section 37.012 for a student who is expelled and placed in a juvenile justice alternative education program for conduct for which expulsion is permitted but not required under Section 37.007.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.311. CONFERENCE. (a) A student or the student's parent or guardian may appeal a decision by a school district board of trustees to place the student in an alternative education program under this subchapter by requesting a conference among the board of trustees, the student's parent or guardian, and the student. The conference is limited to the factual question of whether the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure.

(b) If the school district board of trustees determines at the conclusion of the conference that the student is required to register as a sex offender under Chapter 62, Code of Criminal Procedure, the student is subject to placement in an alternative education program in the manner provided by this subchapter.

(c) A decision by the board of trustees under this section is final and may not be appealed.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.312. LIABILITY. This subchapter does not:

(1) waive any liability or immunity of a governmental entity or its officers or employees; or

(2) create any liability for or a cause of action against a governmental entity or its officers or employees.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

Sec. 37.313. CONFLICTS OF LAW. To the extent of any conflict between a provision of this subchapter and a provision of Subchapter A, this subchapter prevails.

Added by Acts 2007, 80th Leg., R.S., Ch. 1240 (H.B. 2532), Sec. 3, eff. June 15, 2007.
Added by Acts 2007, 80th Leg., R.S., Ch. 1291 (S.B. 6), Sec. 3, eff. September 1, 2007.

SUBCHAPTER J. SAFETY AND SECURITY REQUIREMENTS FOR FACILITIES

Sec. 37.351. FACILITIES STANDARDS COMPLIANCE. (a) A school district must ensure that each district facility complies with each school facilities standard, including performance standards and operational requirements, related to safety and security adopted under Section 7.061 or provided by other law or agency rule.

(b) A school district must develop and maintain documentation of the district's implementation of and compliance with school safety and security facilities standards for each district facility, including a good cause exception claimed under Section 37.353, and shall, if requested by the agency, provide that documentation to the agency in the manner prescribed by the agency.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 20, eff. September 1, 2023.

Sec. 37.352. PURCHASING REQUIREMENTS. A school district shall comply with all applicable state laws and rules relating to procurement for district purchases relating to achieving compliance with the facilities standards adopted under Section 7.061 or provided by other law or agency rule.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 20, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 121, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.353. GOOD CAUSE EXCEPTION. (a) If a school district is unable to bring a district facility into compliance with a school facilities standard related to safety and security, the district may claim a good cause exception from the requirement to comply with that standard, including for a reason related to:

(1) the age, physical design, or location of the noncompliant facility;

(2) the projected remaining use or functional life of the noncompliant facility;

(3) availability of funding; or

(4) supply chain obstacles.

(b) A school district that claims a good cause exception under Subsection (a) must develop an alternative performance standard with which the district is able to comply.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 20, eff. September 1, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see H.B. 2, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 37.354. FUNDING FOR FACILITIES STANDARDS COMPLIANCE. (a) The commissioner may authorize a school district to use money provided to the district for the purpose of improving school safety and security, including the school safety allotment under Section 48.115 or any other funding or grant money available to the district for that purpose, to comply with the requirements of this subchapter.

(a-1) Funds appropriated in S.B. 30, Acts of the 88th Legislature, Regular Session, 2023, or similar legislation, for the purpose of improving school safety and security, may be used as described by Subsection (a). This subsection expires September 1, 2026.

(b) The commissioner may adopt rules regarding safety and security requirements with which a school district must comply to receive funding or grant money available for the purpose of improving school safety and security.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 20, eff. September 1, 2023.

Sec. 37.355. CONFIDENTIALITY. (a) Any document or information collected, identified, developed, or produced relating to a safety or security requirement under this subchapter is confidential under Sections 418.177 and 418.181, Government Code, and not subject to disclosure under Chapter 552, Government Code.

(b) The commissioner may adopt rules as necessary to administer this section.

Added by Acts 2023, 88th Leg., R.S., Ch. 896 (H.B. 3), Sec. 20, eff. September 1, 2023.

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)

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

Each district participating in a shared services arrangement for disciplinary alternative education program (DAEP) services shall be responsible for ensuring that the board-approved district improvement plan and the improvement plans for each campus include the performance of the DAEP student group for the respective 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, with a disability who receive special education services, or receiving limited English proficiency/English learner 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) [See FOCA]

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]

Availability to TEA

A district's plan for the improvement of student performance is not filed with the Texas Education Agency (TEA), but the district must

make the plan available to TEA on request. *Education Code 11.252(b)*

Required Provisions

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 student 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. Evidence-based practices that address the needs of students for special programs, including:

        (1) Suicide prevention programs, in accordance with Education Code Chapter 38, Subchapter G, which include a parental or guardian notification procedure [see FFEB];

        (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. Positive behavior interventions and support, including interventions and support that integrate best practices on grief-informed and trauma-informed care.

    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.

i. Implementation of a comprehensive school counseling program under Education Code 33.005. [See FFEA]

4. Strategies for providing to elementary school, 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, including state financial aid opportunities such as the TEXAS grant program and the Teach for Texas grant program.

b. The need for students to make informed curriculum choices to be prepared for success beyond high school.

c. 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.

9. The policy under Education Code 38.0041 addressing sexual abuse and other maltreatment of children. [See FFG]

10. The trauma-informed care policy required under Education Code 38.036. [See FFBA]

Education Code 11.252(a)

Law Enforcement Duties

The law enforcement duties of peace officers, school resource officers, and security personnel must be included in the district improvement plan. *Education Code 37.081(d)(1)* [See CKE]

Discipline Management

A district shall adopt and implement a discipline management program to be included in the district improvement plan. *Education Code 37.083(a)* [See FNC]

Dating Violence	A district shall adopt and implement a dating violence policy to be included in the district improvement plan. *Education Code 37.0831* [See FFH]
Bullying Prevention	The policy and any necessary procedures adopted under Education Code 37.083(c) (concerning bullying) must be included in the district improvement plan. *Education Code 37.0832(d)(2)* [See FFI]
Mental Health, Substance Abuse, and Suicide	The practices and procedures developed under Education Code 38.351(i) or (i-1) (mental health promotion and intervention, substance abuse prevention and intervention, and suicide prevention) must be included in the district improvement plan. *Education Code 38.351(k)(2)* [See FFEB]

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 timelines for reaching the goals.
7. Measure progress toward the performance objectives periodically to ensure that the plan is resulting in academic improvement.
8. Include goals and methods for violence prevention and intervention on campus.
9. Provide for a program to encourage parental involvement at the 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)

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Section I: General Provisions

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

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

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

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Section II: Fraud and Financial Impropriety

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

Definition

Fraud is defined as a knowing or intentional misrepresentation or knowing or intentional concealment or omission of a material fact made to induce another to act to his or her detriment.

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

1. Forgery or unauthorized alteration of any document or account belonging to the District.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.
3. Misappropriation of funds, securities, supplies, or other District assets, including employee time.
4. Impropriety in the handling of money or reporting of District financial transactions.
5. Profiteering as a result of insider knowledge of District information or activities.
6. Unauthorized disclosure of confidential or proprietary information to outside parties.
7. Unauthorized disclosure of investment activities engaged in or contemplated by the District.
8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the District, except as otherwise permitted by law or District policy. [See CB, DBD]
9. Inappropriately destroying, removing, or using District property, including but not limited to records, furniture, fixtures, or equipment, except as authorized by District policy.
10. Failure to provide financial records required by state or local entities.
11. Failure to disclose conflicts of interest as required by law or District policy.
12. Submission of any document or record known to be false or altered with the intent of having it accepted as a genuine record.

13. Intentionally destroying, concealing, removing, or otherwise impairing the verity, legibility, or availability of documents or records.

14. Any other dishonest or fraudulent act regarding the finances of the District.

15. Failure to comply with requirements imposed by law, the awarding agency, or a pass-through entity for state and federal awards.

Financial Controls and Oversight

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

Fraud Prevention

The Superintendent or designee shall maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the District. [See BJA(LOCAL)]

Reports

Any employee who knows or suspects fraud or financial impropriety in the District or who witnesses a District-related crime may report the fraud, financial impropriety, or crime to any of the following:

1. Any peace officer with authority to investigate the crime;

2. The chief audit executive;

3. Any supervisor;

4. The District's 24-hour *Ethics Hotline*;

5. The Superintendent or designee; or

6. Any person with authority to investigate the suspicions.

Reports of suspected fraud or financial impropriety shall be treated as confidential to the extent permitted by law. Limited disclosure may be necessary to complete a full investigation or to comply with law. All employees involved in an investigation shall be advised to keep information about the investigation confidential with the exception that any employee represented by a lawyer or other designated representative for purposes of the investigation may share information with their lawyer or designated representative.

Protection from Retaliation

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

Investigations

The Superintendent shall assign allegations to an appropriate investigative unit. Generally, criminal allegations, not including fraud or financial impropriety, shall be assigned to Houston ISD Police,

and allegations of fraud and financial impropriety shall be assigned to the Office of Ethics and Compliance or the Office of Internal Audit, depending on the nature and severity of the allegations.

Each investigative unit shall conduct and/or coordinate all investigations assigned to it. The investigative unit shall coordinate with the District's general counsel, and other internal or external departments or agencies, on investigations as appropriate.

Response

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

If an employee is found to have committed fraud or financial impropriety, the Superintendent or designee shall take or recommend appropriate disciplinary action, which may include termination of employment.

If a contractor, vendor, consultant, volunteer, or other party involved in the District's financial transactions is found to have committed fraud or financial impropriety, the District shall take appropriate action, which may include cancellation of the District's relationship with that party.

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

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

Federal Awards Disclosure

The District shall disclose, in a timely manner in writing to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal grant award. [See CBB]

Analysis of Fraud

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

Section III: Ethics and Compliance Program and E-Rate Compliance

The Superintendent or designee shall establish a system of internal controls that ensures high-level management oversight and appropriate review of all District Ethics and Compliance activities and E-Rate program activities.

Definitions

E-Rate

E-Rate is the commonly used name for the Schools and Libraries Program of the Universal Service Fund. The E-Rate program is administered by the Universal Service Administrative Company (USAC) under the direction of the Federal Communications Commission (FCC). The E-Rate program provides discounts to assist schools and libraries to obtain affordable internet access, telecommunications, internal connections, and related equipment.

E-Rate Personnel

E-Rate personnel includes:

- All District officers, Board members, and employees involved in any aspect of the E-Rate program.
- Contractors (except for service providers that provide E-Rate-supported services to the District), consultants, agents, and other entities and individuals involved on behalf of the District with the E-Rate program, including individuals who:
    - Prepare, review, approve, sign, or submit E-Rate applications or other forms related to the E-Rate program, or
    - Determine whether services are eligible for funding, prepare bids, or communicate or work with E-Rate service providers, E-Rate consultants, or USAC.
- Office of Internal Audit staff members responsible for auditing and monitoring the District's compliance with E-Rate program rules.

E-Rate Vendor / Service Provider

An E-Rate vendor/service provider is defined as any external entity or individual, and any affiliates, involved in any aspect of the District's E-Rate program, including, but not limited to:

- Parent companies;
- Subsidiary companies;
- Joint ventures;
- Resellers;
- Consultants/contractors of the above entities;
- Board members/officers/owners of the above entities; and
- Employees/representatives/salespersons of the above entities.

Gifts and Conflicts of Interest

The appearance of a conflict of interest is just as important as a real conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to create the appearance of a conflict and therefore should be avoided.

E-Rate program personnel are prohibited from accepting gifts, meals, entertainment, or anything of value from any outside entity, or any consultant or other individual representing such an entity that provides or seeks to provide goods or services pursuant to the E-Rate program, either directly or through any entity associated with the E-Rate vendor/service provider. An exception applies for items of *de minimus* intrinsic value, such as single greeting cards, basic key chains, and basic pens.

Where an E-Rate vendor/service provider ignores the E-Rate personnel's rejection of a gift, entertainment, or anything of value, or if the item was accepted by mistake, such items shall either be immediately returned to the vendor with an explanation that such items are not allowed pursuant to District policy or immediately submitted to the Office of Ethics and Compliance for proper disposal or donation to a charitable entity as determined by the Superintendent or designee. The Office of Ethics and Compliance shall log the details of such occurrences, including the disposition of the items. E-Rate personnel shall report to the Office of Ethics and Compliance all cases where gifts, entertainment, or other items of value have been offered by an E-Rate vendor/service provider. The Office of Ethics and Compliance shall take the appropriate steps to log the details of such occurrences, including any disposition of items, and communicate the District's policy to such E-Rate vendor or service provider.

Specific language asserting the District's policy shall be included in all E-Rate-related procurement documents and contracts.

Any questions regarding gifts and conflicts of interests should be communicated to the Office of Ethics and Compliance or the District's Ethics Hotline at (800) 455-9551.

Campaign Receipts and Business Relationships

Board members shall not knowingly accept campaign contributions from, or have a business relationship with, E-Rate vendors/service providers or individuals or entities seeking to provide goods or services pursuant to the E-Rate program, including related officers and/or key employees.

In the event that monetary contributions from E-Rate vendors/service providers are made to a Board member, that Board member shall be prohibited from voting on specific E-Rate contracts for three years if:

- Cumulative funds in excess of $500 in campaign contributions in a 365-day period are received from an E-Rate vendor/service provider taken as a whole, or
- Cumulative funds in excess of $2,000 in a single calendar year in the course of any business relationship are received from an E-Rate vendor/service provider taken as a whole.

Monitoring Campaign Receipts

Board members shall submit copies of each potential campaign contribution to Board Services prior to formal acceptance of or cashing such funds. Submissions shall be made within seven business days of donation date, or prior to any vote on any related contracts for contributions from known E-Rate vendors/service providers, whichever occurs first. Board Services and the Office of Ethics and Compliance shall research the items within 15 business days of receipt by the District to identify contributions from sources that require monitoring. All such contributions provided to Board Services shall be logged by the Office of Ethics and Compliance and their final disposition noted. Where the contributor is determined to be an E-Rate vendor/service provider, the ethics and compliance officer shall prepare a report on a calendar-year basis of the cumulative amounts for each respective E-Rate vendor/service provider taken as a whole. Upon completion of the research, the Office of Ethics and Compliance shall provide the results to the respective Board member and chief audit executive. The Board members shall have the final authority to reject or accept each contribution. Once the $500 threshold is reached, the ethics and compliance officer shall inform the Superintendent and the President of the Board of Education that the maximum campaign receipt limit has been reached and the Board member is no longer eligible to vote on any contract with such E-Rate vendor/service provider for a three-year period from the date the maximum campaign contribution was dated, not deposited. Such action shall be reported in an abstention listing and provided to all Board members.

Monitoring Business Relationships

Board members shall report details of any business relationship with E-Rate vendors/service providers to the Office of Ethics and Compliance. Details shall include company or related officer and/or key employee’s name, date(s) of business transaction(s), and dollar amount(s). Report of such shall be made within seven business days of transaction date, or prior to any vote on any related contracts with known E-Rate vendors/service providers, whichever occurs first. All such reports provided to the Office of Ethics and Compliance shall be logged, and cumulative transaction amounts for each respective E-Rate vendor/service provider taken as a whole shall be prepared on a calendar-year basis. The Office of Ethics and Compliance shall provide a copy of the cumulative transaction

report to the respective Board member and the chief audit executive. Once transactions from an E-Rate vendor/service provider to a Board member reach a total of $2,000 in a single calendar year, the Office of Ethics and Compliance shall inform the Superintendent and the President of the Board of Education that the annual maximum limit has been reached and the Board member is no longer eligible to vote on any contract with such E-Rate vendor/service provider for a three-year period from the date the maximum amount was reached as determined by transaction date, not deposit date. Such action shall be reported in an abstention listing and provided to all Board members.

Any questions regarding campaign receipts and business relationships should be communicated to the Office of Ethics and Compliance or the Ethics Hotline.

Audit Responsibility

The chief audit executive shall consider campaign receipts and business relationships in his or her routine risk assessment for inclusion in the annual internal audit plan, where appropriate.

Disclosure of Interest

Board members shall complete the District's Disclosure of Interest Form covering E-Rate matters on January 15 and July 15 of each year. The January report covers the period July 1–December 31 of the previous year and the July report covers the period January 1–June 30 of the current year. The Disclosure of Interest Form shall be submitted to Board Services, which will distribute to the ethics and compliance officer for review and any necessary follow-up. This form shall be retained by Board Services. [See CAA(EXHIBIT)]

Monitoring and Compliance Review

The Superintendent or designee shall establish a system of internal monitoring and compliance review, including the steps to be taken if any person suspects that:

1. Any bid, proposal, or submission for E-Rate funding or other E-Rate program-related conduct is not in accordance with the District's E-Rate compliance policy; Board policy; with District-approved procurement procedures; local, state, or federal competitive bid statutes; other applicable laws, regulations, and procedures; or with E-Rate program rules and requirements;
2. Any gifts or other items of value have been offered or received by any party associated with, seeking to participate in, or otherwise involved in the District's E-Rate program; or
3. The District or any of its E-Rate vendors have improperly requested payment for goods or services not provided, or has overcharged for E-Rate goods and services.

As part of its monitoring and compliance review, the District's Ethics Hotline shall be publicized to allow anonymous reports of known, alleged, or suspected E-Rate noncompliance. The hotline shall be monitored by the Office of Ethics and Compliance and Superintendent in a timely manner.

Education / Training

The Superintendent or designee shall require education or training for all E-Rate program personnel.

The District shall consider the following sources:

1. Training materials available from USAC;
2. Information about E-Rate program rules (as periodically updated) typically found in the USAC Weekly Newsletter;
3. The District's E-Rate Compliance policy;
4. Applicable federal, state, and local procurement laws;
5. The District's Conflict of Interest and Gift policies and the prohibition on gifts and other things of value;
6. E-Rate program rules regarding submission of invoices to USAC;
7. Commission rules and orders requiring a fair and open competitive bidding process; and
8. Consequences of noncompliance with E-Rate program rules and requirements, including cancellation of commitments, recoupment of disbursed E-Rate funds, suspension and debarment from the E-Rate program, criminal and civil prosecution, and appropriate disciplinary action, which may include termination of employment.

As part of the E-Rate training program, the Superintendent or designee shall require that the appropriate District representatives responsible for ensuring compliance with the E-Rate program rules and requirements and the E-Rate compliance program participate in the applicant training provided annually by USAC.

Compliance Officer

A high-level District employee shall serve as the ethics and compliance officer, who shall:

- Maintain and enforce E-Rate compliance.
- Report directly to the chief audit executive.
- Have experience or obtain the necessary training in substantive areas, including procurement.

	The ethics and compliance officer and any employees under their immediate supervision shall not be affiliated with or compensated by any service provider, consultant, or other outside entity with whom the District does business related to the E-Rate program.
Periodic Audit	The Board shall direct the chief audit executive to include within their annual scope of work a periodic enterprise risk assessment and audit plan. The District may hire a third-party auditor to perform any required audits.

Section IV: Standard Bidding and Contracting

The Superintendent shall establish procedures to ensure that the competitive bidding process for E-Rate goods and services is fair and open, and consistent with the rules and requirements of the FCC.

Code of Silence

The District shall implement a Code of Silence to enforce its commitment to ethical contracting standards and improve accountability and public confidence.

Vendor Relationships—Conflicts of Interest

It is important to avoid both the appearance of conflicts and actual conflicts of interest. The appearance of a conflict of interest is just as important as a real conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to create the appearance of a conflict and therefore, should be avoided. Circumstances related to an appearance of conflict include those that would cause a reasonable and informed third party, having knowledge of the relevant information, to reasonably conclude that a Board member or administrator has compromised objectivity related to a vendor relationship. [See BBFA]

For purposes of this policy, “vendor’s representative” shall mean an employee, partner, director, Board member or officer of a potential vendor or consultant, lobbyist, actual or potential subcontractor of a vendor, or any other individual or for-profit or nonprofit organization acting through or on behalf of any person seeking an award or on behalf of a group of interested individuals or members.

Procurement Methods

Texas Education Code Section 44.031 allows for the purchase of goods and services through one of the following methods:

- Competitive bidding for services other than construction services;
- Competitive sealed proposals for services other than construction services;
- An interlocal agreement;
- A request for proposals for services other than construction services;
- A method provided by Government Code Chapter 2269 for construction services;
- The reverse auction procedure as defined by Section 21.55062(d); or
- The formation of a political subdivision incorporated under Section 304.001, Local Government Code.

Applicability

The Code of Silence period applies to the acquisition of goods or services using the procurement methods identified above.

"Code of Silence" shall mean a prohibition on any communication regarding any request for proposals (RFP), bid, or other competitive solicitation (as defined in the procurement methods above) between:

1. Any person who seeks an award from the District or its affiliated entities (including, but not limited to, the HISD Foundation and the HISD Public Facility Corporation), including a potential vendor or vendor's representative; and
2. A Board member, the Superintendent, senior staff member, principal, department head, director, manager, or other District representative who has influence in the evaluation or selection process.

Furthermore, campaign contributions, gifts, donations, and any other items of value are prohibited between the parties defined above for any known contract under consideration during the Code of Silence period.

Also, candidates who have filed for election to the Board of Education are subject to these limitations after the date on which the candidate has filed for office. HISD shall review historical campaign finance reports to identify campaign contributions for the applicable period and hold newly elected Board members accountable as existing Board members during the Code of Silence period.

Exception

The Code of Silence shall not apply to communication with the District's attorneys, Purchasing Services staff, supplier diversity staff, controller, assistant controller, or chief financial officer who are not serving on the particular Project Evaluation Committee; or the Office of Internal Audit or employees reporting to the chief audit executive. Such communications shall be limited to the purpose of obtaining clarification or information concerning the subject solicitation. An exception also applies to the Audit Committee of the Board of Education, other specific members of the Board of Education for the purposes of the selection of external auditors or the Board's legal counsel, and any other specific circumstances approved by the Board of Education.

Time Period

The Code of Silence time period shall begin upon the issuance of an RFP, bid, or other competitive solicitation (as defined under Procurement Method, above) and shall officially end the day after approval of the awarded contract by the Board of Education at an appropriately called meeting. Even after the Code of Silence has

ended, at no time after the approval of an RFP, bid, or other competitive solicitation (as defined under Procurement Method, above) by the Board of Education shall a vendor, potential vendor, or District employee attempt to improperly influence the negotiations of any contract that has been properly awarded in the appropriately called meeting.

A weekly email notification regarding the Code of Silence shall be sent to the Board of Education, Superintendent, senior staff member, department head, director, manager, or any other District representative who has influence in the evaluation or selection process for each RFP, bid, or other competitive solicitation (as defined under Procurement Method, above), and the Code of Silence shall remain in effect until the approval by the Board of Education as stated above. The Office of Finance shall also provide public notice on the District's website at the same time the e-mail notification is sent.

Regardless of the above time period, it is not acceptable for a potential vendor to participate in determining the scope of work, strategic direction, technical specifications, or evaluation criteria of such projects.

Nothing contained in this policy shall prohibit any potential vendor or vendor's representative from:

1. Making public representations at scheduled pre-bid conferences or scheduled selection and negotiation committee meetings;
2. Engaging in contract negotiations during any scheduled meeting;
3. Making a public presentation to the Board during any duly noticed public meeting; or
4. Conducting business on contracts previously executed and currently in force.

The potential vendor or vendor's representative shall send all written communication directly to the designated Purchasing Services representative.

Nothing in this policy shall prohibit the Evaluation Committee's representative, who shall be an employee from the Purchasing Services Department, from contacting and communicating with a potential vendor or vendor's representative for the purposes of obtaining further clarifying information regarding a response to an RFP, bid, or competitive solicitation. Such contact shall be in writing

and shall be provided to the members of the applicable Evaluation Committee, including any response thereto.

Violation

Any suspected violation of this policy shall be investigated by the chief audit executive, in consultation with the general counsel, Board counsel, and/or a contracted outside law firm. The investigation may result in the District deeming as void or voidable:

1. Any RFP, bid, or other competitive solicitation award;
2. Any bid award to the potential vendor or the vendor's representative; and
3. Any vendor's contract.

The potential vendor or vendor's representative determined to have violated this rule shall be subject to debarment from bidding and contracting activities regarding current and future projects for a period of up to two calendar years (24 months). In addition to any other penalty provided by law, violation of this rule by a District employee shall subject the employee to disciplinary action up to and including dismissal. Board members and candidates who have filed for election to the Board; who have violated the Code of Silence; and/or who have received campaign contributions, gifts, donations, or any other items of value from such vendor's representatives during the Code of Silence shall abstain from voting on such matters for a period of up to two calendar years (24 months).

In the event that a Board member or candidate unknowingly accepts a campaign contribution, gift, donation, or any other item of value from a vendor's representative during the Code of Silence, the Board member or candidate shall return the contribution within ten days after becoming aware of the conflict with this policy.

Formal Complaints

This policy is not intended to prohibit contractors and their representatives from issuing formal complaints or concerns about potential conflicts of interest during the Code of Silence. Such concerns should be communicated to the chief audit executive.

Effective Date

This policy shall be effective as of the adoption date, November 12, 2021.

Description

The District Ethics Hotline is an independent, confidential, and toll-free 24-hour hotline that District employees and concerned citizens can use to report confirmed or suspected cases of theft, fraud, waste, or any other act of impropriety on the job by any member of the District. The Ethics Hotline is operated by trained specialists who can handle both emergency and routine cases.

How to Report

To help control internal abuse, any employee who sees something on the job that they feel is not right should contact their immediate supervisor. If the problem involves the supervisor or is not resolved, the employee is encouraged to report it via the Ethics Hotline:

- Ethics Hotline Number 1-800-455-9551
- Ethics Hotline Website[1]

Each report is assigned a unique code that allows the reporter to return for an update on the status of the report.

Responding to a Hotline Report

Hotline personnel will forward a summary of each case to the District's Office of Ethics and Compliance, which then either investigates the allegation or refers it to the appropriate administrator for response and action as necessary. The Office of Ethics and Compliance ensures the Ethics Hotline system is maintained and the reporter is provided a status of the case.

Consultation

This regulation has been through consultation (Administrative: April 8, 2008; Instructional: April 3, 2008; Noninstructional: April 8, 2008).

Maintenance Responsibility

The Office of Ethics and Compliance is responsible for maintenance of this regulation.

Effective Date

This regulation will be effective as of the adoption date, April 28, 2022.

[1] Ethics Hotline Website: https://houstonisd.ethicspoint.com/

Purpose

Participation by the Houston Independent School District (HISD) in the School and Libraries Program of the Universal Service Fund, commonly known as the E-Rate Program, is governed by Board policy CAA(LOCAL) and the following rules, requirements, and procedures. Relevant provisions of all other District policies shall also apply, but do not override the governing documents referenced above.

This regulation applies to E-Rate personnel defined herein.

Definitions

Universal Service Fund is part of the Universal Service Administrative Company (USAC), which falls under the direction of the Federal Communications Commission (FCC). The FCC provides discounts to schools and libraries for eligible services based on poverty levels. Such services include internet access and data transmission services, internal connections, basic maintenance of internal connections, and managed internal broadband services. Specific internal controls related to the E-Rate Program and requirements are included herein.

E-Rate Personnel includes:

1. All HISD officers, Board members, and employees involved in any aspect of the E-Rate Program.
2. Contractors (except for service providers that provide E-Rate supported services to HISD), consultants, agents, and other entities and individuals involved on behalf of HISD with the E-Rate program, including individuals who:
    a. Prepare, review, approve, sign, or submit E-Rate applications or other forms related to the E-Rate program, or
    b. Determine whether services are eligible for funding, prepare bids, or communicate or work with E-Rate service providers, E-Rate consultants, or USAC.
3. Office of Internal Audit staff members responsible for auditing and monitoring HISD's compliance with the E-Rate program rules.
4. The ethics and compliance officer who oversees E-Rate compliance.

E-Rate Vendor/Service Provider is defined as any external entity or individual, and any affiliates, involved in any aspect of the HISD E-Rate program, including but not limited to:

- Parent companies;
- Subsidiary companies;

- Joint ventures;
- Resellers;
- Consultants/contractors of the above entities;
- Board members/officers/owners of the above entities;
- Employees/representatives/salespersons of the above entities; and
- A list of E-Rate vendors/service providers for the District can be found in the HISD Directory under Office of Ethics & Compliance “E-rate Links.”

Ethics and Compliance Officer Objectives

The ethics and compliance officer’s objectives will be to:

1. Establish and maintain an E-Rate knowledgebase to stay abreast of changing regulations;
2. Maintain effective policies and procedures to comply with E-Rate program rules and regulations;
3. Assist in overall compliance of this regulation;
4. Provide leadership by acting as a change agent for the District; and
5. Other matters of importance for the District’s success.

Key Compliance Requirements

These requirements are intended to cover USAC E-Rate rules and procedures and in some cases are more stringent than USAC requirements. If there is any conflict between USAC rules, federal, state, local, or HISD Board policies, rules, or regulations, the more stringent requirement shall be followed. Employees shall consult with the ethics and compliance officer or Office of Legal Services when a conflict in Board policies, procedures, or rules exists or there is any doubt regarding the appropriate policy, rule, or regulation to follow.

Gifts and Conflicts of Interests

The appearance of a conflict of interest is just as important as a real conflict. If an outside independent party might question the intent of a transaction or relationship, such transaction or relationship is deemed to create the appearance of a conflict and therefore, should be avoided.

E-Rate program personnel are prohibited from accepting gifts, meals, entertainment, or anything of value from any outside entity, or any consultant or other individual representing such an entity that provides or seeks to provide goods or services pursuant to the E-Rate program either directly or through any entity associated with the E-Rate vendor/service provider. An exception applies for

items of *de minimis* intrinsic value, such as single greeting cards, basic key chains, and basic pens.

Where an E-Rate vendor/service provider ignores the E-Rate personnel's rejection of a gift, entertainment, or anything of value, or if the item was accepted by mistake, such items shall either be immediately returned to the vendor with an explanation that such items are not allowed pursuant to District policy or immediately submitted to the Office of Ethics and Compliance for proper disposal or donation to a charitable entity as determined by the Superintendent or designee. The Office of Ethics and Compliance shall log the details of such occurrences, including disposition of items. Furthermore, E-Rate personnel shall report to the ethics and compliance officer all cases where gifts, entertainment, or other items of value have been offered by an E-Rate vendor/service provider. The ethics and compliance officer shall take the appropriate steps to log the details of such occurrences, including any disposition of items, and communicate the District's policy to such E-Rate vendor or service provider.

Mandatory Quiet Period

Upon issuance of an RFP, bid, or other competitive solicitation and until the day after approval of the awarded contract by the Board of Education at an appropriately called meeting, E-Rate personnel, to the best of their knowledge, shall not communicate with any E-Rate vendor/service provider. The quiet period does not apply to existing contracts.

Maintenance of E-Rate Vendor / Service Provider Listing

The ethics and compliance officer shall develop and maintain an E-Rate Vendor/Service Provider Listing with assistance from the Technology Department, Office of Legal Services, and Purchasing Services Department.

Education / Training

The ethics and compliance officer shall establish a program to educate E-Rate personnel on an annual basis. It shall incorporate materials from USAC and provide information about:

1. E-Rate program rules (as periodically updated), applicable federal, state and local procurement laws, HISD conflict of interest and gift policies, and the prohibition on gifts and other things of value;
2. Those particular E-Rate program rules regarding submission of invoices to USAC, and the Commission's rules and orders requiring a "fair and open" competitive bidding process; and
3. The consequences of noncompliance with E-Rate program rules.

The ethics and compliance officer and other appropriate HISD representatives shall attend training sessions that USAC offers annually.

Internal Monitoring

Periodic risk assessments conducted by the Office of Internal Audit shall include risks associated with the E-Rate program. Where appropriate, the annual internal audit plan shall include audit projects covering such areas. Audit projects shall also consider a review of actual payments to vendors by USAC or the District to determine if such payments are proper payment for goods and services provided. The report shall make appropriate recommendations where necessary to improve the efficiency and effectiveness of overall compliance and include management's plan of action to mitigate control weaknesses or resolve audit findings. Reports shall be made available to USAC upon request. Appropriate follow-up shall be conducted to ensure adequate closure of audit findings prior to subsequent year's funding requests.

E-Rate Hotline

The Office of Ethics and Compliance shall:

1. Publicize the USAC E-Rate whistleblower hotline (1-888-203-8100);
2. Create and publicize the availability of an internal HISD Ethics hotline (1-800-455-9551) that HISD employees and other persons can use to anonymously report any known, alleged, or suspected noncompliance; and
3. Monitor the internal HISD Ethics hotline and investigate any matter reported. The HISD Ethics hotline shall be available 24 hours a day, seven days a week, and shall include prompts in English and Spanish.

Internet Safety and Protection

The Neighborhood Children's Internet Protection Act (NCIPA) requires recipients of federal technology funds for Internet access and/or internal connection services to comply with certain Internet filtering and policy requirements. A separate, but related provision of the Protecting Children in the 21st Century Act requires that policy include measures for educating minors about appropriate online behavior.

The Technology Department is responsible for Internet filtering and Educational Technology is responsible for educating minors about appropriate online behavior.

The District has a curriculum to educate minors about appropriate online behavior. The District utilizes web filtering services to block access to visual depictions that might be deemed obscene, child pornography, or harmful to minors. A District employee, student, or parent is able to report specific websites that fit these categories to

the District's service desk. The Technology Department shall evaluate the request and where appropriate, block the site from all computers within the District's network.

Annual Technology Needs Assessment

The chief technology officer shall coordinate an ongoing process to assess the District's technology infrastructure needs. An evergreen process will be used to ensure that opportunities to improve are not lost. This process assessment shall provide sufficient detail to assist the chief technology officer, IT manager over E-Rate matters, and chief financial officer in determining specific services/products and specific schools to apply for E-Rate funding. The process and supporting documentation shall be retained in accordance with the Document Retention section of this regulation.

Request for Proposal

E-Rate eligible goods and services shall be purchased by the Purchasing Services Department using the District's RFP procurement method to solicit competitive proposals from the supplier community. The Purchasing Services Department, Technology Department, and associated business departments, as needed, shall collaborate to compile the scope of work and evaluation criteria of each RFP related to the E-Rate program. Vendors are specifically not allowed to participate in this phase of the E-Rate program.

The RFPs shall correspond with the District's filing of its FCC Form 470 and must be open for at least 28 calendar days in accordance with USAC rules. The solicitation shall be advertised publicly in accordance with Texas Education Code (TEC) 44.031(g). Any and all prospective suppliers must be allowed to submit proposals, but only those suppliers who are registered with USAC and have been issued a Service Provider Identification Number (SPIN) may be considered for an award.

FCC Form 470 shall describe specific services or functions for support, identify the correct category of services, identify recipients of services, and follow all applicable state and local procurement laws.

The E-Rate RFPs must contain specific language which clearly spells out the responsibilities and requirements incumbent upon an E-Rate vendor/service supplier, including but not limited to, a certification statement that they understand USAC rules and regulations, SPIN registration, Service Provider Annual Certification registration, E-Rate invoicing procedures pertaining to FCC Forms 472 and 474, conflict of interest requirements and other matters deemed necessary. The Office of Ethics and Compliance shall coordinate such language with the Purchasing Services Department and Office of Legal Services.

During the period of time the RFP process is open, communications regarding the open RFPs between District personnel, including Board members, and the supplier community is limited to the designated Purchasing Services representatives. Such communications must assure open and fair competition with full disclosure to all RFP participants. The designated representative must be named in the RFP and shall function as the point of contact with the supplier community to handle all communications from vendors or other persons interested in the RFP during the course of the proposal and selection process.

Further, the E-Rate RFPs must specify a due date, time, and place for the receipt of proposals. All bids received must be sealed and unopened until the designated time occurs.

In accordance with the Purchasing Services Department's standard practice and as required per TEC 44.031(g) and USAC regulations, proposal openings must occur after the 28-day waiting period.

Participants in the preparation of the RFP shall provide final approval of the technical specifications to the designated Purchasing Services representatives. File copies of FCC Form 470 shall contain the signature of all parties who contributed in preparing the document, supervisory review, quality assurance from E-Rate consultant, compliance oversight, and formal approval parties. All supporting documentation shall be retained with formal audit trails in accordance with the Document Retention section of this regulation.

Evaluation of Proposals

When bids are opened, the proposing company names must be documented by the Purchasing Services Department.

Committees of representative stakeholders must evaluate the proposals. The committees must be chaired and facilitated by a Purchasing Services representative, who shall be responsible for all communications to and from the supplier community during the evaluation period and all documentation covering the proposal tabulation process.

The evaluation committees shall score each of the proposals that are submitted using a comparative, numerical system designed to promote open and fair competition. In accordance with USAC rules, price must be considered the most heavily weighted criterion in the evaluation, but other aspects of a supplier's effectiveness, such as quality of products and services, are also evaluated. A weighted system is used to gage the respective value of the various criteria. The weights may differ slightly from project to project but price will always carry the heaviest weight. For instance, a cabling installation project may have a heavier scope of services

weight than a project for simple delivery of goods, but price will be the most heavily weighted criterion in either case. The following criteria may be used to evaluate E-Rate projects.

- Scope of services offered, certifications, technical resources;
- Purchase price;
- Past experience with HISD/other kindergarten–grade 12 districts;
- M/WBE participation;
- Completeness of proposal response; and
- Reputation, references, good workmanship, financial stability.

The evaluation committees shall work independently of other District management not on the committee, senior administration, and the Board of Education. The committee shall score each supplier, perform the calculations, and make recommendations in accordance with the data. Where the committee selects an RFP with higher-than-average pricing, as compared with other vendor proposals received, a detailed explanation shall be documented. The Purchasing Services Department representative must assure that all aspects of TEC 44.031(b) are considered by the committee, thereby assuring compliance with state procurement laws.

A formal audit trail containing signatures of each evaluation committee member, dates of meetings and those in attendance, tabulation summaries of all bids (both winning and losing bids), and conclusions reached shall be maintained by the Purchasing Services representative in accordance with retention requirements in the Document Retention section of this regulation.

The recommendations of the evaluation committee shall be reviewed and approved by the Purchasing Services category manager, officer and/or general manager of Purchasing Services, the chief technology officer, the IT manager for E-Rate matters, the ethics and compliance officer, and the chief financial officer. Following that approval process, the recommendations will be prepared for the Board of Education and presented to the Board of Education for a vote. In any case, if the recommendations from the evaluation committee are overridden by any party for any reason, the committee shall communicate such to the ethics and compliance officer and Office of Internal Audit. The committee members shall document the details of the override, including the overriding parties' name, the basis for the override, and if the member believes or suspects any wrongdoing.

Contracting

Following Board of Education approval, contracts are drafted and executed with the Board-awarded suppliers, as applicable. The ethics and compliance officer shall coordinate with the Office of Legal Services to ensure the District's standard contract form contains any express language required for E-Rate matters. The forms of agreement used may follow the District's standard forms, the suppliers' standard forms, or forms adopted by the Texas Department of Information Resources. Regardless of which form is used, the Office of Legal Services shall review and approve such contracts to validate express language that suppliers understand and pledge to abide by USAC rules and regulations pertaining to E-Rate business and conflict of interest requirements.

Internal approval signatories for the District's E-Rate contracts include the general counsel, the chief financial officer, the Superintendent, the secretary of the Board of Education, and the president of the Board of Education. The Purchasing Services Department notifies the E-Rate vendor/service provider that they have been awarded the winning bid.

Following the execution of contracts, the IT manager for E-Rate matters and/or the E-Rate consultant shall complete the FCC Form 471, naming the service providers who have been awarded contracts under this process. The IT manager for E-Rate matters shall also be responsible for the preparation of supporting schedules to calculate the applicable discount level for each service requested using the percentage of students eligible for free and reduced lunches under the National School Lunch Program obtained from the District's Federal and State Compliance Department.

File copies of Form 471 shall contain the signature of all parties who contributed in preparing the document and supervisory review.

Application Review by USAC

Responses to USAC inquiries and requests for additional information shall be coordinated by the IT manager for E-Rate matters.

Funding Decision from USAC

A funding commitment decision letter is issued by USAC to communicate details of its decision to approve or deny the District's funding requests. The District may elect to purchase eligible E-Rate goods and services independently of USAC. In such case, the Chief Financial Officer shall approve such purchases.

Procurement Process

Individual requisitions and purchase orders must be subsequently entered in the District's ERP financial system to authorize and release specific pieces of work or specific purchases of goods for delivery. The requisitions pertaining to E-Rate goods and services shall be controlled and entered by the Technology Department as the preparer. The E-Rate requisitions are approved for funding by supervisory personnel in the Technology Department who did not

prepare the requisitions and are approved for adherence to District technology standards by specified Technology personnel. E-Rate purchase orders shall be prepared and approved by the respective Purchasing Services representatives. The E-Rate procurement process must follow all standard procurement policies and procedures, except where E-Rate requirements stated herein are more stringent.

Commencement of Services

The IT manager for E-Rate matters and/or the E-Rate consultant prepares FCC Form 486 to inform USAC that services have started. The IT manager for E-Rate matters approves the form. File copies of FCC Form 486 shall contain the signature of all parties who contributed in preparing the document, supervisory review, quality assurance from E-Rate consultant, compliance oversight, and formal approval parties. All supporting documentation shall be retained with formal audit trails in accordance with the Document Retention section.

Invoicing

Any E-Rate vendor/service provider that enters into a contract involving E-Rate funds with the District must adjust its billing policies and procedures to conform to the payment requirements of the USAC and E-Rate Program Rules. One of two invoicing methods shall be utilized:

1. FCC Form 472 where the District pays the full invoice amount upfront to the E-Rate vendor/service provider and completes documentation for USAC to reimburse the District for the E-Rate eligible discounted portion; or
2. FCC Form 474 where the District pays the E-Rate vendor/service provider only the non-discounted portion of an invoice and USAC pays the discounted portion.

In the case of FCC Form 474, the following rules shall apply:

1. Invoices shall contain all goods and services provided by the E-Rate vendor/service provider and shall reflect all charges to both the District and USAC. This invoice must contain a comprehensive itemization of all charges and clearly set forth the appropriate percentage of payments due from USAC and the District.
2. Invoices shall itemize all E-Rate eligible and ineligible goods and/or services being procured per the corresponding purchase order.
3. Invoices shall be submitted to and reviewed by the District prior to submission of the invoice to USAC. The E-Rate ven-

dor/service provider shall only be permitted to submit the invoice to USAC after receiving written approval from the District.

4. Invoices shall be free of variances between items delivered and items billed. If variances are found, the District will notify the E-Rate vendor/service provider of such variances and that the invoice has not been approved for payment. Corrected invoices must be re-submitted.

Invoice Matching And Approval

Free goods or services shall be excluded from E-Rate process. In addition, such invoices shall not be inflated to cover the cost of free goods or services.

The District is prohibited from allowing an E-Rate vendor/service provider to pay any portion of the District's allocated invoice (i.e., non-discounted portion pertaining to FCC Form 474 invoices)

Any benefit from pre-payment discounts shall be submitted to USAC.

The District shall pay its portion of an invoice no later than the time USAC makes its payment to the E-Rate vendor/service provider. Deferred payment plans will jeopardize a funding request.

Prior to payment, an authorized employee of the Technology Department shall inspect the receipt, installation, and/or quality of work performed by an E-Rate vendor/service provider and evidence such review by signature on the appropriate file copies which shall be submitted to the IT manager for E-Rate matters for retention in accordance with the Document Retention section of this regulation.

For exceptions identified during the invoice matching process, the Technology Department, Purchasing Services Department, and Accounts Payable Department representatives shall coordinate a resolution with the E-Rate vendor/service provider. Where applicable, a revised invoice shall be submitted to the District.

For exceptions identified during the inspection process relating to invoice approval, the Technology Department shall communicate such details to the Purchasing Services Department and Accounts Payable Department representatives, who will coordinate a resolution with the E-Rate vendor/service provider. Where applicable, a revised invoice shall be submitted to the District or the service work revised to allow re-inspection by the Technology Department.

Invoice Disputes

Invoice disputes shall be escalated by the Accounts Payable Department to the IT manager for E-Rate matters, who shall consult

with the E-Rate vendor/service provider as appropriate to resolve such matters in a timely fashion.

General Internal Control Requirements

At a minimum, the District shall adhere to the following approval matrix for E-Rate matters initiated after the approval date of this regulation. Compliance oversight shall be the responsibility of the ethics and compliance officer. The District may also request the services of an external consultant on certain E-Rate matters for an added layer of quality assurance. In addition, the IT manager for E-Rate matters shall create and maintain an E-Rate binder per the table of contents shown on the USAC website.

Document	Preparer Sign-off	Supervisor Sign-off	Final Release to USAC
USAC Forms & Attachments	IT E-Rate Functional Manager and/or E-Rate Consultant	IT Manager	Chief Financial Officer or Controller
Competitive Bidding Documents	Purchasing Services Category Specialist / Manager	Purchasing Services Management and IT Management	E-Rate Consultant
Response to PIA Process	IT E-Rate Functional Manager and/or E-Rate Consultant	IT Manager	E-Rate Consultant
Invoice Analysis for Payment	IT E-Rate Functional Manager and/or E-Rate Consultant	IT Manager	IT E-Rate Functional Manager and/or E-Rate Consultant

Document Retention

The IT manager for E-Rate matters and/or E-Rate consultant shall retain documents:

1. As required by 47 CFR 54.516; and
2. In accordance with the guidance in the *Schools and Libraries Universal Service Support Mechanism,* Seventh Report and Order, FCC 14-99 (adopted July 14, 2014) or such subsequent additional guidance as the FCC may provide.

Consequences of Noncompliance

Noncompliance with the District's E-Rate Policy or E-Rate program rules may be grounds for disciplinary action, including but not limited to, criminal and civil prosecution, warning, censure, reprimand,

suspension, loss of pay and dismissal, cancellation of contracts/commitments, recoupment of disbursed E-Rate funds, and suspension/debarment from the E-Rate program.

Remedies for Non-Compliance

The ethics and compliance officer shall communicate and consult with the District's Office of Legal Services, outside counsel, Superintendent's Cabinet, Superintendent, and/or the Board of Education or USAC where appropriate, to address the following areas, as necessary:

1. Material noncompliance or violations of the FCC E-Rate program rules;
2. Suspension of funding; and
3. FCC appeal/waiver process.

Contact Information

For questions relating to this regulation or any E-Rate matter, or to report any known, alleged, or suspected noncompliance with the E-Rate program, please contact the following:

- Office of Ethics and Compliance at (713) 556-6095 or by email at Ethics@houstonisd.org; or
- The HISD Ethics Hotline at 1-800-455-9551.

Maintenance Responsibility

The ethics and compliance officer is responsible for maintenance of this regulation.

Effective Date

This regulation will be effective as of the adoption date, April 28, 2022.

Use of Donations

General Rule

A conveyance, devise, or bequest of property for the benefit of the public schools, if not otherwise directed by the donor, vests the property in the board or their successors as trustees for those to be benefited by the donation. Funds or other property donated or the income from the property may be spent by the trustees:

1. For any purpose designated by the donor that is in keeping with the lawful purposes of the schools for the benefit of which the donation was made; or
2. For any legal purpose if a specific purpose is not designated by the donor.

Funds for Staff Positions

A district shall accept from a parent-teacher organization or association recognized by the district a donation designated to fund supplemental educational staff positions at a school campus and spend the donation accepted for the designated purpose at the direction of and within the time period specified by the campus for which the donation was designated. This provision expires September 1, 2025. [See DC]

Education Code 11.156

Prohibited Use

A district may not accept private funding for the purpose of developing a curriculum, purchasing or selecting curriculum materials, or providing teacher training or professional development related to a concept listed in Education Code 28.0022(a)(4)(A). *Education Code 28.0022(c)* [See EMB]

Charitable Raffles

A district is not a “qualified nonprofit organization” for purposes of the Charitable Raffle Enabling Act (Occupations Code 2002.001 et seq.). *Atty. Gen. Op. JM-1176 (1990)*

“Raffle” means the award of one or more prizes by chance at a single occasion among a pool or group of persons who have paid or promised a thing of value for a ticket that represents a chance to win a prize. *Occupations Code 2002.002(6)* [See also GKB]

Note: For purposes of this policy, the terms “gift” and “donation” have the same meaning.

Definitions

“Gift” A “gift” or “donation” shall mean something bestowed voluntarily and without a fee to the District.

“Device” A “device” shall mean a tangible product, commodity, good, or instrument that has relative value or worth.

‘‘Donor” A “donor” shall mean an organization or individual who contributes a donation, device, or gift.

Voluntary and Unsolicited Gifts

The District, schools, programs, and classes may seek and accept gifts with approval from designated administration. The practice is permissible as long as it is truly voluntary and in no way a prerequisite to participation in any District program or activity. Furthermore, the District shall not solicit anything of value from known technology service providers who plan to participate or currently participate in the District’s E-Rate Program. However, the District may accept voluntary philanthropic gifts initiated by such vendors where such actions further the educational mission of the District and comply with all aspects of this policy. Any statement or explanation related to a gift that may lead a reasonable person to believe the donation may not be truly voluntary shall be avoided.

Examples of such statements include, but are not limited to, a specified minimum amount of a gift, a date by which a gift is due, or a lesser gift amount if funds are received prior to a certain date. Additionally, any statement or action that exerts explicit or implicit pressure on a student or parent to make a gift shall be avoided. The reason a student or family does not make a gift is not a subject for inquiry.

Authority to Accept

The Grant Development Department requires all donations to be submitted with a *Donation Intent Form and Donation Letter* to review and seek approval of unsolicited gifts. The donation process is as follows:

Any donations that are under a $5,000 cost or market value will require approval from the division superintendent or designee, or appropriate department designee, if applicable.

Any donation of $5,000 or more shall be approved by the Superintendent or designee.

Any gift that the potential donor has expressly made conditional upon the District’s use for a specified purpose, or any gift of real property, shall require Board approval, except that gifts from recognized parent organizations, including parent-teacher organizations

(PTOs), parent-teacher associations (PTAs), and booster clubs will be exempted from this requirement.

Any gift to the District that requires the prior approval of the Board shall be considered by the Board at its next regularly scheduled Board meeting following the date the gift was offered. The principal or appropriate department shall work with a member of the Superintendent's cabinet to submit an agenda item for Board approval.

Once accepted, a gift becomes the sole property of the District.

[For technology service provider contributions, see Technology Donations, below.]

Criteria for Acceptance

The District shall not accept any gift that would violate or conflict with policies of or actions by the Board or with federal or state law.

Before employees accept a gift or an agenda item is submitted for Board approval, the following shall be considered:

1. Does it have a purpose consistent with the District's educational philosophy, goals, and objectives;
2. Does it place any restrictions on a campus or District program;
3. Will it support a program that the Board may be unable or unwilling to continue when the donation of funds is exhausted;
4. Will it result in ancillary or ongoing costs for the District;
5. Does it require employment of additional personnel;
6. Does it require or imply the endorsement of a specific business or product [see GKB for advertising opportunities];
7. Will it result in inequitable funding, equipment, or resources among District schools or programs;
8. Does it obligate the District or a campus to engage in specific actions;
9. Is it connected to an existing contract, future promise, or future contract;
10. Does it create a controversy calling into doubt the appropriateness of the gift or donation;
11. Does it require factual determination as to the legal ownership of the gift; and

12. Does it affect the physical structure of a building or would require extensive maintenance on the part of the District and meets the District's design standards?

For real property, the Superintendent shall determine whether the title to the property has been transferred to the District.

Playground Equipment

Donated or used playground equipment shall not be accepted by the District. [See CS2(REGULATION)]

Technology Donations

Technology devices that are donated must be coordinated through the department of technology and information systems. A donation must meet the minimum approved standards as described in the Guidelines for Donated Equipment section of the *Technology and Information Systems Manual*.

Vehicle Donations

Before a vehicle may be accepted as a gift, a complete analysis must be conducted to determine if the vehicle is operational and will pass state inspection. All costs (i.e., repairs, maintenance, inspections, insurance, and the like) must be given careful consideration prior to determining if ownership is fully justified.

The following shall apply for vehicle donations:

1. The official title of ownership must be transferred to the District and placed in the possession of the property management department.
2. Vehicles with a free and clear title shall be considered.

Additional information regarding vehicle donations can be accessed in the *Finance Procedures Manual*, Section 908—Donation of Vehicles to Schools.

Technology Service Providers

Anything of value offered by a technology service provider that is valued shall require Ethics and Compliance Office review prior to acceptance of the gift. Any technology device donations made by E-Rate vendors must also be reviewed by the Ethics and Compliance Office. [See CQ(LOCAL)]

Refusal of Gift

The Board and employees shall reserve the right to refuse any gift offered to the District, at any time and for any reason, as deemed appropriate by the Board and/or the Superintendent.

Donor Recognition

Recognition of the donor for the gift may be made at the school or department with approval from administration. Formal recognition may be made by the Board or the administration.

Solicitations

An employee who solicits gifts on behalf of the District or for use in the fulfillment of professional responsibilities shall comply with relevant state and federal law and any District administrative regulations.

All donations solicited on behalf of the District, including solicitations in the name of the District or a campus, or donations solicited using District or campus resources, become the sole property of the District

Web-Based Solicitations

An employee may solicit web-based donations of money or items for use by the employee in fulfilling professional responsibilities or for the District's use, including "crowdfunding." However, an employee shall obtain prior approval from the employee's principal and/or division superintendent or designee before using the name or image of the District, a campus, or any student. [See CDC(REGULATION)]

This regulation describes the procedures and guidelines for the acceptance and utilization of donations, including both in-kind contributions and monetary gifts, to ensure proper management and compliance with donor intent and meeting the operational needs of Houston Independent School District campuses.

The District values and appreciates the generosity of donors. To ensure transparency and effective use of donated resources, the following guidelines must be adhered to.

Use of Donations

Within one year from the date of approval receipt, monetary donations must be spent, and utilization of in-kind donations must begin.

Timeliness of Spending

If monetary donations are not spent within the one-year timeframe, and no specific expenditure date is indicated by the donor, the funds or other resources will be allocated for general campus supplies and/or field trips. They will not be used for capital equipment or food.

Exceptions will be made for monetary donations that fund or supplement payroll, but only if the funds are in the account before the one-year limit.

Specificity of Use

Donations must be spent in accordance with the purpose outlined in the donation paperwork. This ensures that donor intent is honored and that resources are used as intended.

Any deviation from the stated purpose requires prior written consent from the donor.

Documentation and Reporting

All donations must be accompanied by appropriate paperwork detailing the purpose and any restrictions on use. This paperwork must be filed and retained for record-keeping purposes.

The District will maintain records of all donations and their expenditures or utilization to ensure compliance with this policy. This includes tracking the use of funds and other resources to verify that they align with donor intent and policy guidelines.

Unused Donations

If a donation of funds is not used within the specified timeframe and no specific allocation date has been provided by the donor, the funds will be redirected towards general campus supplies or field trips, excluding capital equipment and food.

Communication with Donors

The District will inform donors of how their contributions have been used, particularly if there is any change from the originally specified purpose. This ensures transparency and maintains trust.

If a change in the use of donations is necessary, HISD will seek approval from the donor before reallocating the funds.

Definition

For the purpose of this memorandum, the following definition applies.

Crowdfunding Internet Solicitations

Crowdfunding is the practice of funding a project or venture by raising small amounts of money from a large number of people, typically through the internet. The District-approved website for crowdfunding is DonorsChoose.org. All crowdfunding shall be requested by completing an *Authorization for Posting on DonorsChoose* form and if requested by a school must be consistent with the campus improvement plan. All requested resources must be used by students or directly provide a student experience. All requests must be approved by the principal or department head before posting to a website. Solicitations via a crowdfunding website shall not:

- Seek funding for the personal benefit of an individual or for political reasons;
- Request monetary donations that are not connected to the purchase of specific items. DonorsChoose receives the monetary donations on behalf of schools/departments and purchases the needed items for the school or department. No money is gifted to the school or department;
- Transfer donations from campus to campus or department to department;
- Request donated items be mailed to employee homes or an address other than the campus;
- Use personal, non-District email addresses for communication with donors; or
- Pressure parents or other District employees to make donations to the site beyond a general notification of the website.

Technology Donations

All donated technology equipment must go through the Grant Development Department.

Non-Standard Donated Computers and Computer Equipment

Technology equipment donated by an E-Rate vendor must be approved through the Office of Ethics and Compliance and must include a letter indicating the donation is not made with an expectation of special consideration given to the provider during any E-Rate procurements.

Non-standard donated computers are computers that do not conform to current District standards as posted on the District's intranet website (MyHISD — Department Sites — Information Technology — Hardware and Software). Along with computers, other items that may be included as donated items are monitors, keyboards, and mice.

Standard Donated Computer Equipment	Standard donated computers are computers that are purchased with donated funds from District-approved computer vendors, conform to the District's current computer standards, and include the District standard software load as posted on the Information Technology (IT) website.
Standard Operating System	Microsoft Windows Operating System (OS), Google Chrome OS, and Apple iOS and macOS are the District's standard operating systems.
District Standards	IT has specific hardware standards for computer installations. The criteria for donated computers and computer equipment are available on the IT website.
General Information	Hardware and software used on the District's network must adhere to basic standards that ensure they will connect to and communicate with the network without special consideration. Schools often need considerable support to properly install, maintain, and operate donated computers. This has led to unanticipated repairs and administrative costs. [See CQ(LOCAL) and CDC(LOCAL)]. In order to maintain a reasonable level of consistency and performance in the District's equipment, technical support will not be provided for non-standard donated computer hardware and software.
Guidelines	Guidelines for accepting donated computers and computer equipment are as follows.
District Minimum Standards	All computers, including non-standard donated computers, must meet District minimum specifications as listed on the IT website.
Classroom Computers	All donated computer equipment is to be used only in classrooms and cannot be used for administrative office purposes.
Software Requirements and Licensing	All donated computers must include physical installation as well as system software, along with OS licensing documentation. Donated computers meeting the District standard will require a technical designee at each location to install the District's standard configuration.
Network Access	Non-standard donated computers can only utilize the Wireless HISD-Guest network, which allows internet access only.
Printers	Non-standard network printers should not be accepted and will not be connected to the network.
Network Devices	Network devices (i.e., servers, switches, access points, etc.) should not be accepted and will not be connected to the network.
Maintenance	The District will not maintain non-standard donated equipment.

Policy Review	This regulation will be reviewed periodically to ensure its effectiveness and alignment with district needs and donor expectations. Updates will be made as necessary to reflect changes in board policy or operational requirements.
Contact Information	For questions or further information regarding this policy, please contact the District Grant Development Department.
Maintenance Responsibility	The director 2, External Funding (Titles I, II & IV) and Grant Development Departments, is responsible for maintenance of this regulation.
Effective Date	This regulation is effective as of the adoption date, December 20, 2024.

Texas Department of Agriculture Authority

The Texas Department of Agriculture (TDA) administers federal and state nutrition programs, including the National School Lunch Program (NSLP) under 42 U.S.C. Section 1751 et seq., and the School Breakfast Program (SBP) under 42 U.S.C. Section 1773. *Agriculture Code 12.0025*

Note: Regulations applicable to federal nutrition programs are found at the following:

7 C.F.R. 210: National School Lunch Program

7 C.F.R. 215: Special Milk Program for Children

7 C.F.R. 220: School Breakfast Program

7 C.F.R. 225: Summer Food Service Program

7 C.F.R. 245: Free and Reduced Price Eligibility

Program Compliance

TDA shall require that school food authorities (SFAs) comply with the applicable provisions 7 C.F.R. Part 210. TDA shall ensure compliance through audits, administrative reviews, technical assistance, training guidance materials or by other means. *7 C.F.R. 210.19(a)(3)*

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

Administrative Review

TDA must conduct administrative reviews of all SFAs participating in the NSLP (including the Afterschool Snacks and the Seamless Summer Option) and SBP at least once during a 5-year review cycle, provided that each SFA is reviewed at least once every 6 years in accordance with the review cycle observed under 7 C.F.R. 210.18(c).

"Administrative reviews" means the comprehensive evaluation of all SFAs participating in the specified programs. It includes a review of both critical and general areas in accordance with 7 C.F.R. 210.18(g) and (h), as applicable for each reviewed program. With U.S. Department of Agriculture Food and Nutrition Service approval, the administrative review may include other areas of program operations determined by TDA.

7 C.F.R. 210.18

Appeals

Appeals related to the federal food and nutrition programs administered by TDA and any actions affecting participation in such programs are governed by 4 Administrative Code, Chapter 26, Subchapter E. *4 TAC 26.200-.207*

Note: For recordkeeping and retention information, see TDA's Food and Nutrition Division *Administrator's Reference Manual*,[1] Section 30, *Records Retention*.

School Nutrition Professional Standards

An SFA that operates the NSLP or the SBP must establish and implement professional standards for school nutrition program directors, managers, and staff, as defined in 7 C.F.R. 210.2. *7 C.F.R. 210.30(a)*

Minimum Standards for Program Directors

Each SFA must ensure that all newly hired school nutrition program directors meet minimum hiring standards and ensure that all new and existing directors have completed the minimum annual training/education requirements for school nutrition program directors, as set forth in 7 C.F.R. 210.30. *7 C.F.R. 210.30(b)*

Note: All school nutrition program directors hired on or after July 1, 2015, must meet the required minimum educational requirements based on student enrollment. *7 C.F.R. 210.30(b)(1)*

Exempt Fundraisers

Schools that participate in the NSLP or SBP may sell food and beverages that do not meet nutritional standards outlined in 7 C.F.R. Parts 210 and 220 as part of a fundraiser, during the school day, for up to six days per school year on each school campus, provided that no specially exempted fundraiser foods or beverages may be sold in competition with school meals in the food service area during the meal service. *4 TAC 26.2*

Definitions

"School day" means the midnight before, to 30 minutes after the end of the official school day.

"School campus" means all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

4 TAC 26.1

Unpaid Meal Charges

State Law

The board of a district that allows students to use a prepaid meal card or account to purchase meals served at schools in the district shall adopt a grace period policy regarding the use of the cards or accounts. The policy:

1. Must allow a student whose meal card or account balance is exhausted or insufficient to continue, for a period determined by the board, to purchase meals by:
    a. Accumulating a negative balance on the student's card or account; or

b. Otherwise receiving an extension of credit from the district;

2. Must require the district to notify the parent of or person standing in parental relation to the student that the student's meal card or account balance is exhausted;

3. May not permit the district to charge a fee or interest in connection with meals purchased under item 1, above; and

4. May permit the district to set a schedule for repayment on the account balance as part of the notice to the parent or person standing in parental relation to the student.

Education Code 33.908

Federal Law

An SFA operating a NSLP and/or SBP must:

1. Have a written and clearly communicated meal charge policy in order to ensure a consistent and transparent approach to the issue of how students who pay the full or reduced price cost of a reimbursable meal are impacted by having insufficient funds on hand or in their account to purchase a meal.

2. Include policies regarding the collection of delinquent meal charge debt in the written meal charge policy.

3. Ensure that the policy is provided in writing to all households at the start of each school year and to households that transfer to the school during the school year.

4. Provide the meal charge policy to all school or SFA-level staff responsible for policy enforcement, including school food service professionals responsible for collecting payment for meals at the point of service, staff involved in notifying families of low or negative balances, and staff involved in enforcing any other aspects of the meal charge policy.

Excerpts from *USDA Memo SP 46-2016, Unpaid Meal Charges: Local Meal Charge Policies*[2] *(July 8, 2016)*

Lauren's Law

A district may not adopt any rule, policy, or program under Education Code 28.002(a), (k), (l), (l-1), or (l-2) that would prohibit a parent or grandparent of a student from providing any food product of the parent's or grandparent's choice to:

1. Children in the classroom of the child on the occasion of the child's birthday; or

2. Children at a school-designated function.

Education Code 28.002(l-3)(2)

Donation of Food

A district may allow a campus to elect to donate food to a nonprofit organization through a person who is directly and officially affiliated with the campus, including a teacher or counselor, or through a parent of a student enrolled at the campus. The donated food may be received, stored, and distributed on the campus. Food donated by the campus may include:

1. Surplus food prepared for breakfast, lunch, or dinner meals or snacks served from the campus cafeteria, subject to any applicable local, state, and federal requirements; or
2. Food donated to the campus as the result of a food drive or similar event.

The type of food donated under item 1 above may include:

1. Packaged unserved food that is packaged on the campus of a district and has not been removed from the campus cafeteria;
2. Packaged served food if the packaging and food are in good condition;
3. Whole, uncut produce; and
4. Wrapped raw unserved produce.

Food that by law must be maintained at a certain temperature for safety may not be donated unless the campus has maintained the food at the required temperature.

Food donated under these provisions to a nonprofit may be distributed at the campus at any time. Campus employees may assist in preparing and distributing the food as volunteers of the nonprofit organization.

Under this program, a district may adopt a policy under which the district provides food at no cost to a student for breakfast, lunch, or dinner meals or a snack if the student is unable to purchase such meals or snack.

Education Code 33.907

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[1] TDA's Food and Nutrition Division *Administrator's Reference Manual*: https://squaremeals.org/Programs/NationalSchoolLunchProgram/PolicyARM.aspx
[2] USDA Memo *Unpaid Meal Charges: Local Meal Charge Policies:* https://fns-prod.azureedge.us/sites/default/files/cn/SP46-2016os.pdf

Food Donation The Superintendent shall be authorized to develop regulations for the District to donate or otherwise dispose of leftover food in accordance with law.

Effective Date This policy shall be effective as of the adoption date, January 14, 2022.

General Information

1. The District implemented an employee uniform program for certain positions in the 1996–97 school year. The program was established as an additional security measure for District students and employees, and to improve employee morale.

   Employees who are provided District uniforms are required to wear the uniforms while on duty. District-provided uniforms, as well as other uniforms containing the standard District uniform insignia, should not be worn outside employee work hours or to non-District activities or functions.

   Most uniforms last about three years. New employees will receive uniforms based on uniform inventory as soon as possible after the hire date.

Uniform Color or Type

2. Positions requiring uniforms and descriptions of the uniforms are as follows:

   Management Employees

   a. Food Services management employee uniforms consist of a burgundy top with a District Food Services logo and blue or khaki trousers or a blue or khaki skirt.

   Regular Employees

   b. The Food Services employee uniform consists of a blue top with a District Food Services logo and blue or khaki trousers or a blue or khaki skirt.

Footwear

3. Black slip-resistant safety shoes are provided to all Food Services employees once per year.

Exception for Religious Reasons

4. In some instances, a female employee's religious beliefs may prohibit her from wearing uniform trousers. Those employees who qualify for or request this privilege may wear uniform dresses.

Uniform Coordinator

5. Food Services appoints a uniform coordinator annually. The uniform coordinator is responsible for ordering uniforms for the employees and ensures that all orders are processed, verified, and delivered in a timely manner. The uniform coordinator disseminates information to employees, supervisors, and vendors.

Employee Uniforms

6. Employee uniforms are obtained through the procurement process from the approved bid vendor as follows:

   Cafeteria Employees

   a. Each year, the uniforms are distributed during the first month of school. A limited quantity of uniforms is maintained in stock and can be requisitioned by the area manager through Systems Applications and Products in Data Processing (SAP).

Warehouse Distribution and Maintenance Uniforms

b. Warehouse Operations and maintenance uniforms are purchased in conjunction with the District's bid for uniforms. These uniforms are not maintained in stock.

Distribution

7. When an employee needs a uniform, he or she is referred to his or her area manager. The area manager contacts the uniform coordinator, receives the completed order, and distributes the uniform to the employee. Orders are filled based on availability. Proper identification is required before uniforms are issued.

   When Warehouse Operations or the area manager delivers the uniform, the employee must sign the delivery invoice.

Uniform Maintenance

8. After signing the delivery invoice, the employee is responsible for the condition of the uniform and must abide by the uniform policy as set forth in the Food Services Operations Policy and Procedures Manual.

Returning Used and Damaged Uniforms

9. If an employee damages a uniform, separates from the District, or is assigned to a position within the District that does not require the use of a uniform:

   - The employee must return the laundered and pressed uniform to his or her work location senior food service attendant, café manager, or area manager;
   - The work location senior food service attendant, café manager, or area manager visually inspects the uniform for damages and determines if the uniform is fit for use; and
   - The work location senior food service attendant, café manager, or area manager maintains the returned uniform at the work location and re-issues to new employees as needed.

Goods Receipt

10. The uniform vendor provides a packing list upon delivery of uniforms to Food Services. The receiving clerk verifies receipt of uniforms based on the line items on the packing list, and processes a Goods Receipt to authorize payment.

Consultation

11. This regulation has been through consultation (Administrative: January 15, 2008; Instructional: December 6, 2007; Noninstructional: December 11, 2007).

Maintenance Responsibility

12. The chief business officer, Business Services, is responsible for maintenance of this regulation.

Inspections of Kitchens and Lunchrooms

1. Inspections of the school lunchrooms will be made at least once every 30 days by Food Services supervisors to ensure maintenance of proper standards. See Reference (a) for a copy of a standard supervisor check list. All or any part of the items listed may be the subject of a supervisor's inspection. Administrative arrangements will be made to take immediate steps to correct any violations of regulations that may occur.

Consultation

2. This regulation does not require consultation.

Maintenance Responsibility

3. The chief business operations officer, Business Operations, is responsible for maintenance of this regulation.

REFERENCE:

(a) Form FS-22 – School Visit Check-Sheet Office of Food Services

Food Prices

Prior to the beginning of the school year, the Superintendent will present to the Board of Education a proposed price list of all lunches and á la carte items offered for sale by Food Services. The selling prices are recommended by Food Services after thorough analysis of the previous year's operations, current bid prices, United States Department of Agriculture commodity allocations, general market conditions of the food industry, salary schedules, and federal reimbursement rates of the National School Lunch Program. The prices will remain in effect for the current school year unless operating conditions change to the extent that a price adjustment becomes necessary. The same process will govern changes in price.

Consultation

This regulation does not require consultation.

Maintenance Responsibility

The senior administrator, Food Services, is responsible for maintenance of this regulation.

Food Services

Finances

1. Food Services will be self-sustaining and will have one fund: the Food Services Fund. Financial accounting records and reports will be maintained according to the same generally accepted accounting procedures used in industry and business. Food Services will be required to ensure efficient handling of funds by following established accounting procedures as outlined below:

   - Sign for and transmit advance change to cashiers;
   - Verify daily deposits to authorized depositories;
   - Verify and sign the weekly Cashier's Activity Report (School Nutrition Accountability Program);
   - Secure Food Services funds in the school's designated safe until deposit is made by the money carrier;
   - Refuse to accept any personal checks for payment of meals; and
   - Refuse to extend personal credit for meals.

   Depreciation of Food Services equipment will be charged to “operations” as an operating expense consistent with generally accepted accounting procedures used in industry and business.

Staffing

2. The following guidelines will apply to Food Services staffing:

   Repair and Maintenance

   a. Food Services will be authorized to assign the necessary personnel to operate a repair and maintenance section for all food service equipment. Personnel will be recruited and hired through Noninstructional Staffing, Human Resources.

   Other

   b. Food Services will be authorized to assign the necessary personnel to receive, warehouse, and deliver food and supplies, including United States Department of Agriculture donated commodities, necessary to meet the requirements of individual units. Personnel will be recruited and hired through Noninstructional Staffing, Human Resources.

Food Services Advisory Committee

3. The Food Services Advisory Committee will be composed of Food Services central office administrators, principals, classroom teachers, parents, students, and Food Services representatives. The purpose of the committee will be to evaluate the Food Services operation and to develop plans for continued improvement where needed.

Food Services Handbook

4. A Food Services Operations Policies and Procedures Manual will be updated periodically and made available to all Food Services personnel. This manual will outlines operating procedures consistent with the operation of a cafeteria food establishment and in accordance with Board policies for a public school meal program. .

Consultation

5. This regulation does not require consultation.

Maintenance Responsibility

6. The chief business operations officer, Business Operations, is responsible for maintenance of this regulation.

Working Conditions

1. Working conditions for Food Services personnel will include:

School-Based Staff

a. All employees, full-time or hourly, will work the total scheduled hours. This excludes a 30-minute lunch period without pay.

Break Schedule

b. Based on federal and District policies established by the Board, all employees should observe breaks and lunchtime according to the scheduled hours per day.

Clothing Requirements

c. Food Services employees must wear the following required clothing:

- Clean uniforms;
- Hair nets completely covering the hair (to be worn at all times);
- Sturdy, preferably white, uniform type shoes; and
- Hose with dress uniforms; socks or hose with pants uniforms.

See References (a), (b), and (c).

Consultation

2. This regulation has been through consultation (Administrative: August 9, 2005; Instructional: September 1, 2005; Noninstructional: September 6, 2005).

Maintenance Responsibility

3. The chief business officer, Business Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DH(LOCAL)

(b) Board Policy DI(LOCAL)

(c) CO1(REGULATION)

Next Generation Technology

A district, in the administration of the district, shall consider using next generation technologies, including cryptocurrency, blockchain technology, robotic process automation, and artificial intelligence. *Gov't Code 2054.601*

Children's Internet Protection Act

"Harmful to minors" means any picture, image, graphic image file, or other visual depiction that:

Definitions

Harmful to Minors

1. Taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;
2. Depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and
3. Taken as a whole, lacks serious literary, artistic, political, or scientific value as to minors.

47 U.S.C. 254(h)(7)(G); 20 U.S.C. 7131(e)(6)

Technology Protection Measure

"Technology protection measure" means a specific technology that blocks or filters internet access to the material covered by a certification described at Certifications to the FCC, below, to which such certification relates. *47 U.S.C. 254(h)(7)(I)*

Universal Service Discounts (E-Rate)

An elementary or secondary school having computers with internet access may not receive universal service discount rates unless the district submits to the FCC the certifications described below at Certifications to the FCC and a certification that an internet safety policy has been adopted and implemented as described at Internet Safety Policy, below, and ensures the use of computers with internet access in accordance with the certifications. *47 U.S.C. 254(h)(5)(A); 47 C.F.R. 54.520*

Certifications to the FCC

A district that receives discounts for internet access and internal connections services under the federal universal service support mechanism for schools must make certifications in accordance with 47 C.F.R. 54.520(c) each funding year. A district that only receives discounts for telecommunications services is not subject to the certification requirements, but must indicate that it only receives discounts for telecommunications services. *47 C.F.R. 54.520(b)*

With Respect to Minors

A certification under 47 U.S.C. 254(h)(5)(B) is a certification that the district is:

1. Enforcing a policy of internet safety for minors that includes monitoring their online activities and the operation of a tech-

nology protection measure with respect to any of its computers with internet access that protects against access through such computers to visual depictions that are obscene, child pornography, or harmful to minors;

2. Enforcing the operation of such technology protection measure during any use of such computers by minors; and

3. Educating minors, as part of its internet safety policy, about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.

47 U.S.C. 254(h)(5)(B); 47 C.F.R. 54.520(c)(1)

With Respect to Adults

A certification under 47 U.S.C. 254(h)(5)(C) is a certification that the district is:

1. Enforcing a policy of internet safety that includes the operation of a technology protection measure with respect to any of its computers with internet access that protects against access through such computers to visual depictions that are obscene or child pornography; and

2. Enforcing the operation of such technology protection measure during any use of such computers.

47 U.S.C. 254(h)(5)(C); 47 C.F.R. 54.520(c)(1)

Disabling for Adults

An administrator, supervisor, or other person authorized by the district may disable the technology protection measure during use by an adult to enable access for bona fide research or other lawful purpose. *47 U.S.C. 254(h)(5)(D)*

Internet Safety Policy

A district shall adopt and implement an internet safety policy that addresses:

1. Access by minors to inappropriate matter on the internet and the World Wide Web;

2. The safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications;

3. Unauthorized access, including “hacking,” and other unlawful activities by minors online;

4. Unauthorized disclosure, use, and dissemination of personal identification information regarding minors; and

5. Measures designed to restrict minors' access to materials harmful to minors.

47 U.S.C. 254(l); 47 C.F.R. 54.520(c)(1)(ii)

Public Hearing — A district shall provide reasonable public notice and hold at least one public hearing or meeting to address the proposed internet safety policy. *47 U.S.C. 254(h)(5)(A)(iii), (l)(1)(B)*

Inappropriate for Minors — A determination regarding what matter is inappropriate for minors shall be made by the board or designee. *47 U.S.C. 254(l)(2)*

Noncompliance — A district that knowingly fails to submit required certifications shall not be eligible for discount services under the federal universal service support mechanism for schools until such certifications are submitted.

A district that knowingly fails to ensure the use of computers in accordance with the required certifications must reimburse any funds and discounts received under the federal universal service support mechanism for schools for the period in which there was noncompliance.

47 C.F.R. 54.520(d), (e); 47 U.S.C. 254(h)(5)(F)

ESEA Funding — No federal funds made available under Title IV, Part A of the ESEA for an elementary or secondary school that does not receive universal service discount rates may be used to purchase computers used to access the internet, or to pay for direct costs associated with accessing the internet unless a district:

1. Has in place a policy of internet safety for minors that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene, child pornography, or harmful to minors; and enforces the operation of the technology protection measure during any use by minors of its computers with internet access; and

2. Has in place a policy of internet safety that includes the operation of a technology protection measure that protects against access to visual depictions that are obscene or child pornography; and enforces the operation of the technology protection measure during any use of its computers with internet access.

An administrator, supervisor, or other person authorized by the district may disable the technology protection measure to enable access for bona fide research or other lawful purposes.

Certification to U.S. Department of Education

A district shall certify its compliance with these requirements during each annual program application cycle under the ESEA.

20 U.S.C. 7131

Uniform Electronic Transactions Act (UETA)

The UETA (Business and Commerce Code Chapter 322) applies to electronic records and electronic signatures relating to a transaction. *Business and Commerce Code 322.003(a)*

The UETA applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. The UETA does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form. A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. This right may not be waived by agreement. *Business and Commerce Code 322.005(a)–(c)*

Except as otherwise provided in Business and Commerce Code 322.012(f), the UETA does not require a district to use or permit the use of electronic records or electronic signatures. *Business and Commerce Code 322.017(c)*

Records Retention

If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

1. Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

2. Remains accessible for later reference.

A record retained as an electronic record in accordance with the provisions above satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after January 1, 2002, specifically prohibits the use of an electronic record for the specified purpose.

Business and Commerce Code 322.012(a), (f)

[For more information on records management, see CPC.]

Definitions

"Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means.

"Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

"Transaction" means an action or set of actions occurring between two or more persons relating to the conduct of business, commercial, or governmental affairs.

Business and Commerce Code 322.002(7), (8), (15)

Digital Signature

A digital signature may be used to authenticate a written electronic communication sent to a district if it complies with rules adopted by the board. Before adopting the rules, the board shall consider the rules adopted by the Department of Information Resources (DIR) and, to the extent possible and practicable, make the board's rules consistent with DIR rules. *Gov't Code 2054.060(b)* [See 1 Administrative Code Chapter 203 for DIR rules related to management of electronic transactions and signed records.]

"Digital signature" means an electronic identifier intended by the person using it to have the same force and effect as the use of a manual signature. *Gov't Code 2054.060(e)(1)*

Interception of Communications

For information on the unlawful interception, use, or disclosure of communications, see the Electronic Communications Privacy Act (18 USC 2510–2523 [federal wiretap act] and 2701–2713 [Stored Communications Act]) and Penal Code 16.02 (state wiretap law) and 16.04 (Unlawful Access to Stored Communications).

Note: For Board member use of District technology resources, see BBI. For student use of personal electronic devices, see FNCE.

For purposes of this policy, “technology” and “technology resources” mean electronic communication systems and electronic equipment.

Applicability

This policy shall govern all students, employees (part-time or full-time), contractors, consultants, temporary employees, vendors, and other individuals affiliated with third parties who access any District-owned information, property, or device.

In addition, this policy shall govern all information systems for which the District has administrative responsibility including all information created, processed, or used in support of the District’s business, without respect to form or format.

Definition

User

The term “user” shall refer to all categories of individuals who access any District-owned information, property, or device including, but not limited to, a student, an employee (part-time and full-time), a contractor, a consultant, a temporary employee, a vendor, and any individual affiliated with a third party.

Security Framework

District information technology (IT) resources, such as, but not limited to computers, networks, network connectivity, information, storage, email accounts, and the like shall only be provided for approved academic and business purposes by the office of the Chief Technology Information Officer (CTIO), IT, and Information Security. The District shall implement the necessary controls over access to data via a combination of adequate physical, system, remote access and application-based security mechanisms.

In an effort to protect the sensitive information under District care, authorized access to District IT resources shall be limited to the access permissions required for an individual to perform assigned duties or academic activities. Access permissions beyond those needed for those duties or activities shall not be granted.

Passwords shall never be shared with anyone, including District IT security administrators.

Users of District IT resources do not have an expectation of privacy. The District shall reserve the right to monitor and/or record any and all use of District IT resources to ensure compliance with prevailing laws, policies, and regulations to identify misuse as well as for general resource management purposes. [See Children’s Internet Protection Act (CIPA), Family Education Rights and Privacy

Act (FERPA)] Use of District IT resources constitutes acceptance of this policy.

As an additional protection measure, District information, including personally identifiable information, shall not be released except through approved processes and in accordance with governing laws. [See references above]

Violations for misuse of District IT resources may result in the imposition of administrative, civil, or criminal penalties.

Technology Resources

The Department of Information and Technology Systems, in coordination with various user departments, shall be responsible for analysis, development, maintenance, and operation of technology resources for both instructional and administrative purposes. These resources shall provide and facilitate instruction to students, as well as gather, process, and report information relating to all administrative functions within the District.

The District shall maintain and support the goals outlined in the Long-Range Plan for Technology. Any purchase of technology shall support the goals of the District as outlined in the Long-Range Plan for Technology.

Availability of Access

Access to the District's wide-area networks (WANs), local area networks (LANs), and technology resources, including the internet, shall be made available to students and employees primarily for instructional and administrative purposes and in accordance with guidelines set forth in the *Technology and Information Systems Policies and Procedures Manual.*

Limited Personal Use

Limited personal use of the District's technology resources shall be permitted if the use:

- Imposes no tangible cost on the District;
- Does not unduly burden the District's technology resources; and
- Has no adverse effect on an employee's job performance or on a student's academic performance.

Use by Members of the Public

Access to the District's technology resources, including the internet, shall be made available to members of the public, in accordance with administrative regulations. Such use shall be permitted so long as the use:

- Imposes no tangible cost on the District; and
- Does not unduly burden the District's technology resources.

Acceptable Use

The Superintendent shall develop and implement administrative regulations, guidelines, and user agreements consistent with the purposes and mission of the District and with law and policy.

Access to the District's technology resources is a privilege, not a right. All users shall be required to acknowledge receipt and understanding of all administrative regulations governing use of the District's technology resources and shall agree in writing to allow monitoring of their use and to comply with such regulations and guidelines. Noncompliance may result in suspension of access or termination of privileges and other disciplinary action consistent with District policies. [See DH, FN series, FO series, and the Student Code of Conduct] Violations of law may result in criminal prosecution as well as disciplinary action by the District.

The District's Acceptable Use Policy is available at CQ(EXHIBIT)–B. [See policy FNCE for student-owned devices]

Artificial Intelligence

The use of artificial intelligence (AI) shall only be as a support tool to enhance student outcomes and shall never take the place of teacher and student decision-making. Any use of AI must comply with law, policy, and administrative regulations outlined in the District's *AI Guidebook* relating to student and employee use, privacy, and data security.

Students shall be expected to produce original work and properly credit sources, including AI tools used in creating the work. [See Academic Dishonesty at EIA(LOCAL)] Students who use AI tools to deceive, harm, bully, or harass others shall be disciplined in accordance with the *Student Code of Conduct* and policy. [See FFH, FFI, and the FO series]

Internet Safety

The Superintendent shall develop and implement an internet safety plan to:

- Control students' access to inappropriate materials, as well as to materials that are harmful to minors;
- Ensure student safety and security when using electronic communications;
- Prevent unauthorized access, including hacking and other unlawful activities;
- Restrict unauthorized disclosure, use, and dissemination of personally identifiable information regarding students; and
- Educate students about cyberbullying awareness and response and about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms.

Filtering	Access to the internet via the District's network systems shall be filtered to block access to visual depictions that are obscene, pornographic, inappropriate for students, or harmful to minors, as defined by the federal CIPA and as determined by the Superintendent. The Superintendent shall enforce the use of such filtering controls. Upon approval from the Superintendent, an administrator, supervisor, or other authorized person may disable the filtering controls for bona fide research or other lawful purpose for adults.
Monitored Use	Electronic mail transmissions, social media, and other use of the District's technology resources by students, employees, and members of the public shall not be considered confidential and may be monitored at any time by designated District staff to ensure appropriate use.
Disclaimer of Liability	The District shall not be liable for users' inappropriate use of the District's technology resources, violations of copyright restrictions or other laws, users' mistakes or negligence, or costs incurred by users. The District shall not be responsible for ensuring the availability of the District's technology resources or the accuracy or usability of any information found on the internet.
Record Retention	A District employee shall retain electronic records, whether created or maintained using the District's technology resources or using personal technology resources, in accordance with the District's records management program. [See CPC(LOCAL)]
Electronically Signed Documents	At the District's discretion, the District may make certain transactions available online, including student admissions documents, student grade and performance information, contracts for goods and services, and employment documents. To the extent the District offers transactions electronically, the District may accept electronic signatures in accordance with this policy. When accepting electronically signed documents or digital signatures, the District shall comply with rules adopted by the Department of Information Resources, to the extent practicable, to: • Authenticate a digital signature for a written electronic communication sent to the District; • Maintain all records as required by law; • Ensure that records are created and maintained in a secure environment;

- Maintain appropriate internal controls on the use of electronic signatures;
- Implement means of confirming transactions; and
- Train staff on related procedures as necessary.

Procurement of Software

The District has an ongoing need for the implementation of major applications to meet business and student data management and reporting requirements. The District shall pursue the acquisition of commercially packaged software to meet these business needs in lieu of developing systems in-house unless the following criteria cannot be met. For a software package to be considered, it should meet 80 percent of the user requirements and be able to be implemented within project cost and time constraints. In addition, any packaged software acquired should not be customized by the District.

Allocations

Technology resources shall be allocated to meet the requirements of state mandates in accordance with the needs of schools as defined in the school improvement plans and as reflected in the goals of the Long-Range Plan for Technology. All acquisitions of technology resources, both hardware and software, must be reviewed and coordinated by the Department of Information and Technology Systems in accordance with the *Technology and Information Systems Policies and Procedures Manual* and shall meet the requirements described in the *Finance Procedures Manual.*

HISD BULLETIN BOARD

1. The objective of the HISD Bulletin Board Events is to provide a means for the effective and efficient dissemination of information of a temporary nature.

2. The HISD Bulletin Board Events is a weekly electronic document designed to circulate announcements of special events and other items of general interest (e.g., workshops, benefits, directory updates, upcoming student contests, the District cable TV schedule, retirements, school-based events, sporting events, etc.) to Houston Independent School District (HISD) employees, students, parents, and to the general public. Information published on the bulletin board is prepared by the HISD Information Center and posted online every Monday. The HISD Bulletin Board Events is available to employees and the public on *HISDConnect*, the District Web site, at www.houstonisd.org.

SUBMISSION PROCEDURES

3. Procedures for preparing and submitting items for publication are as follows:

TEMPLATE

a. Employees interested in submitting a bulletin board item should use the template available on the HISD Bulletin Board Events tab located on the *HISDConnect* Web site at www.houstonisd.org. See Exhibit (1). Individuals from external entities should consult the criteria outlined in paragraph 3.b.(2).

PREPARING AND SUBMITTING ITEM(S)

b. Items for the HISD Bulletin Board Events may be submitted by internal or external individuals, departments, or entities:

INTERNAL

(1) The originating HISD department is responsible for preparing the item(s) and securing approval from the appropriate department head and direct report to the Superintendent, if necessary, prior to submission of the item(s). Upon approval, the originating HISD department must submit the item(s) and relevant attachments electronically to the manager, HISD Information Center. Acceptable submissions are restricted to events relevant to HISD students, parents, or employees and may not contain product or service advertisements. The HISD Information Center reserves the right to edit or reject any submissions.

EXTERNAL

(2) Individuals with external companies or organizations are responsible for preparing the items and submitting them electronically to the manager, HISD Information Center. Content is restricted to

events relevant to HISD students, parents, or employees and may not contain product or service advertisements. HISD reserves the right to edit or reject submissions.

TIME LINE FOR SUBMISSION

c. All items and attachments from internal departments and external entities must be submitted electronically to InfoCenter@houstonisd.org allowing at least one week notice for publication. Submissions received with inadequate notice will be returned to the sender unpublished.

DISTRIBUTION

d. The HISD Bulletin Board Events is maintained online by the HISD Information Center. The manager, HISD Information Center, electronically submits the information to be posted on the bulletin board to the supervisor, Portal Services, for publication on *HISDConnect*, the District Web site.

CONSULTATION

4. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

5. The manager, HISD Information Center, is responsible for maintenance of this regulation.

EXHIBIT:

(1) CQ(EXHIBIT)

TECHNOLOGY RESOURCES

CQ2
(REGULATION)

DEFINITIONS

1. For the purpose of this regulation, the following definitions will apply:

EXTERNAL LINK

a. An external link is a link to a site or content that is not hosted on an official District Web server.

CONTENT

b. Content is school-related information published on the school's Web page.

SERVER

c. A server is a computer that handles requests for data, e-mails, file transfers, and other network services from other computers.

EXTERNAL SITE

d. A site found on the World Wide Web.

GENERAL INFORMATION

2. All District computers are to be used by students and employees for school-related business purposes only. District Web sites are maintained by authorized District employees. Web site designs must adhere to District guidelines. See References (a) and (c). All Web pages, links, and content must be academic in nature, school-related, and appropriate for the educational purpose.

WEB SITE REQUIREMENTS

3. Web site requirements are as follows:

CONTENT

a. All Web site content should conform to Board policies and guidelines in accordance with References (a) and (c).

DISTRICT WEB SITES

b. All Web sites must adhere to established school guidelines. See Reference (c). The principal is ultimately responsible for all decision-making concerning the school's Web site. See Reference (b).

LAWS

c. All content must comply with copyright laws and should not violate federal, state, or local laws. See References (a), (c), and (e).

ENDORSEMENT

4. Any advertisement that promotes a commercial entity is not permitted on District Web sites. See References (a) and (c).

VENDOR LINKS

5. If an external link is used on a school's Web site, the following disclaimer must be placed on the school's main navigation page: "HISD is not responsible for contents on external sites or servers."

NONCOMPLIANCE

6. Anyone found to be in noncompliance with the procedures outlined in this regulation may be subject to suspension or termination of Web site privileges and subject to disciplinary action in accordance with References (a), (c), and (d) as appropriate.

CONSULTATION

7. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

8. The chief financial officer, Finance, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy CQ(LOCAL)

(b) BP3(REGULATION)

(c) Technology and Information Systems Policies and Procedures Manual

(d) Student Code of Conduct

(e) HISD Acceptable Use Policy for Electronic Services for Students

GENERAL INFORMATION

1. District employees are provided a computer workstation to carry out daily tasks and a network password to protect access to District information. Paramount to all usage is the need to keep information secure. Only the employee who has been assigned a password has use and knowledge of the password. The practice of sharing a password with a coworker is prohibited due to the accountability associated with the password. To further protect the employee and the integrity of the system, the District has initiated the use of the mandatory password protected screen saver. See Reference (a).

GUIDELINES

2. Technology and Information Systems established a procedure that configures all District computers and applications to lock after 15 minutes of inactivity. This step is necessary to protect the critical integrity of the operating system, application programs, and data files. Applications such as PeopleSoft, SAP, and Chancery must operate as expected and the data they use must be complete and correct. Otherwise, users lose productivity and may report false information. The guidelines for maintaining the integrity of the system are as follows:

PASSWORD

a. Passwords are used to maintain privacy and to secure sensitive information. Passwords may consist of letters, numbers, and other characters and must be changed every 180 days. The user is prompted by the computer when it is necessary to change the password. See References (a) and (b).

SCREEN SAVER

b. A Microsoft Windows password protected screen saver is automatically activated after 15 minutes of inactivity that locks the user's computer workstation.

LOGIN

c. The user must login to the AD domain with his or her network password to unlock the computer workstation thus disabling the password protected screen saver.

APPLICATION PROGRAMS

d. The District's Enterprise Resource Planning applications, PeopleSoft, SAP, and Chancery have built-in timeout features that will log out the user after 15 minutes of inactivity in these applications, even though the user may be working in other applications on his or her computer. Any unsaved data will be lost.

CONSULTATION

3. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

4. The chief financial officer, Finance is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy CQ(LOCAL)

(b) Manual – *Technology & Information Systems* Manual

General Information

Enterprise-level application systems and servers, including Web-hosted applications, require central-level networking support and management. These systems and servers are located both inside and outside of the District's firewall. In the event of an emergency, these systems require administration and intervention by District networking department administrators. Immediate response in emergency situations is impossible if the enterprise systems are physically located outside the District data center.

Definitions

For the purpose of this regulation, the following definitions will apply:

Enterprise-Level Application Systems

An enterprise-level application system is an integrated information system that serves multiple campuses or departments within the District and automates services more effectively and efficiently. Characteristics of an enterprise-level application system include:

- Database required for the system; and/or
- Multiple campuses' or departments' use of the system.

Firewall

A firewall protects a computer network from unauthorized access. Network firewalls may be hardware devices, software programs, or a combination of the two. Network firewalls may also be configured to limit access to the outside from internal users.

Web Hosting

Web-hosted applications are services and software applications maintained on servers that are delivered electronically across the internet.

Server

A server is a hardware device that functions as an access control point for users in connecting to the District's internal network. A server can also refer to a computer or cloud instance that has been set aside to run a specific server software application.

Security Risk

Many departmental or campus application hosting requests are tied to the need for administrator control over the servers, therefore allowing vendor access to data and vendor resolution of programmatic issues. A network security risk may exist with vendors that have access to the District information technology infrastructure through the internet. Ensuring vendors have the least privileged level of access to data and resources as part of the requirements for the service should be enforced.

Guidelines

All enterprise-level application systems or servers must be physically located in the District's Hattie Mae White Educational Support data center or hosted in one of our approved vendor clouds environments in order to receive:

- Improved operations efficiency;

- Reduced costs for power and cooling;
- Faster and more efficient connection times;
- Continuous networking department support seven days a weeks, 24 hours a day; and
- Benefits of a formal change advisory board that schedules, reports, and monitors changes to the technology infrastructure.

The District-supported software standards for enterprise-level application systems are:

- Microsoft Windows server: versions currently receiving updates and patches from Microsoft;
- Microsoft Structured Query Language (SQL): versions currently receiving updates and patches from Microsoft;
- Microsoft Internet Information Services (IIS);
- Microsoft .Net framework;
- District-purchased software and hardware; and
- District-purchased cloud environment providers.

[See CQ(LOCAL) and the *Technology and Information Systems Policies and Procedures Manual*]

Protection and Access to Enterprise Data

Data integrations between the District and third-party providers will be required for the implementation of the contracted functionality. The District should only be providing student and staff data to third parties who have a signed Data Sharing Agreement with the District. [See FL3(REGULATION)] This requirement exists for repeated integrations (daily, weekly, monthly) or for one-time data requests not following Open Records Request protocols.

Protection of Student Information

Access to Analytics for Education (A4E) dashboards, reports, and metrics should be granted in ways consistent with existing District privacy and confidentiality requirements, policies, and regulations. [See CQ(LOCAL)] The A4E dashboards, reports, and metrics are designed for use by principals, teachers, chief school officers, and District personnel. These employees receive automatic access to the dashboards designed for their job roles.

Other faculty and staff members may be given access to A4E information resources. However, such access enables these users to view information not normally available to them and should be granted with caution and in compliance with CQ(LOCAL).

Procedure	For an employee to receive access to A4E information when the employee's job role does not automatically include such access, the employee must provide a request signed by his or her chief officer.
Consultation	This regulation does not require consultation.
Maintenance Responsibility	The chief technology officer, Information Technology, is responsible for maintenance of this regulation.
Effective Date	This regulation shall be effective as of the approval date, August 30, 2021.

Note: For information regarding use of the District's technology resources and electronic communications by Board members, see BBI(LOCAL). For student use of personal electronic devices, see FNCE. For additional provisions governing employee use of electronic media, see DH(LOCAL) and the employee handbook. For information regarding District, campus, and classroom websites, see CQA. For information regarding intellectual property and copyright compliance, see CY.

General Information

The Superintendent or designee and the chief technology officer (CTO) will oversee the District's technology resources, meaning electronic communication systems and electronic equipment.

The District will develop and implement acceptable use guidelines covering acceptable use of the District's technology resources. [See CQ(EXHIBIT)-B] District employees and contractors can access the acceptable use policy for District technology resources on the District's employee portal.

Filtering

The Superintendent will designate the CTO to select, implement, and maintain appropriate technology for filtering material considered inappropriate or harmful to minors. All internet access will be filtered for minors and adults on the District's network and computers.

Inappropriate Material

The following guidelines will apply:

The categories of material considered inappropriate and to which access will be blocked will include, but not be limited to, nudity/pornography; images or descriptions of sexual acts; promotion of violence, illegal use of weapons, drug use, discrimination, or participation in hate groups; instructions for performing criminal acts (e.g., bomb making); and online gambling.

Requests to Disable Filter

The CTO will consider and maintain documentation of requests from users who wish to use a blocked site for bona fide research or other lawful purposes. The CTO will review and evaluate the risk, may consult as necessary, then decide regarding approval or disapproval of disabling the filter for the requested use. Requests to disable a filter should be emailed to HELPDESK@houstonisd.org[1].

Access

Access to the District's technology resources will be governed as follows:

Student Access

Students in kindergarten–grade 12 will be granted access to the District's technology resources by the principal or designee, as appropriate.

	Students are responsible for using their user ID and password when logging on to District computers and District-issued mobile devices.
Student Training	Students granted access to the District's technology resources must complete any applicable user training.
Class Account	As appropriate and with the written approval of the immediate supervisor and completion of District network training, District employees will be granted access to the District's technology resources.
Passwords	The District will require that all faculty and staff passwords be changed every 90 days. All passwords must remain confidential and should not be shared.
Access Denial	Any user identified as a security risk or as having violated District and/or campus use guidelines may be denied access to the District's technology resources.
Limited Personal Use	Resources are to be used mainly for educational and administrative purposes, but some limited personal use is permitted.
Student Participation in Social Media	Participation in approved social media sites using the District's technology resources for educational and administrative purposes is permissible for students under appropriate supervision. Students participating in social media using the District's technology resources should assume that all shared content, including pictures, is public. No personally identifying information should be published. Students should not respond to requests for personally identifying information or contact from unknown individuals. Information about the date, time, and location of District field trips should not be shared. [See Reporting Violations, below]
Disciplinary Action	The CTO and principal will:
Notice	• Notify the appropriate administrator of incidents requiring District response and disciplinary measures; and
Monitor	• Be authorized to monitor or examine all system activities, including campus-based social media, as deemed appropriate to ensure student safety online and proper use of the District's technology resources.
Individual User Responsibilities	The following standards will apply to all users of the District's technology resources:
Protecting Account	The individual in whose name an account is issued will be responsible at all times for its proper use and for not sharing the password for that account with others.

Using District Resources	The District's technology resources may not be used for illegal purposes, in support of illegal activities, or for any other activity prohibited by District policy or guidelines.
Tampering with District Property	Users may not access the resources to knowingly alter, damage, or delete District property or information or to breach any other electronic equipment, network, or electronic communications system in violation of the law or District policy.
Vandalizing District Property	Users may not damage or vandalize electronic communication systems or electronic equipment, including knowingly or intentionally introducing a virus to a device or network, or not taking proper security steps to prevent making a device or network vulnerable, such as opening email messages from unknown senders and loading unauthorized software.
Disabling Filtering Property	Users may not disable, or attempt to disable, any filtering device used by the District.
Encrypting	Users may not purposely use encryption channels to avoid security review by system administrators except for appropriate business use as defined herein.
Using Another's Account	Users may not use another person's account.
Using Under False Pretense	Users may not pretend to be someone else when posting, transmitting, or receiving messages.
Tampering with Electronic Media	Users may not attempt to read, delete, copy, modify, or interfere with another user's posting, transmittal, or receipt of electronic media.
Harassment	Users may not engage in conduct that harasses or bullies others. [See DIA, FFH, and FFI]
Cyberbullying	Users may not send, post, or possess materials that are abusive, obscene, pornographic, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal, including cyberbullying and "sexting." Users who access such material are expected to discontinue the access as quickly as possible and report the incident to a supervising teacher and/or technology coordinator.
Making Threats	Students may not use email or websites to engage in or encourage illegal behavior or to threaten school safety.
Using Inappropriate Language	Users may not use inappropriate language such as ethnic or racial slurs or any other inflammatory language.

Student Information	Students may not distribute personal information about themselves or others by means of the District's technology resources; this includes, but is not limited to, personal addresses and telephone numbers.
Personal Contact	Students may not respond to requests for personally identifying information or contact from unknown individuals.
Request for Information	Students should never make appointments to meet people whom they meet online and should report to a teacher or administrator if they receive any request for such a meeting.
Transmitting Information	Users may not post or transmit pictures of students without obtaining prior permission from all individuals depicted or from parents of depicted students who are under the age of 18.
Intellectual Rights	Users must not violate intellectual property rights by redistributing copyrighted programs or data except with the written permission of the copyright holder or designee. Such permission must be specified in the document or must be obtained directly from the copyright holder or designee in accordance with applicable copyright laws, District policy, and administrative regulations.
Emails	Users should be mindful that use of school-related electronic mail addresses might cause some recipients or other readers of that mail to assume they represent the District or school, whether or not that was the user's intention.
Spam	Users may not waste the District's technology resources, including sending spam, chain letters, and the like.
Unauthorized Access	Users may not gain unauthorized access to resources or information.
Student Data	Users will not provide any student data to a third party without an executed Data Sharing Agreement.
Staff Data	Users will not provide any staff data to a third party without an executed Data Sharing Agreement.

Vandalism Any malicious attempt to harm or destroy District equipment or data or the data of another user of the District's technology resources or of any of the agencies or other networks that are connected to the internet is prohibited. Deliberate attempts to degrade or disrupt system performance are violations of District policy and administrative regulations and may constitute criminal activity under applicable state and federal laws. Such prohibited activity includes, but is not limited to, the uploading or creating of computer or network viruses.

Etiquette

In addition to the standards for online conduct, users of the District's technology resources are expected to observe the following standards for etiquette:

- Be polite; messages typed in capital letters are the computer equivalent of shouting and are considered rude.
- Be considerate when sending email attachments by taking into account whether a file may be too large to be accommodated by the recipient's technology resources or may be in a format unreadable by the recipient.
- Do not use the District's technology resources in such a way that would disrupt use for others.

Reporting Violations

Students and employees must immediately report any known violation of the District's applicable policies or acceptable use guidelines to a supervising teacher or the technology coordinator.

Requests for Personally Identifiable Information

Students and employees must report to a teacher or an administrator requests for personally identifying information or contact from unknown individuals, as well as any content or communication that is abusive, obscene, pornographic, sexually oriented, threatening, harassing, damaging to another's reputation, or illegal to federal and state compliance.

Sanctions

Inappropriate use of the District's technology resources may result in suspension or revocation of the privilege to use these resources, as well as other disciplinary or legal action, in accordance with applicable laws, District policies, the Student Code of Conduct, and District administrative regulations.

Termination / Revocation of Use

Termination of access for violation of District policies or regulations will be effective on the date the principal or Superintendent or designee receives notice of withdrawal or of revocation of system privileges or on a future date if so specified in the notice.

Disclaimer

The following guidelines will apply:

Opinions, advice, services, and all other information expressed by users, information providers, service providers, or other third-party individuals are those of the providers and not the District.

Cooperation with Law Enforcement

The District will cooperate fully with local, state, or federal officials in any investigation concerning or relating to misuse of the District's technology resources and will cooperate fully with law enforcement in response to any investigation or valid subpoena. [See GR series]

Campus Requests for Social Media	The District maintains a list of social media tools approved for use providing minimal security standards. To request access to a social media site (e.g., Facebook), a campus may submit a request to the District Helpdesk.
Consultation	This regulation does not require consultation.
Maintenance Responsibility	The chief technology officer, Information Technology, is responsible for maintenance of this regulation.
Effective Date	This regulation shall be effective as of the approval date, August 30, 2021.

[1] Request to disable filter email contact: HELPDESK@houstonisd.org

The following exhibits are used by the District:

Exhibit A: Item for the HISD Bulletin Board Events — 1 page

Exhibit B: Acceptable Use Policy for Electronic Services for Students — 4 pages

EXHIBIT A

ITEM FOR THE HISD BULLETIN BOARD EVENTS

For publication on (*date*): _____

Item Title: _____

Details (who, what, when, where, why): _____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

_____

Attachment: _____

For more information, contact (*name and telephone number*): _____

_____

Submitted by (*name and title*): _____

Approved by (*department head name and title*): _____

Direct Report to the Superintendent: _____

EXHIBIT B

HOUSTON INDEPENDENT SCHOOL DISTRICT

ACCEPTABLE USE POLICY FOR ELECTRONIC SERVICES FOR STUDENTS

The Houston Independent School District (HISD) strongly believes in the educational value of electronic services and recognizes the potential to support curriculum and student learning by facilitating resource sharing, innovation, and communication.

Access to the Internet allows students to explore thousands of libraries, databases, museums, and other repositories of information. Families should be aware that some material accessible via the Internet may contain items that are inappropriate, inaccurate, or potentially offensive. While the purposes of the school are to use electronic resources for constructive educational goals, students may find ways to access other materials. The District believes that the benefits to students from electronic services in the form of information resources and opportunities for collaboration exceed the disadvantages. But ultimately, parents and guardians of minors are responsible for setting and conveying the standards that their children should follow when using media and information sources. Therefore, the District supports and respects each family's right to deny electronic services to their student by submitting an "opt-out" form to the school's principal [see below].

Authorized student use of information resources must be consistent with the educational purposes for which these resources have been provided. The use of HISD electronic services is to assist students in completing educational activities and should be used in a manner that enhances educational experiences and complies with HISD policies. All student users must adhere to the provisions of this Acceptable Use Policy as a condition for continued use of the HISD network. This policy must be followed anytime there is a connection to the District's wired or wireless network via any electronic device. HISD reserves the right to monitor any user's online activities. Users should have no expectation of privacy regarding their use of HISD property, including the network, Internet access, files, text, chat room conversations, and e-mail.

Internet Safety

In compliance with the Children's Internet Protection Act ("CIPA"), the Houston Independent School District is required to adopt and implement an Internet safety policy addressing: (a) access by minors to inappropriate matter on the Internet; (b) the safety and security of minors when using electronic mail, chat rooms, and other forms of direct electronic communications; (c) unauthorized access, including so-called "hacking," and other unlawful activities by minors online; (d) unauthorized disclosure, use, and dissemination of personal information regarding minors; and (e) measures restricting minors' access to materials harmful to them. Furthermore, each campus educates students on cyberbullying, appropriate online behavior, and social networking as required by Broadband Data Improvement Act.

1. HISD has implemented filtering and/or blocking software to restrict access to Internet sites containing pornography, obscene depictions, or other materials harmful to minors under 18 years of age, to the extent practicable, while using its network. This control also applies to other forms of communication such as e-mail, chat rooms, social net-

working sites, instant messaging, and the like. However, no software is foolproof, and there is still a risk a user may be exposed to a site or message containing such materials.

2. The student's parent or guardian is responsible for supervising and monitoring all computer usage that occurs outside the HISD network.

3. Students will not reveal personal information, including name, home address, telephone number, photos, and the like on the Internet. Students are advised to never access, keep, or send anything that they would not want the general public to see.

4. Students will not meet in person with anyone they have met only online via the Internet.

5. The user is personally responsible for his or her actions in accessing and utilizing the school's computer resources.

6. Students must abide by all laws, regulations, the Student Code of Conduct, Acceptable Use Policy, and other related HISD security policies.

Privacy

The Family Educational Rights and Privacy Act ("FERPA") is a federal law that protects the privacy of student education records. Under FERPA, parents or eligible students have the right to inspect and review the student's education records maintained by the school. Students and qualified parents can view certain educational records of the student online through HISD's Parent Student Connect portal. These records are safeguarded through all available means and access will be restricted to parents/guardians and the student through the use of user names and passwords.

Acceptable Actions

HISD students may use the network and electronic services provided by HISD to pursue educational activities. Students will learn how Internet resources can provide valuable educational information. Students will be expected to follow accepted rules of network etiquette. These rules include, but are not limited to the following:

- Be courteous and respectful. Do not send or display offensive messages or pictures.
- Use appropriate language in any type of communication. No profane, abusive, or impolite language will be used to communicate nor should materials be accessed that are not in line with the rules of school behavior.
- Keep personal information such as logins, passwords, addresses, and phone numbers confidential.
- Use electronic services for educational purposes only.
- If you encounter materials that violate the rules of appropriate use, disconnect immediately and notify an adult.

Unacceptable Actions

Improper use of electronic services provided by HISD is prohibited. Be prepared to be held accountable for your actions and for the loss of privileges if this Acceptable Use Policy is violated. In addition to the paragraph below labeled "Penalties for Improper Use," the HISD Student Code of Conduct addresses the consequences for violations. Actions that constitute unacceptable use include, but are not limited to the following:

- Do not use a computer to harm other people or their work.
- Do not damage the computer or the network in any way.
- Do not interfere with the operation of the network by installing software, shareware, or freeware, including the alteration of any controls designed to provide Internet safety or alteration of HISD's default computer image.
- Do not violate copyright laws or participate in any criminal activities punishable by law.
- Do not view, send, or display offensive messages or pictures.
- Do not share your password with another person or offer access to any person via your account.
- Do not reveal your personal address or phone numbers or those of other students or colleagues, including the completion of profile data.
- Do not waste limited resources such as disk space or printing capacity.
- Do not distribute advertisements, solicitations, commercial ventures, or political lobbying.
- Do not trespass in another's folders, work, or files.
- Do not pursue internal or external "hacking", use anonymous e-mail sites, spread viruses, initiate spam, or attempt to access inappropriate material.

All HISD students are granted access to all electronic services available. If you DO NOT want your student to have access to electronic services, please complete and submit the opt-out form and access will be denied.

Penalties for Improper Use

The use of the network is a privilege, not a right, and may be revoked if abused. Misuse, damage, or vandalism of HISD technology resources may also lead to disciplinary and/or legal action, including suspension, expulsion, or criminal prosecution by governmental authorities.

Disclaimer

HISD makes no guarantee about the quality of services provided and is not responsible for any claims, losses, damages, costs, or other obligations arising from the use of its network. Any charge accrued to the user of HISD's network are borne by the user. Statements by the

user on the Internet are from the author's individual point of view and do not represent the views of HISD, its employees, or members of the Board of Education.

Student and parental/guardian signatures on the Student Code of Conduct represent consent to conform to the Acceptable Use Policy.

Note: Copyright information can be found on the U.S. Copyright Office website.[1]

Copyright

Copyright protection subsists, in accordance with United States Code Title 17 (Title 17), in original works of authorship fixed in any tangible medium of expression, now known or later developed, from which they can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device. Works of authorship include the following categories:

1. Literary works;
2. Musical works, including any accompanying words;
3. Dramatic works, including any accompanying music;
4. Pantomimes and choreographic works;
5. Pictorial, graphic, and sculptural works;
6. Motion pictures and other audiovisual works;
7. Sound recordings; and
8. Architectural works.

In no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

17 U.S.C. 102

Ownership

Copyright in a work protected under copyright law vests initially in the author or authors of the work. The authors of a joint work are co-owners of copyright in the work. *17 U.S.C. 201(a)*

Work for Hire

In the case of a work made for hire, the employer or other person for whom the work was prepared is considered the author for purposes of copyright law, and, unless the parties have expressly agreed otherwise in a written instrument signed by them, owns all of the rights comprised in the copyright. *17 U.S.C. 201(b)*

A “work made for hire” is:

1. A work prepared by an employee within the scope of his or her employment; or
2. A work specially ordered or commissioned for use as a contribution to a collective work, as a part of a motion picture or

other audiovisual work, as a translation, as a supplementary work, as a compilation, as an instructional text, as a test, as answer material for a test, or as an atlas, if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

A "supplementary work" is a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwards, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.

An "instructional text" is a literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities.

17 U.S.C. 101

Transfer

The ownership of a copyright may be transferred in whole or in part by any means of conveyance or by operation of law, and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession. Any of the exclusive rights comprised in a copyright, including any subdivision of any of the rights specified by 17 U.S.C. 106, may be transferred and owned separately. The owner of any particular exclusive right is entitled, to the extent of that right, to all of the protection and remedies accorded to the copyright owner. *17 U.S.C. 201(d)*

Copyright Registration

At any time during the subsistence of the first term of copyright in any published or unpublished work in which the copyright was secured before January 1, 1978, and during the subsistence of any copyright secured on or after that date, the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim by delivering to the Copyright Office the deposit specified by 17 U.S.C. 408, together with the application and fee specified by 17 U.S.C. 409 and 708. Such registration is not a condition of copyright protection. *17 U.S.C. 408(a)*

Exclusive Rights

Subject to 17 U.S.C. 107–122 (limitations on and scope of exclusive rights), the owner of a copyright has the exclusive rights:

1. To reproduce the copyrighted work in copies or phonorecords;
2. To prepare derivative works based upon the copyrighted work;

3. To distribute copies or phonorecords of the copyrighted work to the public by sale or other transfer of ownership, or by rental, lease, or lending;

4. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works, to perform the copyrighted work publicly;

5. In the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work, to display the copyrighted work publicly; and

6. In the case of sound recordings, to perform the copyrighted work publicly by means of a digital audio transmission.

17 U.S.C. 106

Fair Use

Notwithstanding the provisions of 17 U.S.C. 106 above and 106A (rights of authors of visual art works), the fair use of a copyrighted work, including such use by reproduction in copies or phonorecords or by any other means specified by that section, for purposes such as criticism, comment, news reporting, teaching (including multiple copies for classroom use), scholarship, or research, is not an infringement of copyright. In determining whether the use made of a work in any particular case is a fair use the factors to be considered shall include:

1. The purpose and character of the use, including whether such use is of a commercial nature or for nonprofit educational purposes.

2. The nature of the copyrighted work.

3. The amount and substantiality of the portion used in relation to the copyrighted work as a whole.

4. The effect of the use upon the potential market for or value of the copyrighted work.

17 U.S.C. 107

Performances and Displays

Notwithstanding the provisions of 17 U.S.C. 106, certain performances and displays set out in 17 U.S.C. 110 are not infringements of copyright, including performance or display of a work by instructors or pupils in the course of face-to-face teaching activities of a nonprofit educational institution, in a classroom or similar place devoted to instruction, unless, in the case of a motion picture or other audiovisual work, the performance, or the display of individual images, is given by means of a copy that was not lawfully made

under Title 17, and that the person responsible for the performance knew or had reason to believe was not lawfully made. *17 U.S.C. 110(1)*

Copyright Infringement

Anyone who violates any of the exclusive rights of the copyright owner as provided by 17 U.S.C. 106 through 122 or of the author as provided in 17 U.S.C. 106A(a), or who imports copies or phonorecords into the United States in violation of 17 U.S.C. 602, is an infringer of the copyright or right of the author. The legal or beneficial owner of an exclusive right under a copyright is entitled, subject to the requirements of 17 U.S.C. 411, to institute an action for any infringement of that particular right committed while he or she is the owner of it.

17 U.S.C. 501(a)–(b)

Note: For information on copyright issues and online distance learning, see the TEACH Act, 17 U.S.C. 110(2) and 112(f).

Digital Millennium Copyright Act

Service Provider

"Service provider" means:

1. As used in 17 U.S.C. 512(a) (item 1 at Limitation of Liability below), an entity offering the transmission, routing, or providing of connections for digital online communications, between or among points specified by a user, of material of the user's choosing, without modification to the content of the material as sent or received.

2. As used in 17 U.S.C. 512, other than subsection (a), a provider of online services or network access, or the operator of facilities therefor, and includes an entity described in item 1 above.

17 U.S.C. 512(k)

Limitation of Liability

A service provider shall not be liable for monetary relief or, except as provided in 17 U.S.C. 512(j), for injunctive or other equitable relief, for infringement of copyright by reason of:

1. The provider's transmitting, routing, or providing connections for material through a system or network controlled or operated by or for the service provider, or by reason of the intermediate and transient storage of that material in the course of such transmitting, routing, or providing connections, if 17 U.S.C. 512(a)(1)–(5) are satisfied.

2. The intermediate and temporary storage of material on a system or network controlled or operated by or for the service provider in a case in which:

    a. The material is made available online by a person other than the service provider;

    b. The material is transmitted from the person described above through the system or network to a person other than the person described above at the direction of that other person; and

    c. The storage is carried out through an automatic technical process for the purpose of making the material available to users of the system or network who, after the material is transmitted as described in item b, request access to the material from the person described in item a, if the conditions set forth in 17 U.S.C. 512(b)(2) are met.

3. The storage at the direction of a user of material that resides on a system or network controlled or operated by or for the service provider, if the service provider:

    a. Does not have actual knowledge that the material or an activity using the material on the system or network is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

    b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

    c. Upon notification of claimed infringement as described at Notification below responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity.

4. The provider referring or linking users to an online location containing infringing material or infringing activity, by using information location tools, including a directory, index, reference, pointer, or hypertext link, if the service provider:

    a. Does not have actual knowledge that the material or activity is infringing; in the absence of such actual knowledge, is not aware of facts or circumstances from

which infringing activity is apparent; or upon obtaining such knowledge or awareness, acts expeditiously to remove, or disable access to, the material;

b. Does not receive a financial benefit directly attributable to the infringing activity, in a case in which the service provider has the right and ability to control such activity; and

c. Upon notification of claimed infringement as described at Notification, below, responds expeditiously to remove, or disable access to, the material that is claimed to be infringing or to be the subject of infringing activity, except that, for purposes of this provision, the information described in item 3 at Notification, below, shall be identification of the reference or link, to material or activity claimed to be infringing, that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate that reference or link.

17 U.S.C. 512(a)–(d)

Designated Agent

The limitations on liability established in item 3 at Limitation of Liability, above, apply to a service provider only if the service provider has designated an agent to receive notifications of claimed infringement described at Notification, below, by making available through its service, including on its website in a location accessible to the public, and by providing to the Copyright Office (the Office), substantially the following information:

1. The name, address, phone number, and electronic mail address of the agent.

2. Other contact information which the Register of Copyrights may deem appropriate.

17 U.S.C. 512(c)(2); 37 C.F.R. 201.38

The Register of Copyrights shall maintain a current directory of agents available to the public for inspection, including through the internet, and may require payment of a fee by service providers to cover the costs of maintaining the directory. *17 U.S.C. 512(c)(2)*

Amendment

All service providers must ensure the currency and accuracy of the information contained in designations submitted to the Office by timely updating information when it has changed. A service provider may amend a designation previously registered with the Office at any time to correct or update information.

Renewal

A service provider's designation will expire and become invalid three years after it is registered with the Office, unless the service provider renews such designation by either amending it to correct or update information or resubmitting it without amendment. Either amending or resubmitting a designation, as appropriate, begins a new three-year period before such designation must be renewed.

37 C.F.R. 201.38(c)(3)–(4)

Notification

To be effective, a notification of claimed infringement must be a written communication provided to the designated agent of a service provider that includes substantially the following:

1. A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.
2. Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site.
3. Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled, and information reasonably sufficient to permit the service provider to locate the material.
4. Information reasonably sufficient to permit the service provider to contact the complaining party, such as an address, telephone number, and, if available, an electronic mail address at which the complaining party may be contacted.
5. A statement that the complaining party has a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law.
6. A statement that the information in the notification is accurate, and under penalty of perjury, that the complaining party is authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

17 U.S.C. 512(c)(3)

Disabling or Removing Access

Subject to the exceptions below, a service provider shall not be liable to any person for any claim based on the service provider’s good faith disabling of access to, or removal of, material or activity claimed to be infringing or based on facts or circumstances from which infringing activity is apparent, regardless of whether the material or activity is ultimately determined to be infringing.

Exceptions

The provision above shall not apply with respect to material residing at the direction of a subscriber of the service provider on a system or network controlled or operated by or for the service provider that is removed, or to which access is disabled by the service provider, pursuant to a notice provided under item 3c at Limitation of Liability, unless the service provider:

1. Takes reasonable steps promptly to notify the subscriber that it has removed or disabled access to the material;

2. Upon receipt of a counter notification described in 17 U.S.C. 512(g)(3), promptly provides the person who provided the notification under item 3c with a copy of the counter notification, and informs that person that it will replace the removed material or cease disabling access to it in ten business days; and

3. Replaces the removed material and ceases disabling access to it not less than ten, nor more than 14, business days following receipt of the counter notice, unless its designated agent first receives notice from the person who submitted the notification under item 3c that such person has filed an action seeking a court order to restrain the subscriber from engaging in infringing activity relating to the material on the service provider's system or network.

17 U.S.C. 512(g)

Eligibility for Limitations on Liability

The limitations on liability established by 17 U.S.C. 512 shall apply to a service provider only if the service provider:

1. Has adopted and reasonably implemented, and informs subscribers and account holders of the service provider’s system or network of, a policy that provides for the termination in appropriate circumstances of subscribers and account holders of the service provider’s system or network who are repeat infringers; and

2. Accommodates and does not interfere with standard technical measures. The term “standard technical measures” means technical measures that are used by copyright owners to identify or protect copyrighted works and:

    a. Have been developed pursuant to a broad consensus of copyright owners and service providers in an open, fair, voluntary, multi-industry standards process;

    b. Are available to any person on reasonable and nondiscriminatory terms; and

c. Do not impose substantial costs on service providers or substantial burdens on their systems or networks.

17 U.S.C. 512(i)

Note: Trademark information can be found on the U.S. Patent and Trademark Office (USPTO) website.[2]

Trademark

The term "trademark" includes any word, name, symbol, or device, or any combination thereof, used by a person or which a person has a bona fide intention to use in commerce and applies to register on the principal register established by United States Code Title 15, Chapter 22 to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown. *15 U.S.C. 1127*

Trademark Registration

The owner of a trademark used in commerce may request registration of its trademark on the principal register by paying the prescribed fee and filing in the USPTO an application and a verified statement, in such form as may be prescribed by the director of the USPTO, and such number of specimens or facsimiles of the mark as used as may be required by the director. *15 U.S.C. 1051(a)*

Duration

Each registration shall remain in force for ten years, except that the registration of any mark shall be canceled by the director unless the owner of the registration files in the USPTO affidavits that meet the requirements of 15 U.S.C. 1058(b) within the time periods specified in 15 U.S.C. 1058(a). *15 U.S.C. 1058*

Renewal

Subject to 15 U.S.C. 1058 above, each registration may be renewed for periods of ten years at the end of each successive ten-year period following the date of registration upon payment of the prescribed fee and the filing of a written application, in such form as may be prescribed by the director. Such application may be made at any time within one year before the end of each successive ten-year period for which the registration was issued or renewed, or it may be made within a grace period of six months after the end of each successive ten-year period, upon payment of a fee and surcharge prescribed therefor. *15 U.S.C. 1059(a)*

Assignment of Mark

A registered mark or a mark for which an application to register has been filed shall be assignable with the good will of the business in which the mark is used, or with that part of the good will of the business connected with the use of and symbolized by the mark. *15 U.S.C. 1060(a)(1)*

Trademark Infringement

Any person shall be liable in a civil action by the registrant for the remedies provided in 15 U.S.C. 1114 if the person, without the consent of the registrant:

1. Uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive; or

2. Reproduces, counterfeits, copies or colorably imitates a registered mark and applies such reproduction, counterfeit, copy or colorable imitation to labels, signs, prints, packages, wrappers, receptacles or advertisements intended to be used in commerce upon or in connection with the sale, offering for sale, distribution, or advertising of goods or services on or in connection with which such use is likely to cause confusion, or to cause mistake, or to deceive.

Under item 2 above, the registrant shall not be entitled to recover profits or damages unless the acts have been committed with knowledge that such imitation is intended to be used to cause confusion, or to cause mistake, or to deceive.

15 U.S.C. 1114(1)

Note: Patent information can be found on the U.S. Patent and Trademark Office (USPTO) website.[3]

Patent

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement, may obtain a patent, subject to the conditions and requirements of United States Code Title 35 (Title 35). *35 U.S.C. 101*

Assignment of Patent

Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States. *35 U.S.C. 261*

Patent Infringement

Except as otherwise provided in Title 35, whoever without authority makes, uses, offers to sell, or sells any patented invention, within the United States, or imports into the United States any patented invention during the term of the patent, infringes the patent.

Whoever actively induces infringement of a patent shall be liable as an infringer.

Whoever offers to sell or sells within the United States or imports into the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing a patented process, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial noninfringing use, shall be liable as a contributory infringer.

35 U.S.C. 271(a)–(c)

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[1] U.S. Copyright Office: https://www.copyright.gov/
[2] USPTO on Trademarks: https://www.uspto.gov/trademarks
[3] USPTO on Patents: https://www.uspto.gov/patents

INTELLECTUAL PROPERTY	All copyrights, trademarks, and other intellectual property rights shall remain with the District at all times.
STUDENTS	A student shall retain all rights to work created as part of instruction or using District technology resources.
EMPLOYEES	As an agent of the District, an employee, including a student employee, shall not have rights to work he or she creates on District time or using District technology resources. The District shall own any work or work product created by a District employee in the course and scope of his or her employment, including the right to obtain copyrights.
DISTRICT OWNERSHIP	
EMPLOYEE OWNERSHIP	If the employee obtains a patent for such work, the employee shall grant a non-exclusive, non-transferable, perpetual, royalty-free, Districtwide license to the District for use of the patented work. A District employee shall own any work or work product produced on his or her own time, away from his or her job and with personal equipment and materials, including the right to obtain patents or copyrights.
PERMISSION	A District employee may apply to the Superintendent or designee to use District materials and equipment in his or her creative projects, provided the employee agrees either to grant to the District a non-exclusive, non-transferable, perpetual, royalty-free, Districtwide license to use the work, or permits the District to be listed as co-author or co-inventor if the District contribution to the work is substantial. District materials do not include student work, all rights to which are retained by the student.
WORKS MADE FOR HIRE	The District may hire an independent contractor for specially commissioned work(s) under a written works-made-for-hire agreement that provides that the District shall own the work product created under the agreement, as permitted by copyright law. Independent contractors shall comply with copyright law in all works commissioned.
RETURN OF INTELLECTUAL PROPERTY	Upon the termination of any person's association with the District, all permission to possess, receive, or modify the District's intellectual property shall also immediately terminate. All such persons shall return to the District all intellectual property, including but not limited to any copies, no matter how kept or stored, and whether directly or indirectly possessed by such person.
COPYRIGHT	Unless the proposed use of a copyrighted work is an exception under the "fair use" guidelines maintained by the Superintendent or designee, the District shall require an employee or student to obtain a license or permission from the copyright holder before copying, modifying, displaying, performing, distributing, or otherwise

employing the copyright holder's work for instructional, curricular, or extracurricular purposes. This policy does not apply to any work sufficiently documented to be in the public domain.

TECHNOLOGY USE — All persons are prohibited from using District technology in violation of any law including copyright law. Only appropriately licensed programs or software may be used with District technology resources. No person shall use the District's technology resources to post, publicize, or duplicate information in violation of copyright law. The Board shall direct the Superintendent or designee to employ all reasonable measures to prevent the use of District technology resources in violation of the law. All persons using District technology resources in violation of the law shall lose user privileges in addition to other sanctions. [See BBI, CQ, and DH]

ELECTRONIC AND SOCIAL MEDIA — The use of copyrighted material is prohibited in electronic and social media unless a license or permission has been obtained.

DESIGNATED AGENT — The District shall designate an agent to receive notification of alleged online copyright infringement and shall notify the U.S. Copyright Office of the designated agent's identity. The District shall include on its Web site information on how to contact the District's designated agent and a copy of the District's copyright policy. Upon notification, the District's designated agent shall take all actions necessary to remedy any violation. The District shall provide the designated agent appropriate training and resources necessary to protect the District.

If a content owner reasonably believes that the District's technology resources have been used to infringe upon a copyright, the owner may notify the designated agent.

TRADEMARK — The District protects all District and campus trademarks, including names, logos, mascots, and symbols, from unauthorized use.

SCHOOL-RELATED USE — The District grants permission to students, student organizations, parent organizations, and other District-affiliated school-support or booster organizations to use, without charge, District and campus trademarks to promote a group of students, an activity or event, a campus, or the District, if the use is in furtherance of a school-related business or activity. The Superintendent or designee shall determine what constitutes use in furtherance of a school-related business or activity and is authorized to revoke permission if the use is improper or does not conform to administrative regulations.

PUBLIC USE — Members of the general public, outside organizations, vendors, commercial manufacturers, wholesalers, and retailers shall not use District trademarks without the written permission of the Superintendent or designee. Any production of merchandise with District

trademarks for sale or distribution must be pursuant to a trademark licensing agreement and may be subject to the payment of royalties.

Any individual, organization, or business that uses District trademarks without appropriate authorization shall be subject to legal action.

INFORMATION

1. The District has served as a lighthouse for other educational institutions through the development of numerous systems, products, and procedures for the enhancement of education. Although many of the District's developments will continue to be shared without charge to other districts, some products or services have such high value and development costs, that the District has created a marketing effort to recover these costs. In addition to internal developments, the District has formed beneficial partnerships with private firms and established agreements with other districts to market products or services. See Reference (a).

MARKETING PROCESS

2. To ensure quality and consistency and provide structured coordination in the marketing of products or services, the District has established a marketing department. Marketing and Business Development oversees the marketing process that consists of products or services evaluation, and the marketing effort. See Exhibit (2)

PRODUCTS OR SERVICES EVALUATION

a. The products or services evaluation process begins with the Marketing Evaluation Questionnaire that must be completed by the employee, internal department, individual, or entity wishing to market products or services. See Exhibit (1). Procedures for processing the products or services evaluation are as follows:

MARKET EVALUATION

(1) The completed Marketing Evaluation Questionnaire is submitted to Marketing and Business Development. Marketing and Business Development provides assistance, if necessary, in completing the questionnaire. See Exhibit (1)

REVIEW

(2) After completing the questionnaire, the proposing employee, internal department, individual, or entity meets with the marketing staff member to review all aspects of the products or services. See Exhibit (2).

RECOMMENDATION

(3) After review of the Marketing Evaluation Questionnaire and discussion with the employee or department, Marketing and Business Development develops a recommendation based on products or services derived from the employee, individual, or entity and submits a summary proposal through the chief financial officer to the Superintendent. Marketing and Business Development reviews proposals submitted by the District's departments, develops a recommendation and summary proposal, and submits them and any relevant materials to the

chief financial officer. The chief financial officer determines if the product or service should be offered free of charge or marketed for revenue and submits a recommendation to the Superintendent.

APPROVAL

(4) The Superintendent has been given authority by the HISD Board of Education to approve direct recommendations for contracts or agreements from Marketing and Business Development and recommendations from the chief financial officer. Some ventures, however, are submitted as agenda items by the issuing department to the Superintendent. The Superintendent submits the agenda item to the Board for approval. After approval by the Board, the employee, internal department, individual, or entity is notified of the Board's decision and works with Marketing and Business Development to initiate the marketing effort.

Inquiries regarding the status of a venture may be referred to the consultant, Marketing and Business Development, at (713)556-6675.

MARKETING EFFORT

b. Marketing and Business Development in coordination with the employee, internal department, individual, or entity may engage in some or all of the following activities to market the products or services:

- Conduct market research;
- Develop a marketing strategy;
- Write a marketing plan;
- Create marketing materials;
- Contact prospects;
- Make marketing presentations;
- Negotiate and write contracts;
- Build customer relations;
- Create interlocal agreements for Superintendent's approval;
- Sell products or services to customers; and
- Issue receipts and account for results of operations.

EMPLOYEE CONTRACTS FOR PRODUCTS OR SERVICES

3. The District's interest in potential revenue from the sale of any District-owned products or services must be protected. See Reference (b) for guidelines regarding protective clauses applicable to employees.

CONSULTATION

4. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

5. The consultant, Marketing and Business Development, is responsible for maintenance of this regulation.

REFERENCES:

(a) CY3(REGULATION)

(b) CY2(REGULATION)

EXHIBITS:

(1) CY(EXHIBIT), Exhibit A

(2) CY(EXHIBIT), Exhibit B

INTERNALLY DEVELOPED PRODUCTS AND SERVICES

1. The following definitions apply to this regulation on internally developed products and services:

COPYRIGHT

a. A copyright gives the owner of the copyright the exclusive right to authorize others to reproduce, prepare derivative works, distribute copies, and perform or display original works of the author. [See References (a) and (b)] Only the author or those deriving their right through the author can rightfully claim copyright. The employer is considered the author of works prepared by an employee within the scope of his or her employment, or of works specially ordered or commissioned, unless there is an agreement to the contrary. Some categories of works are generally not eligible for federal copyright protection. [See Reference (c)] These include, but are not limited to, the following:

- Works that have not been fixed in a tangible form of expression (improvisational speeches or performances that have not been written or recorded);
- Titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; and mere listings of ingredients or contents;
- Ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration; and
- Works consisting entirely of information that is common property and containing no original authorship.

PATENTS

b. A patent is a government grant that gives a person or a company the right to exclude others from making, using, offering for sale, selling, or importing the invention under patent. All rights to inventions or discoveries arising from research conducted by an employee within the scope of his or her employment will belong to the Houston Independent School District (HISD). Patents should be obtained to protect HISD's rights to these inventions or discoveries.

TRADEMARK

c. A trademark includes any word, name, symbol, or any combination, used or intended to be used, in commerce to identify and distinguish the goods of one manufacturer

or seller from goods manufactured or sold by others, and to indicate the source of the goods. In short, a trademark is a brand name.

SERVICE MARK

d. A service mark is any word, name, symbol, device, or any combination, used, or intended to be used, in commerce, to identify and distinguish the services of one provider from services provided by others, and to indicate the source of the services.

NONDISCLOSURE CLAUSE

e. The nondisclosure clause describes the employee's responsibilities regarding confidential or trade secret information and defines what the District considers to be confidential. Any information that is public knowledge or that the employee had prior to being employed cannot be included in a nondisclosure agreement.

NONCOMPETE CLAUSE

f. A noncompete clause prevents former employees from engaging in activities in competition with the employer for a specified period of time. A noncompete clause must be no broader than necessary to protect the legitimate business interest of the employer and not place an undue hardship on the employee's ability to earn a livelihood.

MARKETING OF PRODUCTS

2. Various products and services used by District staff members have been developed by employees of the District. Such products and services are expensive to develop and potentially have commercial value if offered for sale outside the District. In order to facilitate the District's ability to recover the development costs and to generate revenue for further development, products and services that have commercial value will be marketed through the District's Marketing Department.

EMPLOYEE CONTRACTS

3. It is important to protect the District's interest in potential revenue from the sale of any District-owned product by ensuring that contracts with employees include the following conditions:

OWNERSHIP

a. Contracts will include language that provides that the District retains sole ownership and any rights attached to products or services developed by individuals while in the employment of the District. The District will retain all rights to the product or service including, but not limited to, use of the product or service internally, and the right to sell and distribute the product or service externally.

COPYRIGHT

b. The contract will include a clause that gives the District ownership to any copyright or any applicable product

developed by the employee while on District time. Copyright protection will be claimed for all applicable works whether they are considered marketable or not.

PATENTS / TRADEMARKS / SERVICE MARKS

c. Employment contracts must include language to provide that HISD owns all patent, trademark, or service mark (i.e., mark) rights for any patents or mark obtained for any purpose when the item on which the patent or mark was obtained was produced by the employee on the District's time. Any employee who believes he or she has invented an item that has market value should check with HISD Legal Services at (713) 556-7245 to determine if a patent or trademark application is needed. For additional information, the United States Patent and Trademark Office Web site is www.uspto.gov.

NONDISCLOSURE CLAUSE

d. A nondisclosure clause will be added to the employment agreement, or for existing employees, added as a separate agreement, where needed, for specific projects. The nondisclosure agreement will require the employee to agree to hold, in confidence, specified information for a designated period of time. Employees should take steps to maintain confidentiality (i.e., using computer passwords, not removing sales lists from the premises, not copying documents to disk, and the like).

NONCOMPETE CLAUSE

e. A noncompete clause must be added to employment agreements or developed as a separate agreement for an existing employee before he or she works on projects that have commercial value.

CONTRACT REVIEW

4. In addition to review by Legal Services, all contracts must be reviewed by the chief financial officer prior to obtaining approval signature.

CONSULTATION

5. This regulation has been through consultation (Administrative August 9, 2011; Instructional: September 1, 2011).

MAINTENANCE RESPONSIBILITY

6. The general counsel, Legal Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy CY(LEGAL)

(b) CY4(REGULATION)

(c) United States Code Title 17 Copyright Act, 1996

CONTRACTS WITH EXTERNAL VENDORS AND CONSULTANTS

1. Contracts with external vendors or consultants hired for the purpose of producing products and delivering services have frequently been negotiated solely by departments or school staff. These negotiations have not always been advantageous for the District. It is important that all ownership interests, right to use, and potential revenue be protected through specific language included in contracts.

2. Contracts are legally binding instruments written between the District and producers of a product or service. Contracts that include the development of products or services are required to include language that establishes the following:

DISTRICT OWNERSHIP

a. The District will retain sole ownership of the product or service and any rights attached. These rights should be clearly stated in the contract. The District will retain all rights to the product or service including, but not limited to, the right to use the product or service internally, and the right to sell and distribute the product or service externally.

FEES PAID TO VENDORS

b. Fees paid to external vendors for products or services should not exceed a rate set by the District for such products or services. In the event that a comparative rate for products or services is not available, consideration should be given primarily to the value of the product or service to the District. While the return on investment may be considered if the product or service is to be marketed at a future date, the return on investment should not be used as the basis for determining the value of the product or service, except where items are specifically being developed as part of a planned marketing activity.

CONTRACT TERMS

c. Contract terms regarding compensation and deliverables (i.e., payment for services, schedule of invoices and payments, justification for nonpayment, contract cancellation provisions, or cause for deviation from stated compensation, etc.) must be clearly stated in the contract.

TRADEMARKS AND COPYRIGHTS

d. The contract should state that the District will own all rights, title, and interest assigned to any trademarks or copyrights attached to any product or service developed at the District under the contract, or to any product or service for which the District has provided the content. See References (a), (b), and (c).

COPYRIGHT MATERIAL OF THIRD PARTIES

3. Consultants or vendors providing products or services to the District must obtain releases for all copyrighted material used

in the development of District products. See Reference (c). Releases must include the right to use and sell the material as a part of the District's future marketing efforts without added fees. The cost of releases must be included in the contract if the copyrighted material is provided by the vendor or consultant. If the copyrighted material is to be provided by other parties, the cost of releases from those parties must be clearly stated in the Board of Education agenda item that authorizes the contract.

CONTRACT REVIEW

4. In addition to review by Legal Services, all contracts must be reviewed by the chief financial officer prior to the school or department obtaining approval signatures.

CONSULTATION

5. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

6. The manager, Marketing Department, is responsible for maintenance of this regulation.

REFERENCES:

(a) CY(LEGAL)

(b) CY4(REGULATION)

(c) United States Code Title 17 Copyright Act, 1996

COMPLIANCE WITH COPYRIGHT LAW

1. The Copyright Law of 1976 and subsequent amendments outline five basic rights of copyright owners: the right of reproduction, adaption, distribution, performance, and display. In summary, the law grants copyright owners the exclusive right to use and to authorize the use of a copyrighted work. Therefore, the unauthorized use of a copyrighted work in one or more of the five areas is an infringement of the law. See Reference (d).

COMPLIANCE PROCEDURES

2. It is the policy of the Houston Independent School District (HISD) to comply with the law. Notices to this effect are to be posted in areas where there are photocopiers, facsimile machines, or scanners. See References (a), (b), and (f). Employees of HISD will abide by the provisions of the current copyright law as it affects the District and its employees. The District does not sanction illegal duplication of copyrighted materials, whether such materials are in printed or nonprinted form. Employees who willfully violate the District's position regarding the copying of copyrighted materials do so at their own risk and assume all liabilities and responsibilities connected with their actions. For additional information on guidelines for classroom copying, see References (a) and (b).

COPYRIGHT SYMBOL

3. Typically, the indicator of a copyrighted work is the copyright symbol. Although the symbol is no longer mandated to preserve a copyright, the word copyright may appear, or a circle around the letter C may be used. Sometimes, this is followed by the year of the first publication and the words All Rights Reserved. The rights referred to are the bundle of rights, which represent the five basic rights of the copyright owner. The rights and privileges represented by the symbol, whether or not it is used, should be respected.

EXCEPTIONS

4. Exceptions to the exclusive rights enjoyed by copyright owners are the doctrines of:

FAIR USE

a. The fair use of a copyrighted work for the purposes of teaching, scholarships, or research is not an infringement of copyright.

b. Performance or display of a work by instructors or students in the course of face-to-face teaching activities in a classroom or other similar place devoted to instruction.

DISTRICT'S COPYRIGHT MATERIALS

5. The District will own the claim to copyright all copyrightable materials created by employees of the District within the scope of their employment or which are specially commissioned by the District to be created by employees and others. The chief of staff or designee will act as the District's autho-

rized agent for the purpose of registering claims to copyright for materials owned by the District. See Reference (c).

COPYRIGHT MATERIALS OF THIRD PARTIES

6. Employees wishing to obtain permission to duplicate copyright materials of third parties when the materials will be utilized on a Districtwide basis must prepare a Request for Copyright Permission. See Reference (e). The office of the chief of staff will also operate as a clearinghouse for granting permission to duplicate copyrighted materials owned by the District.

COPIES

7. Employees should request permission to reproduce copyrighted work from the owner. See Reference (e). The cost of reproducing the copyrighted materials is the responsibility of the requesting department or school.

DESIGNATED INDIVIDUAL

8. The Superintendent is responsible for designating an individual in the District to monitor and promote compliance with the law. This function has been assigned to the chief of staff or designee.

CONSULTATION

9. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

10. The general counsel, Legal Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy CY(LEGAL)

(b) Board Policy CY(LOCAL)

(c) CY2(REGULATION)

(d) Copyright Law of 1976

(e) Request for Copyright Permission (Sample)

(f) Notice to All Employees Regarding Copyright Restrictions

See the following exhibits:

Exhibit A: Marketing Evaluation Questionnaire – 3 pages

Exhibit B: Product or Service Market Evaluation Process – 1 page

Exhibit C: Approval for Marketing of Products or Services Through the Houston Independent School District to External Entities – 2 pages

EXHIBIT A

MARKETING EVALUATION QUESTIONNAIRE

We look forward to meeting with you regarding your interest in marketing your product or service. It is helpful for us to learn something about the product or service you wish to market prior to our meeting. The following questions are designed to prepare us for our meeting. Please give all the information you can even if you cannot fully answer any question. If a question is not applicable, type in NA. You can type your answers under each question. Thank you!

Product or Service

- Describe exactly what the product or service is.
- How is it used or delivered?
- Is the product or service ready to market or are there modifications to be made?
- Will recently passed state or federal legislation have an impact on the marketability of the product or service?
- What tangible and intangible benefits does the product or service provide to the user?
- Is use of the product or service mandatory or voluntary?
- Is use of the product or service one-time or repeated?
- Is follow-up action required either by your department or the client?
- What makes the product or service different from or superior to those of competitors?
- Is the product or service marketable outside the Texas market?
- What are the major considerations or objections to purchase or use of the product or service?
- Can the product or service be linked to or bundled with any other product or service developed at HISD?

People

<u>Client</u>

- Who would use the product or service?
- Do factors such as district size, student demographics, or district ranking make a district more likely to need or want the product or service?
- Who are the decision makers who determine purchase or use? Who else might be involved in making or influencing a decision?
- Would the client be required to provide staff for service delivery, train-the-trainer, implementation, or other activities?

Your Staff

- Who would provide training for or implementation of the product?
- Do you have enough people to provide training or implementation within HISD? To other districts?
- What would you have to do to meet a higher level of demand?
- Do you have sources for additional trainers or staff if needed?
- What special requirements or qualifications are needed to be able to deliver the product or service or provide training for it?
- What staff is available or needed to maintain product or service?

Competitors

- Who are your competitors?
- What level of market share does your competition have?

Place

- How is the product or service delivered?
- Are there special space or room requirements?
- Are there special requirements for delivery (i.e., computers, audio-visual, or other special equipment)?
- If the product is computer driven, will it operate on a standard PC?
- What materials are required for delivery (i.e., manuals, CDs, presentation booklets, etc.)?
- If a product, does its use require any training?
- What is the optimum ratio of instructor to user?
- How many hours or days are required for training or implementation?
- Are users required to use the product or service at an HISD location? Can you provide delivery at the client district's location?

Price

- How is the product or service priced?
- How much (approximately) have you spent to develop the product or service?
- What are the costs of maintaining the product on a use or time basis (i.e., Do you have to update the product on a periodic basis and what costs are attached to that effort? 5Ms, materials, manpower, machines, money, methods)?
- What are the costs for materials or systems used with the product or service?

- What are your competitors charging?
- Is price ever an objection to purchasing the product or service?

Promotion

- Have you verified that any name, logo, or trademark that you wish to use to identify and promote your product or service is not already registered for use by someone else?
- What activities are you presently using to promote the product or service?
- Do you have any collateral materials (i.e., brochures, PowerPoint presentation, posters, letters, etc.)?
- Do you have testimonials from present users?
- Do you have biographies of developers, instructors, etc.?
- Is special packaging required?
- Do you have a database of present or potential customers?
- Do you have a post-purchase tracking system?

EXHIBIT B

PRODUCT OR SERVICE MARKET EVALUATION PROCESS

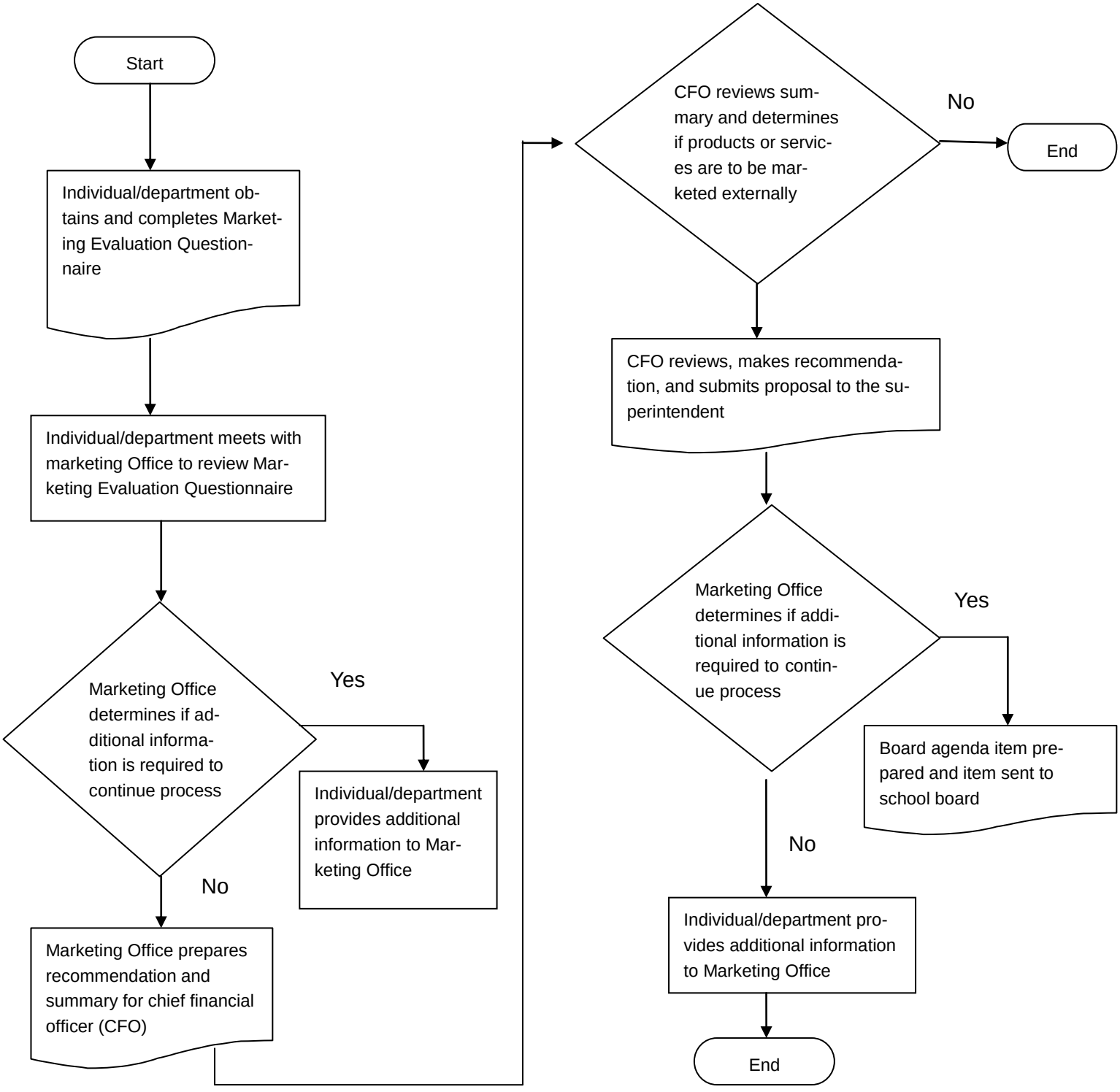


EXHIBIT C

APPROVAL FOR MARKETING OF PRODUCTS OR SERVICES
THROUGH HISD TO EXTERNAL ENTITIES

This exhibit concerns the marketing of products or services generated through employees, internal departments, individuals, or external entities. This approval process is exercised as needed.

CONTRACTS

Responsible Party	Level of Authority	Requirements and Other Information
Houston Independent School District Board of Education	Agenda item authorizing major implementation of a new product or service	
Superintendent	Recommendation of a product or service for external marketing to the Houston Independent School District (HISD) Board of Education Recommendations of the Chief Financial Officer and approval of agreements	A recommendation and proposal from the Marketing Department approved by the Chief Financial Officer; and A written agreement for approval by the Superintendent or a Board agenda item

RECOMMENDATION

Responsible Party	Level of Authority	Requirements and Other Information
Chief of Staff	Recommendation of a product or service to Superintendent	A Board agenda item recommending the product or service for external marketing; or A written agreement
Consultant, Marketing and Business Development	Develop recommendation and Summary Proposal based on product or service for submission to Chief Financial Officer	A market evaluation to determine the need for a product or service

From the appropriate area of responsibility: Superintendent's Cabinet	Submission of proposal to Marketing Department Submission of agenda item to the Superintendent	Development of a recommendation for the marketing of a product or service
Employee, internal department, individual, or external entity	Submission of proposal to Marketing Department or Direct Report	Development of a product or service

1. References.

   CY1(REGULATION)

2. The consultant, Marketing Department, is responsible for maintenance of this exhibit.

Title IX and ADA / Section 504 Coordinator

The District designates the following department to coordinate its efforts to comply with Title IX of the Education Amendments of 1972 as amended and Title II of the Americans with Disabilities Act of 1990, which incorporates and expands upon the requirements of Section 504 of the Rehabilitation Act of 1973:

Office: Employee Relations

Address: 4400 W. 18th St., Houston, TX 77092

Telephone: (713) 556-7313

Contact information for specific individuals designated as the Title IX Coordinator and ADA/Section 504 Coordinator for employees is in DIA(EXHIBIT).

Contact information for specific individuals designated as the Title IX Coordinator and ADA/Section 504 Coordinator for students is in FB(EXHIBIT) and FFH(EXHIBIT).

Complaints

The Employee Relations Office shall be responsible for investigation of complaints on behalf of employees and citizens. For complaint procedures, see DGBA(LOCAL) and GF(LOCAL).

Records Retention

Copies of reports alleging discrimination or prohibited harassment, including sexual harassment; investigation reports; and related records shall be maintained by the District for a period of at least three years.

EMPLOYMENT OBJECTIVES DAB
GENETIC NONDISCRIMINATION (LOCAL)

The Board establishes the following objective criteria for decisions regarding the hiring, dismissing, reassigning, promoting, and demoting of District personnel. These criteria are not rank-ordered and may be considered in whole or in part in making such decisions:

1. Academic or technical preparation, supported by transcripts;
2. Proper certification for grade level, subject, or assignment, including emergency permits and endorsements for specific subjects, programs, or positions;
3. Experience;
4. Recommendations and references;
5. Appraisals and performance evaluations; and
6. The needs of the District.

Disqualifying Offenses

The District shall obtain criminal history record information on final candidates for employment and all current employees on an annual basis. All District positions have the potential for contact with students. The District shall disqualify from employment a person whose criminal history indicates that the person poses a threat to students or employees. Consistent with business necessity, the District shall also disqualify from employment a person whose criminal history is otherwise inconsistent with the job duties of the position for which the person is being considered.

Individualized Assessment

The District shall perform an individualized assessment of criminal history record information when determining a person's eligibility for employment or continued employment in a specific position. The District shall take into account a variety of factors, including the following:

1. The nature of the offense;
2. The age of the person when the crime was committed;
3. The date of the offense and how much time has elapsed;
4. The adjudication of the offense (e.g., whether the person was found guilty by a trier of fact, pled guilty, entered a no contest plea, or received deferred adjudication);
5. The nature and responsibilities of the job sought;
6. The accuracy of the person's disclosure of his or her criminal history during the selection process;
7. The effect of the conduct on the overall educational environment;
8. Whether the offense under the current penal code would be the same degree of offense;
9. Any further information provided by the person concerning his or her criminal history record; and
10. Any other information obtained by the District regarding the applicant's/employee's criminal history record.

Arrests

The fact of an arrest alone does not establish that criminal conduct has occurred, and the District shall not disqualify a person based solely on an arrest. The District may make an employment decision based on the conduct underlying the arrest if the conduct makes the person unfit for the position in question.

Credit History

The District shall obtain credit history information on a candidate for employment only when the credit history is related to the position for which the person is being considered. The District shall comply with the Fair Credit Reporting Act before obtaining a job-related credit history. [See DBAA(LEGAL)]

Offenses for Which Exclusion Is Likely

A record of certain offenses carries a high likelihood that the District will exclude the individual from employment.

Title V, Texas Penal Code

Persons whose criminal history record shows convictions or pleas of guilty or nolo contendere for offenses under Title V, Texas Penal Code, and specifically offenses requiring registration as a sex offender, (or equivalent offenses under the laws of other states and federal law), and at the time the offenses occurred, the victim of the offense was under 18 years of age or was enrolled in a public school, are presumptively disqualified from employment with the District. Subject to an individualized assessment, the following offenses will likely preclude employment with the District. These offenses include but are not limited to:

1. Murder;
2. Capital murder;
3. Manslaughter;
4. Criminally negligent homicide;
5. Kidnapping;
6. Aggravated kidnapping;
7. Smuggling of persons;
8. Trafficking of persons;
9. Continuous trafficking of persons;
10. Continuous sexual abuse of young child or children;
11. Indecency with a child;
12. Improper relationship between educator and student;
13. Sexual assault;
14. Aggravated assault;
15. Injury to a child, elderly individual, or disabled individual; and
16. Abandoning or endangering a child.

Non-Title V, Texas Penal Code

Subject to an individualized assessment, the following non-Title V, Texas Penal Code offenses are also presumptively disqualifying:

1. Aggravated robbery;
2. Any felony where a deadly weapon was used or exhibited; and

3. Any felony related to the manufacture, delivery, or possession of marijuana, a controlled substance, or a dangerous drug, except that any person charged and convicted of felony possession of marijuana, which under current law would be a misdemeanor, shall be considered to have a misdemeanor conviction under this policy.

Examinations during Employment

The Superintendent or designee may require an employee to undergo a medical examination if information received from the employee, the employee's supervisor, or other sources indicates the employee has a physical or mental impairment that:

1. Interferes with the employee's ability to perform essential job functions; or
2. Poses a direct threat to the health or safety of the employee or others. A communicable or other infectious disease may constitute a direct threat.

The District may designate the physician to perform the examination. If the District designates the physician, the District shall pay the cost of the examination. The District may place the employee on paid administrative leave while awaiting results of the examination and evaluating the results.

Based on the results of the examination, the Superintendent or designee shall determine whether the employee has an impairment. If so, the Superintendent or designee shall determine whether the impairment interferes with the employee's ability to perform essential job functions or poses a direct threat. If not, the employee shall be returned to his or her job position.

If the impairment does interfere with the employee's ability to perform essential job functions or poses a direct threat, the Superintendent or designee shall determine whether the employee has a disability and, if so, whether the disability requires reasonable accommodation, including the use of available leave. The granting of additional unpaid leave may be a reasonable accommodation in some circumstances. If the employee does not have a disability, the Superintendent or designee shall evaluate the employee's eligibility for leave. [See DEC(LOCAL)]

[See DAA for information on disabilities and reasonable accommodation.]

Placement on Temporary Disability

The Superintendent or designee shall have authority to place an eligible employee on temporary disability leave at the employee's request, as appropriate, when the employee's condition interferes with the performance of regular duties.

At Employee's Request

By Board Authority

Based on the Superintendent's recommendation that an eligible employee be involuntarily placed on temporary disability leave, the Board shall place an employee on temporary disability leave if the Board determines, in consultation with the physician who performed the medical examination, that the employee's condition in-

terferes with the performance of regular duties. [For employees who are eligible for temporary disability leave, see DEC(LOCAL).]

In accordance with DGBA, an employee may file a complaint disputing placement on temporary disability leave. As part of the complaint process, the employee may present testimony or other relevant information to the Board regarding the employee's fitness to perform regular duties.

Other Requirements

Employees with communicable diseases shall follow recommendations of public health officials regarding contact with students and other employees. Food service workers shall comply with health requirements established by city, county, and state health authorities. Bus drivers shall comply with legal requirements. [See DBA]

Effective Date

This policy shall be effective as of the adoption date, May 11, 2018.

Prohibited Activities by Public Servants—State Law

"Public servant" means a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

Bribery

A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another, any benefit:

1. As consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant;
2. As consideration for a violation of a duty imposed by law on a public servant; or
3. That is a political contribution as defined by Election Code Title 15 or an expenditure made and reported in accordance with Government Code Chapter 305 (regarding registration of lobbyists), if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion, if such exercise of official discretion would not have been taken or withheld but for the benefit.

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

Penal Code 36.01(3), .02

Illegal Gifts

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim or transaction involving the exercise of the public servant's discretion. *Penal Code 36.08(d)*

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under the provisions above may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(d), (i)*

Exceptions

Illegal Gifts does not apply to:

1. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which the public servant gives legitimate consideration in a capacity other than as a public servant;

2. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

3. A benefit to a public servant required to file a statement under Government Code Chapter 572 or a report under Election Code Title 15 that is derived from a function in honor or appreciation of the recipient if:

   a. The benefit and the source of any benefit in excess of $50 is reported in the statement; and

   b. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

4. A political contribution as defined by Election Code Title 15;

5. An item with a value of less than $50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;

6. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or

7. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

Penal Code 36.10

Honoraria and Expenses

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the person's official position or duties. This provision does not prohibit a public servant from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. *Penal Code 36.07*

Abuse of Official Capacity

A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly violates a law relating to the public servant's office or employment, or misuses government property, services, personnel, or any other thing of value, belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment. *Penal Code 39.02(a)*

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

"Misuse" means to deal with property contrary to:

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

Penal Code 39.01(2)

Misuse of Official Information

A public servant commits an offense if, in reliance on information to which the public servant has access by virtue of the person's office or employment and that has not been made public, the person:

1. Acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;
2. Speculates or aids another to speculate on the basis of the information; or
3. As a public servant, including as a school administrator, coerces another into suppressing or failing to report that information to a law enforcement agency.

A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, the public servant discloses or uses information for a nongovernmental purpose that:

1. The person has access to by means of the person's office or employment; and

2. Has not been made public.

"Information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Government Code Chapter 552 (the Public Information Act).

Penal Code 39.06(a), (b), (d)

Instructional Materials Violations — Commissions

An administrator or teacher commits an offense if the person receives any commission or rebate on any instructional materials or technological equipment used in the schools with which the person is associated. *Education Code 31.152(a)*

Instructional Materials Violations — Conflict

An administrator or teacher commits an offense if the person accepts a gift, favor, or service that:

1. Is given to the person or the person's school;
2. Might reasonably tend to influence the person in the selection of instructional materials or technological equipment; and
3. Could not be lawfully purchased with state instructional material funds.

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

Education Code 31.152(b)–(d)

Instructional Materials Violations — Purchase and Distribution

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

Holding Civil Office

No person shall hold or exercise at the same time more than one civil office of emolument, except for offices listed in the constitutional provision, unless otherwise specifically provided. *Tex. Const., Art. XVI, Sec. 40(a)*

A position in or membership in the Texas military forces is not considered to be a civil office of emolument. *Gov't Code 437.203*

Individuals who receive all or part of their compensation either directly or indirectly from funds of the state of Texas and who are not state officers shall not be barred from serving as members of the governing bodies of school districts (other than those in which they are employed), cities, towns, or other local governmental districts. Such individuals may not receive a salary for serving as members of such governing bodies, except that a schoolteacher, retired

schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III. *Tex. Const., Art. XVI, Sec. 40(b)*

Conflicts Disclosure Statement

A local government officer shall file a conflicts disclosure statement with respect to a vendor if the vendor enters into a contract with the district or the district is considering entering into a contract with the vendor; and the vendor:

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

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is a political contribution as defined by Title 15, Election Code, or food accepted as a guest.

Local Gov't Code 176.003(a)–(a-1)

Definitions

"Local government officer" means a member of the board; the superintendent; or an agent (including an employee) of the district who exercises discretion in the planning, recommending, selecting, or contracting of a vendor. *Local Gov't Code 176.001(1), (4)*

"Gift" means a benefit offered by a person, including food, lodging, transportation, and entertainment accepted as a guest. The term does not include a benefit offered on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient. *Local Gov't Code 176.001(2-b)*

Note: For additional provisions and definitions relating to conflict disclosure statements, see BBFA(LEGAL).

Personal Services Performed by Superintendent

A superintendent of a school district may not receive any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the district. Any financial benefit received by a superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the board on a case-by-case basis in an open meeting. The receipt of reimbursement for a reasonable expense is not considered a financial benefit. *Education Code 11.201(e)*

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

Note: For conflicts of interest and gifts and gratuities related to federal grants and awards, see CB and CBB.

An employee shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities.

Gifts

No gift, favor, loan, service, entertainment, or anything of more than token value shall be accepted by District employees from any District vendor or prospective vendor seeking to do business with the District. Items of token value include trinkets of minimal value such as coffee mugs, key chains, caps, and the like. Plaques and commemorative items are not considered to be gifts. [See CAA, CB, and CBB]

Meals

Meals exceeding $100 in the aggregate per year from any single source, District vendor, or prospective District vendor are strictly prohibited. Meals that exceed $50 per meal or up to $100 in the aggregate per year from any District vendor or prospective vendor must be reported.

E-Rate

In the case of E-Rate matters, governance provided at CAA supersedes these requirements.

Conflict of Interest

An employee shall not have a personal financial interest, business interest, or any other obligation (e.g., Board member, consultant) that in any way creates a substantial conflict with the proper discharge of assigned duties and responsibilities or that creates a conflict with the best interest of the District.

The Board and the District require employees to put the interests of the District before the interests of external organizations with which they are affiliated, such as being a board member of a volunteer organization. To avoid the appearance of a conflict of interest, any work with outside organizations that are interested in or likely to be interested in any contract, purchase, or financial transaction with the District shall be subject to disclosure by an administrative employee as defined in administrative regulation.

Disclosure Statement

Each employee shall be required to execute the semiannual disclosure statement (i.e., semiannually), certifying that the employee will conform with the requirements of Section 16 of the Special Act of 1923, which created the District.

Definition

"Conflict of interest" includes the common law conflict of interest and the following definition in Section 16 of the Special Act of 1923:

> *No Superintendent, business manager, or any other person holding any position of employment under said Board, shall be directly or indirectly interested in any purchase, sale, business, work or contract, the expense, price or consideration of which is paid from the school funds of said District; nor shall any employee purchase any warrants or claims against said Board or District, or any interest therein, or become surety for any person or persons having a contract or any kind of business with said Board, for the performance of which security may be required. Anyone violating this provision shall be discharged from services.*

If the employee is in doubt about a particular item, written clarification shall be requested concerning any transaction or potential transaction that might create a conflict of interest.

CONFLICT OF INTEREST REVIEW COMMITTEE

1. The Conflict of Interest Review Committee was established to analyze possible conflict of interest disclosures submitted to the Superintendent or Human Resources. As a general rule, an employee who has questions about whether his or her personal activities might in any way be in conflict with the best interests of the District or established legal, moral, or ethical principles, must seek written clarification by completing the Conflict of Interest Question form and submitting it to his or her supervisor. The committee determines if the question or disclosure is a violation of the conflict of interest policy. The committee's decision is communicated to the Superintendent and Human Resources.

MEMBERSHIP

2. The Conflict of Interest Review Committee is composed of a representative from each of the following areas of administration:

   - Academic Services;
   - Business Operations;
   - Chief of Staff;
   - Finance;
   - Human Resources;
   - Inspector General; and
   - Legal Services.

   The chairperson and secretary will be determined by a vote of the committee. The representatives from Legal Services, Human Resources, and the inspector general will only serve in an ad hoc nonvoting advisory capacity. In addition to the above individuals, the immediate supervisor and the executive manager or general manager of the requesting employee will be present when the committee reviews the conflict of interest document.

OPERATING PROCEDURES

3. Operating procedures for the committee are as follows:

   MEETINGS

   a. Meetings are held as needed, at least semi-annually, or at the request of the committee chairperson. The committee will also meet within 30 days after March 1 and September 1 for the semi-annual conflict of interest statement filing.

   AGENDA

   b. The chairperson is responsible for preparing the agenda.

RECORDS

c. The secretary of the committee maintains a record of all decisions and significant discussion items.

DECISIONS

d. Decisions are based on the consensus of the committee.

NOTIFICATION

e. Notification of decision will be communicated to the employee seeking clarification of the conflict of interest.

CONSULTATION

4. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

CONFLICT OF INTEREST

1. For the purpose of this regulation, the following definitions will apply:

GIFT

a. A gift is any benefit or item of value received, except for trinkets of minimal value (i.e., coffee mugs, key chains, caps, and the like). Plaques and like commemorative items are not considered to be gifts. See Reference (c).

ADMINISTRATIVE EMPLOYEE

b. An administrative employee will be defined as any HISD employee in pay grade 14 and above. See Reference (c).

VENDOR

c. An individual, organization, or agency with an interest in selling a product or service to HISD, either their own or that of another as their agent, for a price or pecuniary equivalent.

PARTNER

d. An individual, organization, or agency associated with HISD as a contributor in a joint endeavor. One that is united or associated with HISD in an activity or area of common interest.

GENERAL PRACTICE

2. Upon completion of new employee orientation, each administrative employee will complete a Conflict of Interest Training Acknowledgement Form for New Administrative Employees indicating that he or she understands the District's policies and procedures regarding conflict of interest. See References (a), (b), (c), and (d), and Exhibit (3).

Each administrative employee will execute the Semi-Annual Conflict of Interest Statement (Exhibit 4), certifying that he or she will conform to the requirements of Section 16 of Reference (f) that created HISD as hereinafter set forth. After completion, this form will be submitted to Human Resources by the employee's supervisor for further processing.

In the case of E-Rate matters, governance provided at CAA supersedes these requirements. All E-Rate employees, regardless of pay grade, will complete the conflict of interest form semi-annually.

PROCEDURES

3. Procedures for conflict of interest requirements are as follows:

PROHIBITED GIFTS

a. No gift, favor, loan, service, or anything of value will be accepted or solicited by employees. Specific examples of prohibited gifts from District vendors and prospective vendors include, but are not limited to:

- Game tickets (i.e., football, basketball, baseball, soccer, and any other sporting events);

- Entertainment tickets (i.e., theatre, shows, circus, and other entertainment events);
- Hunting trips, and related paraphernalia;
- Fishing trips, and related paraphernalia;
- Vendor paid or assisted vacations;
- Free services;
- Utilization of facilities;
- Clothes;
- Jewelry;
- Electronic devices; and
- Monetary gifts of any kind.

POTENTIAL CONFLICT OF INTEREST

b. If an employee has a question regarding a potential conflict of interest or ethical issue, he or she must complete the Conflict of Interest Question Form and submit it to his or her immediate supervisor. See Exhibits (1) and (2). The supervisor sends a copy of the Conflict of Interest Question Form and a preliminary recommendation to the deputy superintendent for human talent for approval. Human Resources will refer any unresolved questions or problematic recommendations to the Conflict of Interest Review Committee for review of possible violations. The employee, appropriate direct report to the superintendent, and superintendent are notified of the decision of the Conflict of Interest Committee. See Reference (f) and Exhibit (1) for more information.

REPORTING ITEMS OF VALUE

c. The direct reports to the Superintendent will provide to administrative employees before March 1 and September 1 of each year copies of the HISD Semi-Annual Conflict of Interest Statement and Semi-Annual Disclosure Statement. See Exhibits (4) and (5). Each administrative employee must complete the HISD Semi-Annual Conflict of Interest Statement and attach it to Semi-Annual Disclosure Statement indicating that he or she will conform to the requirements of Section 16 of Reference (f) and this regulation. These forms must be completed semi-annually and submitted to the employee's supervisor, who forwards the forms to the appropriate direct report to the Superintendent. The direct report reviews the completed forms and forwards them to Human Resources. See Reference (d). Human Resources reviews the forms and

forwards problematic issues or possible violations to the Conflict of Interest Review Committee. The employee, appropriate direct report to the Superintendent, and the Superintendent are notified of decisions of the committee.

LEGAL BASIS

4. Pertinent text of Section 16 of Reference (f) is as follows:

No superintendent, business manager, or any other person holding any position or employment under said board, shall be directly or indirectly interested in any purchase, sale, business, work, or contract, the expense, price, or consideration of which is paid from the school funds of said District; nor shall any such officer or employee purchase any warrants or claims against said board or District, or any interest therein, or become surety for any person or persons having a contract or any kind of business with said board, for the performance of which security may be required. Anyone violating this provision shall be discharged from services…

STANDARDS OF CONDUCT

5. Employee standards of conduct are as follows.

EXCEPTIONS

a. As a general rule, no gift, favor, loan, service, or anything of value will be accepted by HISD employees from vendors or prospective vendors seeking to do business with HISD. See Reference (a). The only exceptions to this rule include trinkets of minimal value (see GIFT above), meals, conference registration fees, or travel expenses as outlined in CONFERENCE FEES OR EXPENSE-PAID TRIPS AND SPECIAL PRIVILEGES AND EXEMPTIONS.

MEALS

b. Meals that exceed $50 per meal or up to $100 in the aggregate per year (September 1 through August 31) from any single source will be reported on Exhibits (4) and (5). Meals exceeding $100 in the aggregate from any single source are strictly prohibited. See References (a) and (d).

Supervisors may impose more strict standards with written notice to their staff members.

CONFERENCE FEES OR EXPENSE-PAID TRIPS

c. No employee will accept payment of conference registration fees nor trips financed by a company or firm without securing advance written guidance from the Superintendent. Upon approval, an employee may accept payment of conference registration fees and or associated travel expenses from partners if it serves the general benefit of the District. An employee may accept meals, transportation, and lodging expenses in connection with services (i.e., addressing an audience or engaging in a seminar) to

the extent that those services are more than merely perfunctory.

SPECIAL PRIVILEGES AND EXEMPTIONS

d. Employees may not accept anything of value from a current or prospective vendor. If the party is both a nonprofit vendor and a partner, an exception may be requested. Examples of items for which an exception might be requested include free/discounted training services or expenses associated with site visits. Such requests should be submitted in writing, using the exemption request form. See Exhibit (6). This form should be submitted to the Superintendent with a clear statement of how the requested exception serves the general benefit of the District. Approval of such requests will be rare and approved only in extenuating circumstances as determined by the Superintendent. Completed exemption forms should be submitted to Human Resources in conjunction with Exhibits (4) and (5).

An employee's official position will not be used to secure special privileges or exemptions for the employee or others except as may be otherwise provided by law. If an employee is in doubt concerning a potential conflict, he or she must ask for written clarification from his or her immediate supervisor by submitting a Conflict of Interest Question Form. See Exhibit (2). This written clarification should pertain to a specific potential conflict of interest.

GIFTS FROM SUBORDINATES

e. No gift, favor, loan, service, or anything of greater than $50 in value will be accepted by HISD employees from subordinates. See Reference (a). See GIFT, above.

CONFIDENTIAL INFORMATION

f. No employee will disclose confidential information gained by his or her official position or use such information for his or her personal gain or benefit. This pertains to any confidential information to which an employee might have access, including but not limited to:

- Information from confidential student records;
- Confidential information from employee records;
- Impending real estate transactions as they relate to the District; and
- Purchases contemplated by the District when such information might give an unfair advantage to one company.

OTHER EMPLOYMENT

g. No administrative employee of HISD will accept other employment that might impair his or her independence of judgment in the performance of his or her public duties.

CONTRIBUTIONS

h. Nothing in this regulation will prohibit contributions of any sort to the HISD Foundation or to the District trust, agency, special revenue, or permanent funds.

CLARIFICATION OF CONFLICT OF INTEREST

i. If an employee has a question about whether his or her personal activities might in any way be in conflict with the best interests of the District or established legal, moral, or ethical principles, he or she will seek written clarification of these points from his or her immediate supervisor. See paragraph REPORTING ITEMS OF VALUE, above.

CONSULTATION

6. This regulation has been through consultation (Administrative: December 9, 2008; Instructional: December 4, 2008; Noninstructional: December 9, 2008).

MAINTENANCE RESPONSIBILITY

The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy BBFA(LEGAL)

(b) Board Policy CAA(LOCAL)

(c) Board Policy DBD(LEGAL)

(d) Board Policy DBD(LOCAL)

(e) DBD1(REGULATION)

(f) Special Act of 1923

EXHIBITS:

(1) Houston Independent School District Conflict of Interest Question Flowchart

(2) Form – Conflict of Interest Question Form

(3) Form – Houston Independent School District Conflict of Interest Training Acknowledgement Form for New Administrative Employees

(4) Form – Houston Independent School District Semi-Annual Conflict of Interest Statement

(5) Form – Semi-Annual Disclosure Statement

(6) Form – Exemption Request

Employment Policies

A board shall adopt a policy providing for the employment and duties of district personnel. The policy shall provide that:

1. A board employs and evaluates the superintendent;
2. A superintendent has sole authority to make recommendations to a board regarding the selection of all personnel, except that the board may delegate final authority for those decisions to the superintendent [see Superintendent Recommendation, below];
3. Each principal must approve each teacher or staff appointment to the principal's campus as provided by Education Code 11.202 [see DK and DP];
4. Notice will be provided of vacant positions [see Posting of Vacancies, below]; and
5. Each employee has the right to present grievances to the board. [See Grievances, below]

Education Code 11.1513

Tax Identifier

A board shall adopt a policy prohibiting the use of social security numbers as employee identifiers other than for tax purposes [see Social Security Numbers, below]. *Education Code 11.1514* [See DBA]

Contract Positions

A board shall establish a policy designating specific positions of employment, or categories of positions based on considerations such as length of service, to which continuing contracts or term contracts apply. *Education Code 21.002(c)* [See DCB and DCC]

Delegation of Authority

A district's employment policy may specify the terms of district employment or delegate to the superintendent the authority to determine the terms of employment with the district. *Education Code 11.1513(c)* [For nepotism implications, see BBFB and DBE]

Availability

A district shall post on its internet website, if the district has a website, the employment policy adopted by the board under Education Code 11.1513(a) and the full text of any regulations referenced in the policy.

A district shall make available any forms referenced in its employment policy on an intranet website that is maintained by the district and accessible to district employees, or at a district administrative office designated by the district if the district does not maintain an intranet website.

Education Code 11.1513(k)

Internal Auditor

If a district employs an internal auditor, the board shall select the internal auditor and the internal auditor shall report directly to the board. *Education Code 11.170* [See CFC]

Superintendent Recommendation

A board may accept or reject a superintendent's recommendation regarding the selection of district personnel and shall include the board's acceptance or rejection in the minutes of the board's open meeting, in the certified agenda or tape recording of a closed meeting, or in the recording required under Government Code 551.125 or 551.127, as applicable. If a board rejects a superintendent's recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation. *Education Code 11.1513(b)*

Posting of Vacancies

A district's employment policy must provide that not later than the tenth school day before the date on which a district fills a vacant position for which a certificate or license is required as provided by Education Code 21.003 [see DBA], other than a position that affects the safety and security of students as determined by the board, the district must provide to each current district employee:

1. Notice of the position by posting the position on:
    a. A bulletin board at:
        (1) A place convenient to the public in the district's central administrative office, and
        (2) The central administrative office of each campus during any time the office is open; or
    b. The district's internet website, if the district has a website; and
2. A reasonable opportunity to apply for the position.

Education Code 11.1513(d)

Exception

If, during the school year, a district must fill a vacant position held by a teacher, as defined by Education Code 21.201 [see DCB], in less than ten school days, the district must provide notice of the position in the manner described above as soon as possible after the vacancy occurs. However, a district is not required to provide the notice for ten school days before filling the position or to provide a reasonable opportunity to apply for the position. *Education Code 11.1513(e)*

Grievances

A district's employment policy must provide each employee with the right to present grievances to the board. The policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of

a district, except that the policy may prohibit ex parte communication relating to:

1. A hearing under Education Code Chapter 21, Subchapter E (Term Contracts) or F (Hearing Examiners); and
2. Another appeal or hearing in which ex parte communication would be inappropriate pending a final decision by the board.

Education Code 11.1513(i)–(j) [See DGBA]

Transfers

A district's employment policy may include a provision for providing each current district employee with an opportunity to participate in a process for transferring to another school in or position with the district. *Education Code 11.1513(c)(3)* [See DK]

Contract Employees

A district shall employ each classroom teacher, principal, librarian, nurse, or school counselor under a probationary contract, a continuing contract, or a term contract. A district is not required to employ a person other than these listed employees under a probationary, continuing, or term contract. *Education Code 21.002*

Classroom Teacher

"Classroom teacher" means an educator who is employed by a district and who, not less than an average of four hours each day, teaches in an academic instructional setting or a career and technology instructional setting. The term does not include a teacher's aide or a full-time administrator. *Education Code 5.001(2)*

Minimum Length of Contract

A contract between a district and an educator must be for a minimum of ten months of service. An educator employed under a ten-month contract must provide a minimum of 187 days of service. *Education Code 21.401(a), (b)*

Proportionate Reduction

If a district anticipates providing less than 180 days of instruction for students during a school year, as indicated by the district's academic calendar, the district may reduce the number of days of service proportionately. A reduction by the district does not reduce an educator's salary. *Education Code 21.401(c-1)*

Commissioner Waiver

The commissioner of education may reduce the number of days of service if disaster, flood, extreme weather conditions, fuel curtailment, or another calamity causes the closing of schools. A reduction by the commissioner does not reduce an educator's salary. *Education Code 21.401(c), 25.081(b)*

Educational Aides

A board shall establish a plan to encourage the hiring of educational aides who show a willingness to become certified teachers. *Education Code 54.363(f)*

Employment of Retirees

Monthly Certified Statement

A district shall submit to the Teacher Retirement System of Texas (TRS) a monthly certified statement of employment for all retirees employed by the district during each month of a school year. A district shall inform TRS of changes in status of the district that affect the district's reporting responsibilities.

Deadline

A district must submit the monthly certified statement and all required employer surcharges under 34 Administrative Code 31.3 (relating to Return-to-Work Employer Pension Surcharges) for each report month from September through July before the eleventh day of the month following the applicable report month. For the monthly certified statement for the report month of August, the employer shall submit the monthly certified statement and all required employer surcharges before the seventh day of September.

If the due date for submission of a monthly certified statement and required employer surcharges falls on a weekend or federal holiday, a district shall submit the monthly certified statement and required employer surcharges on the last business day prior to the due date.

Late Submissions

A district that fails to timely submit a monthly certified statement and all required employer surcharges must also pay all applicable interest and late fees. A district must pay to TRS the late fee established by rule for each business day that the monthly certified statement is past due.

Required Information

A monthly certified statement is not considered submitted to TRS until it is completed. To be complete, the monthly certified statement must include all the following information regarding a retiree employed by the employer during the report month:

1. The number of hours and days worked by the retiree;
2. Whether the retiree's employment qualifies as one or more of the following types:
    a. Substitute employment;
    b. One-half time or less employment;
    c. Employment as a tutor under Education Code 33.913;
    d. Employment in a federally funded COVID-19 personnel position that meets the requirements of Government Code 824.6021 and 34 Administrative Code 31.16 (relating to Federally Funded COVID-19 Personnel);
    e. Full-time employment;

f. Trial employment of a disability retiree for up to three months; or

g. Any combination of these types;

3. The amount of gross compensation paid to the retiree during the report month;

4. The total amount due under 34 Administrative Code 41.4 (relating to Employer Health Benefit Surcharge); and

5. Any other information requested by TRS.

An administrator of a district who is responsible for filing the statement, and who knowingly fails to file the statement, commits an offense.

Gov't Code 824.6022, 825.403(k); 34 TAC 31.2

Former Board Member Employment

A board member is prohibited from accepting employment with the district until the first anniversary of the date the board member's membership on a board ends. *Education Code 11.063* [See BBC]

New Hires

I-9 Forms

A district shall ensure that an employee properly completes section 1—"Employee Information and Verification"—on Form I-9 at the time of hire.

A district must verify employment eligibility, pursuant to the Immigration Reform and Control Act, and complete Form I-9 by the following dates:

1. Within three business days of initial hiring. If a district hires an individual for employment for a duration of less than three business days, the district must verify employment at the time of hire. A district shall not be deemed to have hired an individual if the individual is continuing in his or her employment and has a reasonable expectation of employment at all times. When a district rehires an individual, the district may, in lieu of completing a new I-9, inspect a previously completed I-9 executed within three years of the date of rehire, to determine whether the individual is still eligible to work.

2. For an individual whose employment authorization expires, not later than the date of expiration.

8 C.F.R. 274a.2(b)(1)(ii), (iii), (vii), (viii)

New Hire Reporting

A district shall furnish to the Directory of New Hires (Texas Attorney General's Office) a report that contains the name, address, and social security number of each newly hired employee. The report shall also contain a district's name, address, and employer identification number.

A district may also provide, at its option, the employee's date of hire, date of birth, expected salary or wages, and the district's payroll address for mailing of notice to withhold child support.

A district shall report new hire information on a Form W-4 or an equivalent form, by first class mail, telephonically, electronically, or by magnetic media, as determined by the district and in a format acceptable to the attorney general.

Deadline

New hire reports are due:

1. Not later than 20 calendar days after the date a district hires the employee; or
2. In the case of a district transmitting reports magnetically or electronically, by two monthly transmissions (if necessary) not less than 12 days nor more than 16 days apart.

New hire reports shall be considered timely if postmarked by the due date or, if filed electronically, upon receipt by the agency.

Penalties

A district that knowingly violates the new hire provisions may be liable for a civil penalty, as set forth at Family Code 234.105.

42 U.S.C. 653a(b), (c); Family Code 234.101–.105; 1 TAC 55, Subch. I

Donations for Supplemental Educational Staff

A district shall accept from a parent-teacher organization or association recognized by the district a donation designated to fund supplemental educational staff positions at a school campus and spend the donation accepted for the designated purpose at the direction of and within the time period specified by the school campus for which the donation was designated. This provision expires September 1, 2025. *Education Code 11.156(c), (d)*

Social Security Numbers

A board shall adopt a policy prohibiting the use of the social security number of an employee of the district as an employee identifier other than for tax purposes. *Education Code 11.1514* [See DBA]

Federal Law

A district shall not deny to any individual any right, benefit, or privilege provided by law because of the individual's refusal to disclose his or her social security number.

Exceptions

The federal law does not apply to:

1. Any disclosure that is required by federal statute. The United States Internal Revenue Code provides that the social security number issued to an individual for purposes of federal income tax laws shall be used as the identifying number for taxpayers;

2. Any disclosure to a district maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted before such date to verify the identity of an individual; or

3. Any use for the purposes of establishing the identity of individuals affected by any tax, general public assistance, driver's license, or motor vehicle registration law within a district's jurisdiction.

Statement of Uses

A district that requests disclosure of a social security number shall inform that individual whether the disclosure is mandatory or voluntary, by what statutory authority such number is solicited, and what uses will be made of it.

Privacy Act of 1974, Pub. L. No. 93-579, Sec. 7, 88 Stat. 1896, 1897 (1974)

Employment Assistance Prohibited

Federal Law

A district that receives Title I funds shall have regulations or policies that prohibit any individual who is a school employee, contractor, or agent, or a district, from assisting a school employee in obtaining a new job, apart from the routine transmission of administrative and personnel files, if the individual or district knows, or has probable cause to believe, that such school employee engaged in sexual misconduct regarding a minor or student in violation of the law.

This requirement shall not apply if the information giving rise to probable cause has been properly reported to a law enforcement agency with jurisdiction over the alleged misconduct; and has been properly reported to any other authorities as required by federal, state, or local law, including Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) and the implementing regulations under Part 106 of Title 34, Code of Federal Regulations, or any succeeding regulations; and:

1. The matter has been officially closed or the prosecutor or police with jurisdiction over the alleged misconduct has investigated the allegations and notified school officials that there is insufficient information to establish probable cause that the school employee engaged in sexual misconduct regarding a minor or student in violation of the law;

2. The school employee has been charged with and acquitted or otherwise exonerated of the alleged misconduct; or

3. The case or investigation remains open and there have been no charges filed against, or indictment of, the school employee within four years of the date on which the information was reported to a law enforcement agency.

20 U.S.C 7926 [See also CJ]

State Law

SBEC may suspend or revoke a certificate, impose other sanctions against the person, or refuse to issue a certificate to the person if:

1. The person assists another person in obtaining employment at a school district, private school, or open-enrollment charter school, other than by the routine transmission of administrative and personnel files; and

2. The person knew that the other person has previously engaged in sexual misconduct with a minor or student in violation of the law.

The commissioner may require a school district to revoke or decline to issue a school district teaching permit under Education Code 21.055 issued to or requested by a person subject to SBEC action above.

Education Code 21.0581; 19 TAC 249.15(b)(13)

Personnel Duties

The Superintendent or designee shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.

Posting Vacancies

The Superintendent or designee shall establish guidelines for advertising employment opportunities and posting notices of vacancies. These guidelines shall advance the Board's commitment to equal opportunity employment and to recruiting well-qualified candidates. Current District employees may apply for any vacancy for which they have appropriate qualifications.

Employment of All Personnel

The Board delegates to the Superintendent final authority to hire contractual and noncontractual personnel. [See also BJA(LOCAL)]

Preference for Veterans

When applicants are equally qualified for a position, veterans who are discharged from active duty under an honorable discharge shall be extended an interview and, if equally qualified, will receive a hiring preference.

[For information related to the evaluation of criminal history records, see DBAA.]

Employment Requirements

All employees shall meet the requirements specified by the District for the positions for which they are hired. Exceptions to this provision may be made only by the Superintendent.

Polygraph Tests

Applicants for certain positions may be requested to take a polygraph examination after a tentative offer of employment is made by the District.

Unauthorized Persons on District Premises

No person independently hired by a District employee shall be allowed to perform any tasks or volunteer any duties on District premises without prior approval of the principal, work location supervisor, and/or the Human Resources Department. [See also DH(LOCAL), GKG(LOCAL)]

Exit Interviews

Employees resigning or retiring from the District may be asked to participate in exit interviews.

Resignation or Retirement in Lieu of Termination

An employee who retired or resigned in order to avoid termination shall not be eligible for reemployment with the District. [See also DFE(LOCAL)]

Employment Assistance Prohibited

No District employee shall assist another employee of the District or of any school district in obtaining a new job if the employee knows, or has probable cause to believe, that the other employee engaged in sexual misconduct regarding a minor or student in violation of the law. Routine transmission of an administrative or personnel file does not violate this prohibition. [See CJ for prohibitions relating to contractors and agents and DH(EXHIBIT) for the Educators' Code of Ethics.]

INTERVIEW COMMITTEE

1. An interview committee in the District is an ad hoc committee convened for the purpose of interviewing qualified applicants for vacant positions. A committee is not convened until Human Resources has advertised the vacant position. An interview committee is not required for filling every vacancy. [See DC(LOCAL)]

MEMBERSHIP

2. The membership of an interview committee varies and depends on the position for which applicants are to be interviewed. The committee membership is appointed by the appropriate work location supervisor or administrator. As much as possible, an interview committee should be ethnically balanced and consist of at least three but no more than five members.

SCHOOL INTERVIEW COMMITTEE

a. An interview committee for a school may include the school principal and the schools shared decision-making committee members.

NONSCHOOL INTERVIEW COMMITTEE

b. An interview committee for a nonschool location may include the department head or administrative designee, personnel with at least the same pay grade as the vacant position with similar position duties, and knowledge of and interest in the vacant position.

GUIDELINES FOR SELECTING CANDIDATES

3. Guidelines for interviewing and selecting candidates are as follows:

- The hiring manager should identify at least three candidates to be interviewed;
- The hiring manager or supervisor is responsible for maintaining all documentation including interview questions, notes, overall ratings, etc.
- The committee should choose one candidate to recommend for the position;
- The new assignment memorandum or new hire memorandum can be e-mailed, mailed (Route 10), or faxed to the appropriate human resources generalist (each generalist has an assigned fax number) as soon as a decision has been made by the school or department;
- The hiring manager should seek assistance from the next in line supervisor and/or the appropriate human resources generalist; and
- The hiring school or department is responsible for informing the selected candidate to report to Human Re-

sources to complete paperwork as necessary before reporting to the new position.

CONSULTATION

4. This regulation has been through consultation (Administrative: September 11, 2007; Instructional: September 6, 2007).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) Board Policy DC(LOCAL)

HIRING RETIREES

The Houston Independent School District (HISD) recognizes the wealth of experience of retired teachers and other employees and provides them with the opportunity for reemployment.

Schools will only hire retirees for instruction purposes. Schools will not hire retirees to serve as administrators or in clerical positions. Schools are responsible for paying the Teacher Retirement System (TRS) retiree surcharges.

The central office will only hire retirees for short-term projects of four months or less. The hiring department is responsible for paying the TRS retiree surcharges if any are incurred.

DEFINITIONS

For the purpose of this regulation, the following definitions will apply:

RETIREE

1. A TRS retiree is an individual who retired from TRS and is eligible for reemployment with the District. During employment after retirement, a retiree will not earn additional service credit, and TRS contributions will not be due on amounts earned.

HALF-TIME EMPLOYMENT

2. Half-time retiree employment is working less than one-half of the time required for a similar full-time (FTE) position. For TRS retiree surcharge purposes, one must work for the District in a 0.49 (or less) FTE position or an hourly position working one hour less than half-time for a particular calendar month.

REGULAR EMPLOYMENT

3. Regular retiree employment is employment that is expected to last four and one-half months or more.

TEMPORARY EMPLOYMENT

4. Temporary retiree employment is employment that is expected to last less than four and one-half months.

TEACHER RETIREMENT SYSTEM RULES

A one-month separation period is required of a person retiring from TRS if the retiree plans to return to work in the District. A retiree may not return to work or volunteer his or her services during this separation period or at any time during employment. The following guidelines will apply:

1. If the retiree retired before January 1, 2011, the employee may work in any capacity without losing his or her annuity; however, retiree surcharges will apply to any retiree who retired after September 1, 2005, who is working half-time or more. [See the TRS Web site (www.trs.state.tx.us/) for additional information]

2. If the retiree retired on or after January 1, 2011, the employee may work one hour less than half-time, as a substitute, or as a combination of substitute and half-time without forfeiting his

or her annuity. [See the TRS Web site (www.trs.state.tx.us/) for additional information]

3. If the retiree retired on or after January 1, 2011, the employee must wait 12 consecutive months before accepting full-time TRS eligible employment. However, the following will apply:

   a. TRS retiree surcharges will still apply to any retiree working half-time or more, for which the school will be responsible for paying.

   b. Failure to observe the 12-month break in service period will result in forfeiture of the employee's monthly annuity for each month in which that work occurs. [See the TRS Web site (www.trs.state.tx.us/) for additional information]

RE-APPLICATION

A TRS retiree must follow the same procedures as other applicants when applying for reemployment with the District. The procedures for applying for a position with the District are as follows:

APPLICATION

1. An applicant may post a resumé online by accessing the District's home page (www.houstonisd.org/), clicking on HISD-Jobs, and following the on-screen directions.

SCREENING AND INTERVIEWS

2. Human Resources screens all applications and resumés received for minimum job requirements and selects qualified candidates from the pool of applicants to interview. If selected, the TRS retiree will be interviewed by the school principal or department head seeking to fill a vacancy.

SELECTION

3. If the principal or department head selects the TRS retiree for the position, he or she will submit a written request to hire the TRS retiree to the appropriate Human Resources business partner. If the business partner agrees that the candidate meets the job requirements, the business partner will notify the TRS retiree of his or her appointment and salary.

COMPLETION OF HIRING PROCESS

4. The TRS retiree will complete the required paperwork and submit to a background check. The background check results must be submitted to Human Resources before the TRS retiree can report to work.

SALARY

The rehired TRS retiree will be compensated according to District guidelines for initial placement of new employees as defined in Reference (g).

MEDICAL BENEFITS

Medical leaves and benefits are as follows:

1. The rehired TRS retiree will be eligible for medical insurance based on the District's eligibility policy. [See References (d) and (e)]

LEAVE ALLOCATION

2. Leave time will be advanced and accrued at the same rate as a new hire (i.e., employee with no District experience). [See References (d) and (e)]

COMPENSATION AND CONTRACTS

The guidelines regarding compensation and contracts are as follows:

PAYROLL

1. The rehired TRS retiree will pay Medicare taxes according to federal guidelines. [See Reference (f)]

CONTRACTS

2. Contracts will be issued to eligible employees in compliance with District policy and guidelines. All rehired teachers will be issued a one-year probationary contract. [See References (a) and (b)] Administrators will be rehired according to Reference (c).

ALLOTMENT OR CAREER LADDER

3. Rehired TRS retired employees will no longer receive allotment or career ladder compensation.

LONGEVITY

4. Rehired TRS retired employees will not receive longevity pay.

SIGN-ON BONUSES

5. Rehired TRS retirees are not eligible for sign-on bonuses.

CONSULTATION

This regulation requires consultation (Administrative: October 11, 2011; Instructional: October 6, 2011; Noninstructional: October 11, 2011).

MAINTENANCE RESPONSIBILITY

The chief human resources officer, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DC(LEGAL)

(b) Board Policy DCA(LEGAL)

(c) Board Policy DCE(LOCAL)

(d) Board Policy DEC(LEGAL)

(e) Board Policy DEC(LOCAL)

(f) Social Security Act 218 Voluntary Agreement for Coverage of State and Local Employees

(g) HISD Compensation Manual

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS

1. There are certain requirements that must be met by all personnel applying for employment in the District. In addition, there are requirements applicable only to specific positions or categories. Those requirements for employment in the District that apply to all personnel are described in the following sections.

APPLICATION FOR POSITION

a. District employment requirements and guidelines are as follows.

APPLICATIONS

(1) There are three methods of applying for a position with the District. An applicant may:

- Visit https://prodnet.houstonisd.org/jobs/ hisd-jobs/default.aspx and complete his or her résumé using the online résumé system;
- Use the District's computer terminals in Human Resources to access the Internet job search system; or
- Mail his or her résumé to Human Resources at 3310 Cummins Lane, Houston, Texas 77027-5810.

A résumé and cover letter should be included for those applications submitted by mail. E-mailed and faxed résumés will not be accepted by the District.

INTERVIEW

(2) A personal interview is required of all applicants as a prerequisite to employment.

ACCURATE INFORMATION

(3) It will be the responsibility of the applicant to furnish accurate information, and any falsification of either information or credentials will be cause for dismissal or refusal to employ.

EMPLOYMENT LIABILITY

(4) Race, creed, color, age, sex, religion, marital status, national origin, or physical disability, except in situations where such disability will constitute an employment liability, will not be considered in judging eligibility.

VETERANS PRIORITY FORMS

(5) Effective November 1, 1996, Veterans Priority forms will be made part of the application process. Applicants with qualifications for existing vacancies, eligible for Veterans priority, or for critical areas will be given priority in scheduling appointments.

CREDENTIALS FOR REGULAR ASSIGNMENT

b. The following items are required for employment:

- Application form properly completed;
- Signed Access to Police Records form;
- College placement folder or references, if applicable to position;
- Completed Employment Eligibility Verification Form I–9;
- Tuberculosis test report signed by a doctor after an offer of employment;
- An official transcript of all college work showing degree and date conferred, and or verification of other training, which must be in the personnel file before credit, can be allowed on salary, if applicable to position;
- Proof of acceptable prior service. Information must be submitted on the state-approved form conforming to Texas Education Agency guidelines before credit can be allowed on salary; and
- Teacher certification. Documentation must be on file in Human Resources before employment is legal in a teaching assignment. Contracts are not valid in the absence of valid Texas certification.

Employees failing to complete the required personnel records necessary for state certification within 60 days from the beginning of the school year or from the first date of employment, whichever is later, are subject to a change in status and pay.

PHYSICAL FITNESS

c. An examination by a physician must be furnished when requested by the District after an offer of employment has been extended or during current employment. In certain circumstances (e.g., recent extraordinary exposure to X-rays), a request for waiver of X-ray will be considered when accompanied by a statement from a physician that includes the results of an examination for any abnormality of chest, heart, and lungs. Guidelines regarding physical fitness are as follows:

EMPLOYMENT COVERED UNDER STATE OR FEDERAL LAWS

(1) Applicants who have been offered employment who are in certain groups covered by state or federal law, including bus drivers, will be required to furnish

the results of an examination by a physician on prescribed forms.

COST OF PHYSICAL EXAMINATION

(2) The applicant who has been offered employment and is required to have a physical examination may select a physician from an approved list provided by the District and the District will pay up to $20 for the cost of the physical examination. The applicant will bear the expense of the required examination for tuberculosis.

EXAM RESULTS

(3) Results of the physical examination ensuring employability must be completed before the applicant who has been offered employment can begin to work. The physical examination and the report of an examination for tuberculosis indicating the type and results (e.g., chest X-ray or tuberculin skin test) will be included in a separate medical file, which will be treated as a confidential medical record.

PSYCHIATRIC EXAMS

(4) HISD reserves the right to require physical or psychiatric examinations, or both, of employees and applicants who have been offered employment.

CONSULTATION

2. This regulation has been through consultation (Administrative: April 16, 2002; Instructional: April 4, 2002; Noninstructional: April 9, 2002).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DBB(LEGAL)

(b) Board Policy DBB(LOCAL)

(c) Board Policy DC(LOCAL)

PROCEDURES APPLICABLE TO PRE-EMPLOYMENT POLYGRAPH EXAMINATION

1. Positions designated for the polygraph pre-employment requirement will be determined by the department head, reviewed by the appropriate direct report to the Superintendent and approved by the Superintendent or his or her designee. See References (a) and (b). Positions selected will be limited to those in which the employees have access to the keys to more than one of the buildings in the District and employees who have custody of District property, including, but not limited to, police personnel, alarm communications personnel, building inspectors, warehouse personnel, and truck drivers.

2. Consultation. This regulation has been through consultation (Administrative: August 13, 2001; Instructional: August 14, 2001; Noninstructional: November 5, 2001).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DC(LOCAL)

(b) Pre-employment Polygraph Examinations; Designating Positions as Requiring

EMPLOYMENT PRACTICES DC5
(REGULATION)

CONSIDERATION FOR EMPLOYMENT

1. When applicants for employment are being considered for assignment, the best-qualified individual, based on the criteria for filling vacancies, will be used. See Reference (a). The race, sex, ethnicity, marital status, or religion of the applicant will not be considered as a factor in the selection process.

ASSIGNMENT

2. Employment for assignment at the beginning of a school year will begin as early in the preceding school year as the needs for the next year can be determined. The assignment of new teachers will be determined no later than August 1, except in extenuating circumstances. New teachers will be notified of their assignments as soon as possible after the assignments have been determined.

PROCEDURES

3. Although the actual employment of applicants is a duty of Human Resources, the following procedures will provide the principal with the information needed in the selection process for his or her school.

PRE-EMPLOYMENT INFORMATION

a. The applicant will complete all pre-employment information for Human Resources including the Gallop, either partially or completely.

AVAILABILITY OF APPLICANT

b. The principal of the school where the vacancy exists will be contacted by Human Resources to state the availability of the applicant for the existing vacancy.

PERSONNEL FILE

c. The principal may go to Human Resources to review the personnel file of the applicant or receive an electronic copy of the file preferably before the applicant is sent to the school where the vacancy exists.

VISIT SCHOOL

d. Human Resources will send the applicant to the school where the vacancy exists, if practical.

SELECTION OR REJECTION

e. The principal will notify the respective generalist in Human Resources regarding the selection or rejection of the applicant to fill the position. The principal will fax or electronically mail the Request to Hire/Transfer Form to the generalist if the applicant is selected. See Reference (b). The completion of this transaction should take place as quickly as possible.

REFUSAL OF ASSIGNMENT

f. Applicants who refuse assignments or who delay responses will cause the evaluation of the application to be lowered.

CONSULTATION

4. This regulation has been through consultation (Administrative: April 16, 2002; Instructional: April 4, 2002; Noninstructional: April 9, 2002).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) DC13(REGULATION)

(b) Form – Request to Hire/Transfer Form

ADVERTISING VACANCIES

1. All personnel vacancies must be advertised in the Superintendent's Bulletin and other appropriate places outside the District when necessary for either five or ten days. Paraprofessional and classified personnel vacancies may be filled during any one of the ten working days during the application period. Notice of such vacancies will be posted in a prominent place in each school building. Notice will include the necessary qualifications and job description.

APPLICATIONS

2. Applications for vacancies will be made only to the official and or address specified in the Superintendent's Bulletin, which advertises such vacancies. Each vacancy advertised will carry a deadline date indicating the close of the application period.

CONSULTATION

3. This regulation has been through consultation (Administrative: April 16, 2002).

MAINTENANCE RESPONSIBILITY

4. The deputy superintendent of human talent, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) Board Policy DC(LOCAL)

SELECTION OF ASSISTANT PRINCIPAL

1. The most important function of one in a leadership position is to identify individuals who can and will effectively and efficiently get the job done given the prevailing circumstances. In the District, hiring assistant principals is a responsibility of the principals.

SELECTION PROCESS

2. The selection process for assistant principals is as follows.

DEVELOP THE ASSISTANT PRINCIPAL PROFILE

a. Developing an assistant principal profile means identifying specific characteristics regarding the position and the qualifications it requires. A principal who is selecting an assistant principal for a vacant position must:

- Establish a team comprised of school staff, teachers, parents and or other community members who will develop the assistant principal profile utilizing the Assistant Principal Job Description and any other requisite skills necessary for the vacant position; and
- Submit the assistant principal profile to and obtain the approval of the regional superintendent or a designee prior to advertising the position or, if circumstances are such that the school is best served by a direct appointment, make an overriding case for such an appointment to obtain approval from the chief academic officer, School Administration. See Reference (a).

ADVERTISE VACANCY

b. After obtaining approval from the regional superintendent or a designee, and if necessary from the Superintendent, the principal must:

- Request that the appropriate generalists, Human Resources, advertise the vacancy and identify any special job requirements; and
- Determine whether the vacancy should be advertised for five or ten days on the HISD Current Job Openings Web site (https://prodnet.houstonisd.org/jobs/hisdjobs/default.aspx).

See Reference (b).

RECEIVE APPLICATIONS

c. The appropriate generalist, Human Resources:

- Reviews online applications;
- Screens all applications for minimum job requirements;

- Notifies each candidate that his or her application has been received and requests that qualified candidates complete the Hartman Value Profile, which is available only from Human Resources;
- Ensures that each candidate's profile summary has been received by Human Resources; and
- Forwards the Hartman Value Profiles of the qualified applicants to the principal. Principals may also view online all applications for vacant positions by using HISD Jobs.

SELECT CANDIDATES FOR INTERVIEWS

d. After receiving the applications, résumés, and profile summaries of qualified applicants, the principal and other designated staff members review the information, reduce the applicant group to the top five-to-seven applicants, and provide documentation regarding their selections. The top candidate group must complete the professional skills activity prior to the interview process. The principal then establishes and convenes an interview team to interview each member of the candidate group. The interview team will be composed of at least:

- Two top-performing assistant principals and/or principals;
- One regional office administrator; and
- The principal.

CONDUCT INTERVIEWS

e. The top five-to-seven candidates are interviewed as follows.

TEAM INTERVIEW

(1) Each prospective candidate is interviewed by the principal and other team members. Each team member will document and discuss his or her top candidate(s) and the reason(s) for his or her selection(s). Selection(s) should be based on:

- The candidate's answers to the interview questions;
- The candidate's résumé;
- Results of the Hartman Value Profile;
- Results of the professional skills activity;
- The candidate's educational preparation; and
- The candidate's references.

See Reference (b).

SELECT ASSISTANT PRINCIPAL

f. The principal discusses his or her recommendation with the regional superintendent or a designee; and provides all required documentation to support his or her selection. If there is an agreement that the recommended candidate meets the criteria, the principal writes a memorandum to the executive general manager, Human Resources, informing him or her of the selection and effective date, and requests a salary recommendation. If there is not an agreement, the principal reviews other top candidates or requests that the position be re-advertised.

RECOMMEND SALARY

g. The executive general manager, Human Resources, forwards the salary recommendation from Compensation and Records to the principal. Compensation and Records determines a salary based on the HISD Compensation Manual. See Reference (b). If a special salary placement is requested, that request is forwarded by the principal to the executive general manager, Human Resources, and approved by the chief academic officer, School Administration. Any salary recommendation beyond the salary range will require approval by the HISD Board of Education. See Reference (a).

NOTIFY CANDIDATES

h. All candidates are notified as follows:

- The principal notifies the selected candidate of his or her appointment after the chief academic officer, School Administration, gives final approval on the salary;
- The appropriate generalist, Human Resources, notifies the selected candidate of his or her appointment and salary; and
- The appropriate generalist, Human Resources, ensures that all other candidates are notified in writing that the position has been filled and thanks them for applying.

CONSULTATION

3. This regulation has been through consultation (Administrative: December 6, 2005; Instructional: January 5, 2006; Noninstructional: January 10, 2006).

MAINTENANCE RESPONSIBILITY

4. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) DC(EXHIBIT)

(b) HISD Compensation Manual

SENIORITY

1. Seniority is the total length of continuous employment with the District. An authorized leave will not be considered an interruption of continuous service.

LOSS OF SENIORITY

2. An employee will lose seniority and terminate employment with the District for the following reasons:

   - Resignation or retirement;
   - Failure to return to work when recalled from layoff as described in References (a); and
   - Involuntary lay-off for one year or a length of time equal to the length of his or her employment in the District, whichever is shorter.

CONSULTATION

3. This regulation has been through consultation (Administrative: February 11, 2002; Instructional: February 7, 2002; Noninstructional: February 12, 2002).

MAINTENANCE RESPONSIBILITY

4. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

EMPLOYMENT PRACTICES DC10
(REGULATION)

EMPLOYMENT REQUIREMENTS FOR CLASSIFIED PERSONNEL

1. Basic employment requirements will apply to classified personnel. See References (a) and (b). In addition, applicants selected must have specific qualifications and skills and appropriate experience or license, where applicable, for the position sought. Employees will be hired to fill specific positions but may be assigned to perform duties of other positions. Employment of all classified personnel will be in compliance with the Fair Standards Act of 1938, as amended.

FILLING OF VACANCIES

2. Positions will be filled on the basis of ability to perform duties in the vacant position. Houston Independent School District personnel will be given preferred consideration in the evaluation of applicants.

ASSIGNMENT

3. Assignments will be based on the needs of the District.

CONSULTATION

4. This regulation has been through consultation (Noninstructional: November 5, 2001).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) DC3(REGULATION)

(b) DC11(REGULATION)

COMPLIANCE WITH DIRECTIVES

1. The directives in this regulation are intended to promote workplace and student safety. Employees who fail to follow these directives will be subject to disciplinary action, up to and including termination.

SELECTION AND TRANSFER

2. The following directives apply to the selection and transfer of employees. See References (a), (b), and (c).

SELECTION

a. Before selecting staff, principals and work location supervisors should consult with their respective Human Resources generalists regarding applicant eligibility as well as applicant suitability for each position. Before making final selections, principals and work location supervisors should ask their respective generalists to examine personnel files and any other relevant information. This will enable principals and work location supervisors to make informed decisions as to whether the employees the Houston Independent School District (HISD) hires are fully qualified to work with students.

TRANSFER

b. When conducting an administrative transfer of an employee, District superintendents, work location supervisors, and principals will provide any investigation reports and all other relevant records of misconduct or performance problems to a principal or work location supervisor before that principal or work location supervisor is asked to accept the transfer of the employee. In this way, principals and work location supervisors will be better able to monitor the employee's performance.

TRAINING

3. The following directives will apply to the training of employees.

PRINCIPALS AND WORK LOCATION SUPERVISORS

a. Training concerning investigation of employee misconduct will be conducted, and all principals and work location supervisors will be required to attend.

ALL EMPLOYEES

b. Supervisors will formally remind employees that abusive language, sexual impropriety, and unreasonable force are prohibited and will not be tolerated. See References (e), (f), and (g). Corporal punishment is prohibited as a disciplinary method. Board policy regarding the use of corporal punishment will be strictly enforced. See Reference (k).

INVESTIGATIONS

4. The following directives will apply to the investigation of employees.

REPORTING ALLEGATIONS OF WRONGDOING

a. Principals and work location supervisors will immediately report allegations of wrongdoing in an appropriate manner. See Reference (l). In addition, principals and work location supervisors will report allegations of serious employee misconduct (e.g., sexual impropriety, unreasonable force, or possession or use of a weapon) to the appropriate District superintendent or department head. There are no degrees of freedom about this directive.

REASSIGNING EMPLOYEES

b. Principals and work location supervisors will immediately request temporary reassignment of any employee who is accused of serious misconduct with students (e.g., sexual impropriety, unreasonable force, or possession or use of a weapon). The reassignment will continue until final disposition of the allegations in order to avoid further contact with students.

CONDUCTING INVESTIGATIONS

c. District superintendents and department heads will instruct principals and work location supervisors to conduct investigations in a timely manner. In circumstances where a more extensive investigation is necessary, District superintendents and department heads will authorize, in a timely manner, investigations to be conducted by the appropriate investigative unit. These units include the HISD Equal Employment Opportunity office, Professional Standards, the HISD Police Department, Internal Audit, Risk Management, and Workers' Compensation.

COOPERATING WITH INVESTIGATIONS

d. Employees will facilitate and cooperate with all District investigations. Employees will not obstruct, prevent, or cause anyone else to prevent any District investigation. Retaliation against employees, students, or parents who make reports or who participate in a District investigation is strictly prohibited. See Reference (d).

REPORTING CHILD ABUSE AND NEGLECT

e. Principals and work location supervisors will follow Reference (m) concerning the responsibility of school officials to report child abuse and neglect.

DISCIPLINARY ACTIONS

5. The following directives apply to the discipline of employees. See References (h), (i), and (j).

RECOMMENDATION OF TERMINATION FOR SERIOUS MISCONDUCT WITH A STUDENT

a. Any work location supervisor who has an investigation~~,~~ confirming that an employee has been involved in serious employee misconduct, such as unreasonable force on or sexual misconduct with a student, will bring forward a recommendation of termination.

NOTIFICATION TO PARENTS OF RESOLUTION OF CASES OF EMPLOYEE SERIOUS MISCONDUCT WITH A STUDENT

b. Upon final action by the HISD Board of Education, when an employee is terminated, resigns or retires in lieu of termination, after an investigation concludes that the employee engaged in sexual impropriety with or used unreasonable force on a student, the principal or work location supervisor will be required to provide written notice of resolution to parents of students in direct contact with that employee.

FAILURE TO REPORT WRONGDOING

c. If any employee fails to report wrongdoing as required by Board policy, District procedures, and state law, the principal or work location supervisor will take appropriate disciplinary action.

CONSULTATION

6. This regulation has been through consultation (Administrative: February 11, 2003; Instructional: February 6, 2003; Noninstructional: October 7, 2003).

MAINTENANCE RESPONSIBILITY

7. The chief school administrator, School Administration, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DAB(LOCAL)

(b) Board Policy DC(LEGAL)

(c) Board Policy DC(LOCAL)

(d) Board Policy DG(LEGAL)

(e) Board Policy DH(EXHIBIT)

(f) Board Policy DH(LEGAL)

(g) Board Policy DH(LOCAL)

(h) Board Policy FFH(EXHIBIT)

(i) Board Policy FFH(LOCAL)

(j) Board Policy FFH(LEGAL)

(k) Board Policy FO(LOCAL)

(l) DH2(REGULATION)

(m) FFG(REGULATION)

EMPLOYMENT REQUIREMENTS

1. Basic employment requirements will apply for all personnel. See Reference (a). In addition, applicants selected must have specific qualifications and the appropriate experience and certification, where applicable, for the position sought. See Reference (b).

EVALUATIONS

2. Applicants will be evaluated by Human Resources using the following major criteria:

GENERAL CHARACTERISTICS

a. The applicant's oral and written language skills will be considered, as well as personal qualities.

ACADEMIC PREPARATION

b. The applicant's transcripts will be evaluated for relative strengths in English and his or her teaching area. (These areas will be given more consideration than the applicant's minimum grade point average.)

CERTIFICATION STATUS

c. The District will consider certification status and will give priority to those who show the most potential by state standards.

REFERENCES

d. The District will consider references provided from significant educators.

GALLOP TEACHER PERCEIVER INSTRUMENT

e. The District will consider the Gallop Teacher Perceiver instrument that generates information regarding teacher strengths in the basic classroom skills such as empathy, individualized perception, listening, innovation, focus, etc.

SELECTION COMMITTEE

3. A committee will review and evaluate files of applicants when sufficient background materials become available. Because of unavoidable delays in obtaining official transcripts, certificates, etc., the committee may review incomplete files if strong evidence is present to support a recommendation.

SPECIFIC ASSIGNMENTS

4. The following additional criteria will be used for candidates with equal major criteria evaluations and in determining specific assignments.

EXPERIENCE (CERTIFICATION ASSUMED)

a. Experience in:

- The field of vacancy;
- Other fields; or
- Special programs.

ADVANCED EDUCATION

b. An advance degree or hours towards an advanced degree.

SPECIAL ABILITIES

c. Special abilities such as:

- Bilingual;
- Professional publications;
- Curriculum development; or
- Other experiences (e.g. Cross cultural, Poverty, Inner City).

OFFER OF EMPLOYMENT

5. When two candidates are equally qualified for a position under the selective criteria of this section, the evaluation of the interviewer and the selection committee will determine which applicant is to be offered employment. This selection committee will provide an opportunity for a more varied input in making such decision. An instruction sheet will be developed by Human Resources that will standardize as much as possible the weights and criteria to be used by the Human Resources representative interviewing the candidate.

FILE LOCATION ~~S~~

6. All files will be maintained by the file room staff in one central location that is accessible for quick reference by Human Resources personnel, department heads, and principals. Human Resources will coordinate the interaction between departments and principals until successful placement is made.

CONSULTATION

7. This regulation has been through consultation (Administrative: April 16, 2002; Instructional: April 4, 2002; Noninstructional: April 9, 2002).

MAINTENANCE RESPONSIBILITY

8. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) DC3(REGULATION)

(b) DBA (REGULATION)

(c) DC5(REGULATION)

H-1B Visa

The objective of these procedures is to outline the process for sponsoring an immigrant with an H-1B visa to obtain employment with the Houston Independent School District (HISD). These procedures are intended to expand the number of candidates available to District campuses and departments.

Definitions

For the purposes of this regulation, the following definitions will apply:

H-1B Visa Classification

This classification applies to non-United States (US) citizens applying for a school-based position that requires a bachelor's degree or equivalent in a critical shortage area, as defined by the district. This H-1B classification requires a Labor Attestation issued by the U.S. Secretary of Labor.

District Sponsorship Fees

Sponsorship fees are required to be paid by the employer when hiring persons with H-1B visas. Approval to hire an individual who requires visa sponsorship may only be granted by the Chief Talent Officer or their designee. One consideration in hiring and sponsorship decisions will be whether there are available funds to cover the employer's costs for visa sponsorship and/or permanent residency. Available funds may include funds allocated in the budget from any allowable fund source to a department or campus.

Job Assignment

An H-1B visa candidate receives government approval for a visa based on the critical shortage assignment for which he or she is hired. This locks the candidate into the first-hired-job classification for the duration of their employment under the visa. For example, a candidate cannot be hired as a teacher to teach a specific content or grade level and subsequently given a position change outside the classroom for which they were hired.

General Information

A citizen of a foreign country (i.e., an immigrant) desiring to enter the U.S. must first obtain either a nonimmigrant visa for temporary stay or an immigrant visa for permanent residence. [See the Immigration and Nationality Act, section 101 Definitions] Degreed immigrants may occasionally be hired to work in public schools as teachers in critical shortage areas. These workers must obtain a temporary work visa with an H-1B classification to be considered for employment by HISD. Active employees of the district may then request to be sponsored for an H-1B by reaching out to the Office of Talent.

Critical Shortage Assignment

An assignment as a classroom teacher requires a bachelor's degree and must be in an area of critical shortage as defined by the District. [See Board Policy DC(LEGAL)] The critical shortage assignment areas are determined by the Office of Talent and updated annually. The Office of Talent will maintain a list of critical shortage areas for visa candidates and a list of critical shortage areas for

permanent resident candidates. Additional areas may be considered on a case-by-case basis.

A visa-sponsored employee who obtains one of these critical shortage positions must remain in the critical shortage area for the duration of employment with HISD while on a visa.

Hiring Process

To request approval from the chief talent officer or their designee for the hire of an immigrant with an H-1B visa classification, the following requirements are necessary.

School

The school or department must:

- Have a funded vacant position in a critical shortage area; and
- Recommend the applicant for visa sponsorship based on the specific skill level of the critical shortage area.

Human Resources

Human Resources must confirm a vacancy and issue a hire memorandum to the school before the applicant can begin the hiring process.

Candidate

The candidate must hold or meet all requirements for a standard Texas teaching certificate, meet all current HISD hiring standards, and pay all attorney processing fees associated with the INS application within ten working days of receipt of the confirmed offer of employment from Human Resources. [See the HISD *Compensation Manual*]

Recommendations for H-1B Renewal and Extension

An employee hired under an H-1B visa may receive an extension under the following conditions:

- The employee must have a written recommendation from the principal with the assistant superintendent's signature of approval or from the department supervisor with the chief officer's signature of approval;
- The employee must be in good standing and remain in the position for which they were originally hired. An employee on a growth plan or under investigation is not eligible;
- The principal or department supervisor must provide a demonstration of quality performance (i.e., performance evaluations, employee attendance, student achievement, etc.);
- The Office of Talent must confirm that there are available funds for any fees incurred; and
- The principal or department supervisor will be provided with a memorandum of understanding of cost and conditions for their signature approval.

Recommendations for Permanent Residency

An employee with an H-1B designation may be recommended for permanent residency under the following conditions. The employee must:

- Have completed a minimum of two years of service with HISD;
- Be certified by the State Board of Education in a critical shortage area or in a position of sponsorship;
- Remain in the original content area assignment, whether in the same campus or department or another campus or department;
- Have a minimum of two years remaining on the H-1B visa or, if less than two years remain, the Office of Talent determines that the permanent residency application has a reasonable likelihood of being approved within the time remaining; and
- Have a written recommendation from the principal or immediate supervisor based on documented evidence of success in the classroom (i.e., performance evaluations, employee attendance, student achievement, etc.)

The recommendation will be reviewed by administration, and the employee will be notified of sponsorship decision.

Withdrawal of Sponsorship

Withdrawal of a visa sponsorship may be based on the employee leaving HISD or the employee not meeting District expectations. Withdrawal of sponsorship cannot be used in lieu of the April 1 notice of nonrenewal of contract. District sponsorship will be withdrawn if an employee's contract is not renewed.

Funding

All payment of employer fees for sponsorship, extensions and renewals, and permanent residence will follow finance procedures as communicated by the Finance Department. [See the *Finance Procedures Manual*]

Consultation

This regulation has been through consultation (Administrative: May 25, 2022; Instructional: May 25, 2022; Noninstructional: May 31, 2022).

Maintenance Responsibility

The chief talent officer is responsible for maintenance of this regulation.

Effective Date

This regulation will be effective as of the adoption date, April 28, 2022.

DEFINITION

1. For the purposes of this regulation, an external candidate refers to a non-employee candidate recruited by the District for a principal or key staff position.

TRAVEL EXPENSE PAYMENT OR REIMBURSEMENT FOR EXTERNAL CANDIDATES

2. Approved travel expenses (i.e., airfare or mileage, hotel, car rental, and/or parking) for external candidates who must travel to the District to attend an interview at the request of the District will be paid by the District or reimbursed as outlined in this regulation.

   The District will only approve travel expenses for direct payment or reimbursement for principal and key staff position interviews.

DETERMINATION OF TRAVEL EXPENSES

3. The appropriate District administrator selects the external candidate to be interviewed and will determine if travel expenses will be paid for or will be reimbursed by the District.

VERIFICATION OF EXPENSES

4. Talent Management, Human Resources, is responsible for verifying eligible reimbursement expenses.

APPROVAL OF EXPENSES

5. The chief human resources officer or general manager, Talent Management, Human Resources, must approve all requests for external candidate travel reimbursement prior to the interview.

NOTIFICATION OF CANDIDATE

6. The external candidate is notified via telephone call or e-mail that he or she has been selected for a pre-employment interview and approved for travel expense payment or reimbursement.

DIRECT PAYMENT BY DISTRICT

7. The candidate is advised to coordinate travel arrangements and accommodations with Human Resources, if applicable. The appropriate Human Resources staff member will make reservation(s) and forward the documents to Accounts Payable for payment(s) as necessary.

EXTERNAL CANDIDATE REIMBURSEMENT

8. In the event the candidate requests to make and pay for his or her own reservations, the District will only reimburse for hotel, meals, flight (economy/coach class fare) and/or mileage, parking, and rental car, as needed. The District will reimburse these expenses after completion of the trip for those external candidates who elect to pay for travel and accommodations and who comply with the following:

   COMPLETE NECESSARY DOCUMENTS FOR REIMBURSEMENT

   a. The candidate must complete the District Travel Authorization and Payment /Reimbursement Voucher and attach receipts for parking and/or mileage as well as for flight, hotel, meals, and rental car, if the expenses were paid for by the candidate. (See Reference A)

SUBMIT DOCUMENTS

b. The Travel Authorization and Payment/Reimbursement Voucher and receipts must be submitted, within ten business days following the interview, to the appropriate Human Resources staff member for processing by Accounts Payable.

CHECK REIMBURSEMENT

c. Accounts Payable will mail the reimbursement check to the candidate's home address.

REIMBURSABLE RATES

9. The maximum reimbursable rate for hotel accommodations is the federal per diem rate for Harris County of $109. The rate is subject to change as per the U.S. General Services Administration. Specific rate information is available at www.gsa.gov/portal/category/100120.

CONSULTATION

10. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

11. The chief human resources officer, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) EXHIBIT A - Travel Authorization and Payment /Reimbursement Voucher

CRIMINAL HISTORY RECORD CHECK

1. Pre-employment screening and employee background checks are more prevalent than ever before. The Houston Independent School District (HISD) Board of Education expresses its strong confidence in and appreciation for District personnel. However, one of the District's goals is to provide a safe environment for students and employees. To this end, criminal history background checks will be conducted on all active personnel and applicants. A criminal history review committee has been created to facilitate the appeals process for employee background checks.

CRIMINAL HISTORY REVIEW COMMITTEE

APPEALS

2. Qualified applicants and current employees whose criminal history background checks reveal a violation of District policy may appeal the criminal history restrictions to employment through a process of review by the Human Resources Operations department.

3. The criminal history review committee is an ad hoc committee convened for the purpose of conducting interviews as part of the appeals process. [See DC(LOCAL) and DH(LOCAL)]

COMMITTEE MEMBERSHIP

4. The criminal history review committee will be comprised of three members, one each from Human Resources, Legal Services, and the Police Department. The committee will select a member to preside over appeal hearings.

VIOLATIONS

5. An applicant or employee who has a criminal record that would preclude employment or continued employment with the District according to DC(LOCAL) would include a person who:

   a. Is a convicted felon;

   b. Is convicted of a misdemeanor involving moral turpitude. "Moral turpitude" is an act of baseness, vileness, or depravity in the private or social duties that a person owes another member of society in general and that is contrary to the accepted rule of right and duty between persons; or

   c. Is charged with a felony or misdemeanor involving moral turpitude, until there is a final disposition of the charge; or is on probation for any offense (including a deferred adjudication probation) that would otherwise restrict employment.

   However, a person charged with a criminal offense that was dismissed through deferred adjudication may appeal the restrictions to employment to the criminal history review committee except when the charge was for:

a. Capital murder, murder, voluntary or involuntary manslaughter, or any felony theft offense;

b. Indecency with a child; injury to a child, elderly, or disabled individual; kidnapping; aggravated kidnapping; aggravated sexual assault; aggravated assault causing serious bodily injury; sexual assault of a child; or aggravated robbery; or

c. Any felony where a deadly weapon was used or exhibited; or any felony related to the manufacture, delivery, or possession of marijuana, a controlled substance, or a dangerous drug. [See DBAA(LEGAL), DH(LOCAL)]

APPEAL PROCEDURE

6. The following procedures will apply to the appeal process:

INTERVIEW

a. The committee will schedule an interview to address each individual situation, considering the factors listed at item 5 above and item 7.a. or 7.b. below, as appropriate.

RECOMMENDATION

b. Upon completion of the interview, the committee will submit a recommendation to the chief human resources officer, Human Resources, or designee.

CONSIDERATION FINAL

c. The chief human resources officer, Human Resources, or designee will consider the criminal history review committee's recommendation in deciding whether or not the individual is eligible for employment or continued employment with the District.

FACTORS FOR EXEMPTION CONSIDERATION

d. The decision of the chief human resources officer, Human Resources, or designee regarding hiring or termination is final. The employee should refer to the termination process outlined in Board policy. [See DFAA(LEGAL/LOCAL), DFCA(LEGAL/LOCAL), DCD(LOCAL), DCD1(REGULATION), and DF(LEGAL)]

7. For both applicants and employees, the review committee will consider certain factors in determining whether or not to recommend an exemption from the criminal history restrictions to employment to the chief human resources officer, Human Resources, or designee, who will make a determination if the exemption will be granted.

APPLICANTS AND EMPLOYEES

a. Factors to consider for applicant and employee criminal history exemption are as follows:

(1) The nature and seriousness of the crime;

(2) The relationship of the crime to the potential assignment;

(3) The extent to which the potential assignment might offer the opportunity for repeated criminal conduct;

(4) The relationship of the crime to the applicant's ability, capacity, or fitness to perform the duties of the assignment;

(5) The extent of the criminal activity;

(6) The age of the person at the time of the offense;

(7) The length of time that has elapsed since the crime was committed;

(8) The conduct and work activity of the applicant before and after the crime;

(9) Evidence of rehabilitation;

(10) The applicant's truthful disclosure of the offense on his or her employment application;

(11) The applicant's or employee's truthful and timely disclosure of the charges or conviction. If the conviction was not disclosed prior to employment, that employee will be immediately recommended for termination;

(12) The applicant's/employee's truthfulness in relating the facts concerning the conviction to the committee as compared to police records or other information available to the committee; and

(13) The applicant's/employee's cooperation in obtaining records of the disposition of the offense, including fingerprinting, if requested.

CURRENT EMPLOYEES

b. An additional factor to consider for current employee criminal history waiver is whether the charge or crime has affected the employee's ability, capacity, or fitness to perform the duties of the assignment.

CONSULTATION

8. This regulation has been through consultation (Administrative: May 8, 2012; Instructional: June 7, 2012; Noninstructional: June 12, 2012).

MAINTENANCE RESPONSIBILITY

9. The senior manager, Human Resources Operations, Human Resources, is responsible for maintenance of this regulation.

TRAVEL AUTHORIZATION AND PAYMENT/REIMBURSEMENT VOUCHER

TRAVEL INFORMATION

Name:	
Address:	
Phone number:	
E-mail:	
Social security number*:	
Position applied for:	

REIMBURSEMENT INFORMATION

Receipts Required on Return		**Expenses to be Reimbursed**
Airfare:		$
Lodging:		$
Other Travel:		$
	Total	$

Note: Staple receipts for full reimbursement.

*****This information will be necessary for reimbursement purposes in accordance with Procurement guidelines.

Return complete forms to: Houston ISD, 4400 W. 18th St., Houston, TX 77092

Human Resources Attention: Alicia Lugo

PERSONS UNDER PROBATIONARY CONTRACTS

Except as provided below, each of the following persons shall be employed under a probationary contract when the person is employed by the District for the first time or if the person has not been employed by the District for two consecutive school years subsequent to August 28, 1967:

1. Principal.
2. Supervisor.
3. Classroom teacher.
4. School counselor.
5. Other full-time professional employee who is required to hold a certificate issued under Education Code Chapter 21, Subchapter B [see DK(EXHIBIT)].
6. Nurse.

EXCLUSIONS

Education Code Chapter 21, Subchapter C (relating to probationary contracts) does not apply to the Superintendent or a person who is not entitled to a probationary, continuing, or term contract under Education Code 21.002 [see DC(LEGAL) at CONTRACT EMPLOYEES], an existing contract, or District policy.

Education Code 21.101, .102(a)

EXCEPTIONS

REHIRES

A person who previously was employed as a teacher by the District, and after at least a two-year lapse in District employment returns to District employment, may be employed under a probationary contract. *Education Code 21.102(a)*

PRINCIPAL OR CLASSROOM TEACHER

The District may employ a person as a principal or classroom teacher under a term contract if the person has experience as a public school principal or classroom teacher, respectively, regardless of whether the person is being employed by the District for the first time or whether a probationary contract would otherwise be required under Education Code Section 21.102. *Education Code 21.202(b)*

CHANGE IN PROFESSIONAL CAPACITY

An employee may be employed under a probationary contract if the employee voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate under Education Code Chapter 21, Subchapter B than the class of certificate held by the employee in the professional capacity in which the employee was previously employed.

This provision does not apply to an employee who is returned by the District to a professional capacity in which the employee was employed by the District before the District employed the employee

in the new professional capacity. The employee is entitled to be employed in the original professional capacity under the same contractual status as the status held by the employee during the previous employment by the District in that capacity.

Education Code 21.102(a-1) [See 19 TAC 230.33(b) for list of certificate classes]

TERM OF CONTRACT

A probationary contract may not be for a term exceeding one school year.

MAXIMUM

A probationary contract may be renewed for two additional one-year periods, for a maximum permissible probationary contract period of three school years, except that the probationary period may not exceed one year for a person who has been employed as a teacher in public education for at least five of the eight years preceding employment by the District.

EXCEPTION

A probationary contract period may be extended beyond the third consecutive year of employment if, during the third year of the probationary period, the Board determines that it is doubtful whether a continuing contract or a term contract should be given. If the Board makes such a determination, the District may make a probationary contract for a term ending with the fourth consecutive school year.

Education Code 21.102

Preamble: Transformation of Policy Regarding Term of Contracts

In support of the District's goal to improve human capital and given that a substantial portion of the District budget is used to pay employee salaries, we, the HISD Board of Education, believe that in order to make the biggest impact on improving student performance, we must transform the ways in which the District attracts, retains, and compensates high-quality staff. Specifically, decisions regarding probationary, term, and continuing contracts must include review and consideration of value-added data.

Categories of Educator Employment Contracts

Chapter 21 of the Texas Education Code requires that teachers, nurses, school counselors, librarians, and other full-time professional employees who are required to hold a certificate be employed on a contract.

There are three types of contracts that are permitted by the Education Code—probationary contracts, continuing contracts, and term contracts; the District utilizes all three types of contracts.

1. **Probationary contract**: All teachers, prior to being issued a continuing or term contract, must be placed on a probationary contract. This contract may not be for a term exceeding one school year, but may be renewed for two additional years, unless the teacher has been employed as a teacher in public education for at least five of the last eight school years, in which case the probationary period is limited to one year.

2. **Continuing contract**: Teachers issued a continuing contract prior to November 1, 1996, and who are currently employed by the District shall remain on a continuing contract. Effective November 1, 1996, the District ceased issuing continuing contracts.

3. **Term contract**: Upon completion of the probationary period, teachers may be issued a term contract as described at DCC(LOCAL). Term contracts may be issued for a time period of one, two, or three years. If no action is taken to nonrenew a contract at the end of the term, then the contract is automatically renewed for an additional year.

Eligible Positions

The Board may employ by term contracts, as authorized by Education Code 21.002 and 21.201, the following categories of full-time certified professional employees: certified central office and campus administrators, teachers, school counselors, and librarians, and full-time nurses.

Non-Chapter 21 "Performance Contracts"

In addition, several alternative "performance contracts," not governed by Chapter 21 of the Education Code, shall be available for specific categories of employees, in accordance with DCE(LOCAL).

Grandfather Clauses

Contracts

Administrators employed before the cut-off dates established in DCE(LOCAL), who declined a performance contract, shall continue to receive term contracts as governed by the provisions of Chapter 21 of the Education Code.

The District, in its decisions regarding probationary, continuing, and term contracts, shall consider student performance and value-added data in its decisions regarding term contracts.

Continuing Contracts Retained

Any District employee hired under a continuing contract prior to November 1, 1996, shall remain under a continuing contract as long as the employee remains in the same contractual position. [See also DCC(LEGAL) and (LOCAL)]

Policies relating to employment by educator term contract [see the DCB series] do not apply to employees on continuing contracts.

Continuing Contracts Retained

Any District employee hired under a continuing contract prior to November 1, 1996, shall remain on a continuing contract in accordance with law.

Policies relating to employment by educator term contract [see DCB and the DFB series] shall not apply to employees on continuing contracts.

Minimum Salary Schedule — Educators

A district shall pay each classroom teacher, full-time librarian, full-time school counselor, or full-time nurse not less than the minimum monthly salary, based on the employee's level of experience, specified in Education Code 21.402 and 19 Administrative Code 153.1021.

Definitions

Classroom Teacher

"Classroom teacher" means an educator who teaches an average of at least four hours per day in an academic or career and technology instructional setting, focusing on the delivery of the Texas Essential Knowledge and Skills, and who holds the relevant certificate from the State Board for Educator Certification (SBEC). Although noninstructional duties do not qualify as teaching, necessary functions related to the educator's instructional assignment, such as instructional planning and transition between instructional periods, should be applied to creditable classroom time.

Librarian

"Librarian" means an educator who provides full-time library services and holds the relevant certificate from SBEC.

School Counselor

"School counselor" means an educator who provides full-time counseling and guidance services and holds the relevant certificate from SBEC.

Nurse

"Nurse" means an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure, and practice and has been issued a license to practice professional nursing in Texas.

Full-Time

"Full-time" means contracted employment for at least ten months (187 days) for 100 percent of the school day, in accordance with the definitions of school day in Education Code 25.082, employment contract in Education Code 21.002, and school year in Education Code 25.081.

19 TAC 153.1022(a)

Placement on Salary Schedule

The commissioner's rules determine the experience for which a teacher, librarian, school counselor, or nurse is to be given credit in placing the teacher, librarian, school counselor, or nurse on the minimum salary schedule. A district shall credit the teacher, librarian, school counselor, or nurse for each year of experience, whether or not the years are consecutive. *Education Code 21.402(a), .403(c); 19 TAC 153.1022*

Employees Formerly on Career Ladder

A teacher or librarian who received a career ladder supplement on August 31, 1993, is entitled to at least the same gross monthly salary the teacher or librarian received for the 1994–95 school year as long as the teacher or librarian is employed by the same district.

In addition, a teacher or librarian who was on level two or three of the career ladder is entitled, as long as he or she is employed by the same district, to placement on the minimum salary schedule according to the guidelines at Education Code 21.403(d). *Education Code 21.402(f), .403(d)*

Pay Increases

A district shall not grant any extra compensation, fee, or allowance to a public officer, agent, servant, or contractor after service has been rendered or a contract entered into and performed in whole or in part. *Tex. Const. Art. III, Sec. 53*

Public Hearing—Contract Employees

A district may not pay an employee or former employee more than an amount owed under a contract with the employee unless the district holds at least one public hearing. Notice of the hearing must be given in accordance with notice of a public meeting under the Texas Open Meetings Act [see BE].

The board must state the following at the public hearing:

1. The source and exact amount of the payment;
2. The reason the payment is being offered including the public purpose that will be served by making the payment; and
3. The terms for distribution of the payment that effect and maintain the public purpose.

Local Gov't Code 180.007

Increase in Basic Allotment

During any school year for which the maximum amount of the basic allotment provided under Education Code 48.015(a) or (b) is greater than the maximum amount provided for the preceding school year, a district must use at least 30 percent of the district's increased funding to provide compensation increases to full-time district employees other than administrators as follows:

1. 75 percent must be used to increase the compensation paid to classroom teachers, full-time librarians, full-time school counselors certified under Education Code Chapter 21, Subchapter B and full-time school nurses, prioritizing differentiated compensation for classroom teachers with more than five years of experience; and
2. 25 percent may be used as determined by the district to increase compensation paid to full-time district employees.

"Compensation" includes benefits such as insurance premiums.

Education Code 48.051(c), (d)

Maintenance of Salary

An employee who received a salary increase from a district for the 2019–20 school year is, as long as the employee remains employed by the same district and the district is receiving at least the same amount of funding as the amount of funding the district received for the 2019–20 school year, entitled to salary that is at least equal to the salary the employee received for the 2019–20 school year.

This requirement does not apply if the board:

1. Implements a furlough program under Education Code 21.4021 [see Furlough Program, below], a salary reduction under Education Code 21.4022 [see Salary Reduction/Furlough Process, below], and a widespread reduction in salaries under Education Code 21.4032 [see Widespread Salary Reductions, below] in reducing the employee's salary; and
2. Has adopted a resolution declaring a financial exigency for the district under Education Code 44.011. [See CEA]

A reduction in the salary of a district employee described above is subject to the rights granted to the employee under the Education Code.

Education Code 48.051(c-1), (c-2)

Salary Advances and Loans

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

Designation of Compensation for Benefits

An employee who is covered by a cafeteria plan or who is eligible to pay health-care premiums through a premium conversion plan may elect to designate a portion of the employee's compensation to be used as health-care supplementation. The amount designated may not exceed the amount permitted under federal law. *Education Code 22.103*

Use

An employee may use the compensation designated for health-care supplementation for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health-care premiums through a premium conversion plan. *Education Code 22.106*

Annual Election

Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health-care supplementation. The election must be made at the same time that the employee elects to participate in a cafeteria plan, if applicable. *Education Code 22.105*

Definition

For purposes of the designation of compensation as health-care supplementation, “employee” means an active, contributing member of the Teacher Retirement System (TRS) who:

1. Is employed by a district;
2. Is not a retiree eligible for coverage under Insurance Code Chapter 1575 (retiree group health benefits);
3. Is not eligible for coverage by a group insurance plan under Insurance Code Chapter 1551 (state employee health insurance) or Chapter 1601 (state university employee health insurance); and
4. Is not an individual performing personal services for the district as an independent contractor.

Education Code 22.101(2)

TRS Contributions for New Hires

During each fiscal year, a district shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, during their first 90 days of employment.

“New member” means a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Government Code 822.003 and is reemployed on or after September 1, 2005.

On a monthly basis, a district shall:

1. Certify to TRS the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments under this section for the payroll periods; and
2. Retain information, as determined by TRS, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

A district must remit the amount required under this section to TRS at the same time the district remits the member’s contribution. In computing the amount required to be remitted, a district shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

Gov’t Code 825.4041

TRS Surcharge for Rehired Retirees

During each payroll period for which a retiree is reported, a district shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

TRS Fund Contributions

1. The current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and
2. The current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

Gov't Code 825.4092(b)

Health Insurance Contributions

In addition, each payroll period and for each rehired retiree who is enrolled in TRS Care (retiree group health insurance), a district shall contribute to the TRS Care trust fund an amount established by TRS. In determining the amount to be contributed by the district, TRS shall consider the amount a retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program. If more than one employer reports the retiree to TRS during a month, the amount of the required payment shall be prorated among employers. *Gov't Code 825.4092(c); Insurance Code 1575.204(b)*

No Recovery of Costs

A district is ultimately responsible for payment of the contributions above. A district may not directly or indirectly pass that cost on to the retiree through payroll deduction, by imposition of a fee, or by any other means designed to recover the cost. *Gov't Code 825.4092(f)*

Exception

A district is not required to contribute these amounts for a retiree who retired from the retirement system before September 1, 2005. *Gov't Code 825.4092(e)*

Temporary Exception

A district is not required to contribute these amounts for a retiree who retired from the retirement system after September 1, 2005, and is employed in a position described by Government Code 824.6021(a) performing duties related to the mitigation of student learning loss attributable to the coronavirus disease (COVID-19) pandemic. This provision expires February 1, 2025. *Gov't Code 825.4092(f)*

Notice Regarding Earned Income Tax Credit

Not later than March 1 of each year, a district shall provide employees with information regarding general eligibility requirements for the federal earned income tax credit by one of the following means:

1. In person;

2. Electronically at the employee's last known email address;

3. Through a flyer included, in writing or electronically, as a payroll stuffer; or

4. By first class mail to the employee's last known address.

A district may not satisfy this requirement solely by posting information in the workplace.

In addition, a district may provide employees with IRS publications and forms, or information prepared by the comptroller, relating to the earned income tax credit.

Labor Code 104.001–.003

Decreasing Pay

The commissioner has held that a district may reduce educator compensation if it gives sufficient warning of a possible reduction in pay when educators can still unilaterally resign from their contracts. A sufficient warning must be both formal enough and specific enough to give educators a meaningful opportunity to decide whether to continue employment with a district. *Brajenovich v. Alief Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 021-R1O-1106 (2009)*

Widespread Salary Reductions

The following provisions apply only to a widespread reduction in the amount of annual salaries paid to classroom teachers in a district based primarily on district financial conditions rather than on teacher performance.

For any school year in which a district has reduced the amount of the annual salaries paid to classroom teachers from the amount paid for the preceding school year, the district shall reduce the amount of the annual salary paid to each district administrator or other professional employee by a percent or fraction of a percent that is equal to the average percent or fraction of a percent by which teacher salaries have been reduced.

Education Code 21.4032

A board may not reduce salaries until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Furlough Program

In accordance with district policy [see DFFA], a board may implement a furlough program and reduce the number of days of service otherwise required under Education Code 21.401 [see DC] by not more than six days of service during a school year if the commissioner certifies that the district will be provided with less state and local funding for that year than was provided to the district for the 2010–11 school year. *Education Code 21.4021(a)*

A board may not implement a furlough program until the district has complied with the requirements at Education Code 21.4022 [see Salary Reduction/Furlough Process, below]. *Education Code 21.4022*

Funding Levels

Not later than July 1 of each year, the commissioner shall determine for each district whether the estimated amount of state and local funding per student in weighted average daily attendance to be provided to the district under the Foundation School Program for maintenance and operations for the following school year is less than the amount provided to the district for the 2010–11 school year. If the amount estimated to be provided is less, the commissioner shall certify the percentage decrease in funding to be provided to the district. *Education Code 48.010*

Salaries

Notwithstanding Education Code 21.402 (minimum salary schedule), a board may reduce the salary of an employee who is furloughed in proportion to the number of days by which service is reduced. Any reduction in the amount of the annual salary must be equally distributed over the course of the employee's current contract with the district.

Furlough Days

A furlough program must subject all contract personnel to the same number of furlough days. An educator may not be furloughed on a day that is included in the number of days of instruction required under Education Code 25.081 [see EB]. Implementation of a furlough program may not result in an increase in the number of required teacher workdays. An educator may not use personal, sick, or any other paid leave while the educator is on a furlough.

Contract Resignation

If a board adopts a furlough program after the date by which a teacher must give notice of resignation from a probationary, term, or continuing contract [see DFE], an employee who subsequently resigns is not subject to sanctions imposed by SBEC.

No Appeal

A decision by a board to implement a furlough program is final and may not be appealed and does not create a cause of action or require collective bargaining.

Education Code 21.4021

Salary Reduction / Furlough Process

A board may not implement a furlough program under Education Code 21.4021 or reduce salaries until the district has complied with the requirements below.

Employee Involvement

A district must use a process to develop a furlough program or other salary reduction proposal, as applicable, that:

1. Includes the involvement of the district's professional staff; and

2. Provides district employees with the opportunity to express opinions regarding the furlough program or salary reduction proposal, as applicable, at the public meeting described below.

Public Meeting

A board must hold a public meeting at which the board and district administration present:

1. Information regarding the options considered for managing the district's available resources, including consideration of a tax rate increase and use of the district's available fund balance;

2. An explanation of how the district intends, through implementation of a furlough program or salary reductions, as applicable, to limit the number of district employees who will be discharged or whose contracts will not be renewed. Any explanation of a furlough program must state the specific number of furlough days proposed to be required; and

3. Information regarding the local option residence homestead exemption.

The public and district employees must be provided with an opportunity to comment at the public meeting.

Education Code 21.4022

SALARY MANUAL

The Superintendent shall develop and recommend to the Board for adoption a pay system for all District personnel, which shall be incorporated into the *Salary Manual*. This manual shall reflect all Board action related to employee salary or compensation.

The administration shall be responsible for developing procedures and guidelines for the proper implementation of the pay system for employees, as established in the *Salary Manual*.

GENERAL DESCRIPTION

CLASSIFICATION COMMITTEE

1. The Classification Committee is composed of a representative from each area of administration, the compensation manager, and a principal from one of the five regions.

   Similarly structured committees may be appointed as needed for the various levels and categories of positions. The function of the committee is to review new positions and recommend appropriate pay grade designations for the positions. The committee also reviews existing positions to determine appropriate pay grade designations and possible reclassifications of the positions. The only time a position may be submitted for reclassification is when major changes have occurred in the responsibilities and duties assigned to that position; however, the Classification Committee will review during the spring of each year at least five percent of the administrative positions in order to determine whether any major changes of duties and responsibilities have occurred that would indicate that full review is needed for those positions. The chief academic officer and the assistant superintendent, School Support Services, are responsible for identifying the positions for review by the Classification Committee.

MEMBERSHIP

2. The members of the Classification Committee are appointed by the Superintendent. The current membership is as follows:

   - Executive General Manager, Human Resources, Chairperson;
   - Chief Academic Officer;
   - Chief Financial Officer;
   - Chief of Staff;
   - Chief Operations Officer;
   - Compensation Manager; and
   - Principal (TBA).

   The compensation manager serves as secretary to the committee.

SENIOR COMPENSATION ANALYST RESPONSIBILITIES

3. The senior compensation analyst, Human Resources, serves as coordinator of the total classification system, provides all necessary forms, and assists upon request in the development of all required documents.

OPERATING PROCEDURES

MEETINGS

4. The operating procedures for the committee are as follows:

   a. Meetings are held each spring.

AGENDA

b. The manager, Compensation, is responsible for preparing the agenda.

RECORDS

c. A record of all decisions and significant discussion items is maintained by the manager, Compensation.

DECISIONS

d. Decisions are based on review of classification decisions in accordance with committee and senior administrator directives.

CONSULTATION

5. This regulation has been through consultation (Administrative: March 6, 2007; Instructional: March 6, 2007).

MAINTENANCE RESPONSIBILITY

6. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

SALARY SCHEDULE PLACEMENT

1. Employees are placed on the appropriate salary schedule and salaries are determined by Human Resources generalist in accordance with the District's Compensation Manual. See References (a) and (c). Exceptions to this practice require approval of the Superintendent.

PROCEDURE

2. The procedure for requesting a salary placement exception is as follows:

INITIATING A REQUEST

a. If an employee's immediate supervisor believes the calculated salary is not appropriate, he or she may initiate a request for an exception to the standard. See References (a) and (b). The immediate supervisor sends the request to the appropriate District superintendent or direct report to the Superintendent who forwards the request to the executive general manager, Human Resources. The request must include justification for a salary other than the one established in the District's Compensation Manual. See Reference (c).

PROCESSING BY HUMAN RESOURCES

b. Upon receipt of a request for a salary placement exception, the appropriate Human Resources generalist prepares the Administrator/Special Placement Assignment form, and forwards it to the executive general manager, Human Resources. See Reference (d).

SUBMITTING THE REQUEST TO THE DIRECT REPORTS SALARY COMMITTEE

c. The executive general manager, Human Resources, presents the Administrator/Special Placement Assignment form to the Direct Reports Salary Committee for a recommendation to the Superintendent. See References (b) and (c).

SUBMITTING THE REQUEST TO THE SUPERINTENDENT

d. After receiving a recommendation from the Direct Reports Salary Committee, the executive general manager, Human Resources, submits the form to the Superintendent for approval.

SUBMITTING THE REQUEST TO THE BOARD OF EDUCATION

e. If the requested salary is above the appropriate range maximum, the Superintendent presents the request to the Board of Education at its regular monthly meeting for its approval of the salary placement exception request. See Reference (b).

IMPLEMENTING AN APPROVAL REQUEST

f. After the request is approved by the Superintendent and the Board of Education, Human Resources initiates the salary change and notifies the employee and his or her supervisor.

CONSULTATION

3. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

4. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DEA(LEGAL)

(b) DEA(EXHIBIT)

(c) HISD Compensation Manual 2001–2002

(d) Form – Administrator/Special Placement

HOURLY OR PART-TIME EMPLOYEES

1. For the purpose of this regulation, the following definitions will apply.

HOURLY EMPLOYEE

a. An hourly employee is a part-time employee who is paid an hourly rate as opposed to a monthly salary. The hourly employee position is not eligible for benefits, leave time, or service recognition. There are two types of hourly employees:

REGULAR HOURLY EMPLOYEE

(1) A regular hourly employee is one who works as scheduled by his supervisor and averages less than 20 hours per week.

TEMPORARY OR SEASONAL HOURLY EMPLOYEE

(2) There are two categories of temporary or seasonal hourly employees. One is a temporary or seasonal employee who works less than 20 hours per week for a specified time as determined by the supervisor. The other is one who may work up to 40 hours per week but may not exceed a total of four months employment from August to July.

Associate teachers, bus drivers and aides, and Food Services substitute hourly employees are exempt from the hours-worked restrictions outlined at REGULAR HOURLY EMPLOYEE and TEMPORARY OR SEASONAL HOURLY EMPLOYEE, above.

REGULAR PART-TIME EMPLOYEE

b. A regular part-time employee is an hourly employee who works a minimum of 20 hours per week and does not exceed 32 hours per week. The employee is eligible for prorated state and local leave days, benefits, and recognition of service with the Houston Independent School District. Employees in this category work fewer than 12 months per year.

REGULAR STATUS EMPLOYEE

c. A regular status employee is scheduled to work more than 32 hours per week, can work up to 12 months per year, is compensated with a salary, receives benefits and leave time, and is eligible for service recognition. See Reference (a).

MONITORING HOURLY EMPLOYEE

2. Managers and supervisors are responsible for monitoring hourly and part-time employee schedules and hiring according to the categories outlined. A regular temporary or seasonal part-time employee who works beyond the established guidelines will be identified by Human Resources and Budgeting and reviewed for possible placement in a regular status position. The actual percent of full-time equivalency (FTE) will

be based on the hours worked per week by the employee as designated by the supervisor.

CHANGING EMPLOYMENT STATUS

3. Procedures for changing an employee's employment status from an hourly or part-time employee to a regular employee are as follows:

REVIEW OF PAYROLL RECORDS

a. Every October and March, Human Resources and Budgeting review the payroll records of all hourly and part-time employees for any patterns of hours worked beyond the approved schedules.

APPROVED WORKING HOURS

b. A report identifying an employee who worked beyond his or her approved work hours is submitted to the appropriate direct report to the Superintendent for review.

APPROVED REGULAR EMPLOYEE STATUS

c. If an employee is eligible for regular employee status, Human Resources notifies the direct report to the Superintendent, or designee, to obtain approval and funding.

FUNDING

d. The direct report to the Superintendent has 30 calendar days to obtain funding from either the school or department budget for the equivalent regular status position or request an extension from the Superintendent for the employee to remain in an hourly or part-time position.

EXTENSION

e. Any direct report to the Superintendent can make a one-time request for a three-month extension for the employee to continue working hourly.

HIRING HOURLY LECTURERS

f. Guidelines described in this regulation will apply to hiring hourly lecturers starting in the 2010-11 school year.

CONSULTATION

4. This regulation has been through consultation (Administrative: September 3, 2009; Instructional: September 3, 2009; Noninstructional: August 11, 2009).

MAINTENANCE RESPONSIBILITY

5. The deputy superintendent for human talent, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) *HISD Compensation Manual*

APPROVAL FOR SPECIAL SALARY PLACEMENTS

This exhibit concerns the processing of exceptions to the salary placement standard. This approval process is exercised as needed.

SALARY

Responsible Party	Level of Authority	Requirements and Other Information
Houston Independent School District Board of Education	Salaries above the Position Salary Range	
Superintendent	Special salary placement	The Superintendent approves requests for salary placement of the applicant Regional Superintendent's salary recommendation and Direct Reports Salary Committee's recommendation for special salary placement
Direct Reports Salary Committee	Recommendation of special salary placement to Superintendent	
Chief Human Resources Officer	Recommendation of special salary placement to the Direct Reports Salary Committee	Human Resources forwards the Regional Superintendent's salary recommendation to the director, Compensation, to determine a salary based on the HISD Compensation Manual The chief Human Resources officer submits the Administrator/Special Placement Assignment form to the Direct Reports Salary Committee The chief Human Resources officer submits the salary recommendation to the Superintendent of Schools
Senior Manager, Professional Standards	Determination of salary Recommendation to Chief Human Resources Officer	

From the appropriate area of responsibility: Regional Superintendents School Principals Superintendent and Superintendent's Cabinet	Recommendation of salary placement exception to the Chief Human Resources Officer	
From the appropriate area of responsibility: School Principals Administrative department head	Submission of salary placement exception request	

SELECTION

Responsible Party	**Level of Authority**	**Requirements and Other Information**
Chief Human Resources Officer	Screen applicants for minimum job requirements	Application and resume of a qualified applicant Request for an exception to the standard

1. References.

   DEA2(REGULATION)

2. The chief human resources officer, Human Resources, is responsible for maintenance of this exhibit.

Stipend

The Superintendent shall recommend a stipend pay schedule as part of the annual compensation plan of the District. [See DEA]

Supplemental Duties

The Superintendent or designee may assign noncontractual supplemental duties to personnel exempt under the Fair Labor Standards Act (FLSA), as needed. [See DK(LOCAL)] The employee shall be compensated for these assignments according to the compensation plan of the District.

Incentive and Innovation Programs

The Superintendent shall have authority to submit plans and grant applications for incentive and innovation programs to TEA or other granting organizations on behalf of the Board. Incentive plans shall address teacher eligibility, including any exclusions.

Transformation of Policy Regarding Performance Pay and Differentiated Compensation

The District's greatest strength is its human capital. As such, high expectations are set for school leadership to inspire creative thinking and innovative approaches that lead to instructional and operational excellence. These expectations create an instructional context that acknowledges that the personal, face-to-face contact between teacher and student will always be the central event in education. Changes in the District's structure, governance, and policies underscore the importance of this relationship and must coalesce to create an organizational culture that values employees who are results-oriented, talented, innovative thinkers who strive to increase student achievement and contribute to the reformation of public education.

Also, human capital reform measures must focus on higher standards for recruitment and selection, job performance and compensation, and professional development and career planning and must provide employees a viable career path within the organization.

Other locally developed incentive programs, if any, shall be addressed in the compensation plan of the District.

Note: This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

State Leave

State Personal Leave

A district shall provide employees with five days per year of state personal leave, with no limit on accumulation and no restrictions on transfer among districts. A district may provide additional personal leave beyond this minimum.

A board may adopt a policy governing an employee's use of state personal leave, except that the policy may not restrict the purposes for which the leave may be used.

Education Code 22.003(a)

State Sick Leave (Accumulated Prior to 1995)

District employees retain any sick leave accumulated as state minimum sick leave under former Section 13.904(a) of the Education Code. Accumulated state sick leave shall be used only for the following:

1. Illness of the employee.
2. Illness of a member of the employee's immediate family.
3. Family emergency.
4. Death in the employee's immediate family.
5. During military leave [see Use During Military Leave, below].

Acts of the 74th Legislative Session, Senate Bill 1, Sec. 66

Former Education Service Center Employees

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

Order of Use

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Education Code 22.003(a), (f)

Use During Military Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB]

Temporary Disability

Each full-time educator shall be given a leave of absence for temporary disability at any time the educator's condition interferes with the performance of regular duties. The contract or employment of the educator may not be terminated while the educator is on a leave of absence for temporary disability. For purposes of temporary disability leave, pregnancy is considered a temporary disability.

At Employee's Request

A request for a leave of absence for temporary disability must be made to a superintendent. The request must:

1. Be accompanied by a physician's statement confirming inability to work;
2. State the date requested by the educator for the leave to begin; and
3. State the probable date of return as certified by the physician.

By Board Authority

A board may adopt a policy providing for placing an educator on leave of absence for temporary disability if, in the board's judgment in consultation with a physician who has performed a thorough medical examination of the educator, the educator's condition interferes with the performance of regular duties. The educator shall have the right to present to the board testimony or other information relevant to the educator's fitness to continue in the performance of regular duties. [See DBB]

Return to Active Duty

Notice

The educator shall notify the superintendent of a desire to return to active duty no later than the 30th day before the expected date of return. The notice must be accompanied by a physician's statement indicating the educator's physical fitness for the resumption of regular duties.

Placement

An educator returning to active duty after a leave of absence for temporary disability is entitled to an assignment at the school where the educator formerly taught, subject to the availability of an appropriate teaching position. In any event, the educator shall be placed on active duty no later than the beginning of the next school year. A principal at another campus voluntarily may approve the appointment of an employee who wishes to return from leave of absence. However, if no other principal approves the assignment by the beginning of the next school year, a district must place the

employee at the school at which the employee formerly taught or was assigned.

Length of Absence

A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.

Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)

Sick Leave Different from Temporary Disability Leave

An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. *Atty. Gen. Op. H-352 (1974)*

Assault Leave

In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at Coordination with Workers' Compensation Benefits.

A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:

1. Could be prosecuted for assault; or
2. Could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

Notice of Rights

Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.

Assignment to Assault Leave

At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.

Coordination with Workers' Compensation Benefits

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

Education Code 22.003(b)-(c-1)

Religious Observances

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

Compliance with a Subpoena

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

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

Jury Duty

An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror [see DG]. *Education Code 22.006(c)*

Attendance at Truancy Hearing

A district may not terminate the employment of a permanent employee because the employee is required under Family Code 65.062(b) to attend a truancy court hearing. *Family Code 65.063*

Developmental Leaves of Absence

A board may grant a developmental leave of absence for study, research, travel, or other suitable purpose to an employee working in a position requiring a permanent teaching certificate who has served in a district at least five consecutive school years.

A developmental leave of absence may be granted for one school year at one-half salary or for one-half of a school year at full salary paid to the employee in the same manner, on the same schedule,

and with the same deductions as if the employee were on full-time duty.

An employee on developmental leave shall continue to be a member of the Teacher Retirement System of Texas and shall be an employee of a district for purposes of participating in programs, holding memberships, and receiving benefits afforded by employment in a district.

Education Code 21.452

Leave for Sick Foster Child

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

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

Labor Code 21.0595

Leave for Peace Officers

Quarantine Leave

A board shall develop and implement a paid quarantine leave policy for peace officers who are employed by the district and ordered to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.

A paid quarantine leave policy must:

1. Provide that a peace officer on paid quarantine leave receive:
    a. All employment benefits and compensation, including leave accrual, pension benefits, and health benefit plan benefits for the duration of the leave; and
    b. Reimbursement for reasonable costs related to the quarantine, including lodging, medical, and transportation; and
2. Require that the leave be ordered by the person’s supervisor or the district’s health authority.

A district may not reduce a peace officer’s sick leave balance, vacation leave balance, holiday leave balance, or other paid leave

balance in connection with paid quarantine leave taken in accordance with the district's policy.

Local Gov't Code 180.009

Mental Health Leave

A district shall develop and adopt a policy allowing the use of mental health leave by peace officers and full-time telecommunicators authorized under Occupations Code 1701.405 employed by the district who experience a traumatic event in the scope of that employment.

The mental health leave policy must:

1. Provide clear and objective guidelines establishing the circumstances under which a peace officer or telecommunicator is granted and may use mental health leave;
2. Entitle a peace officer or telecommunicator to mental health leave without a deduction in salary or other compensation;
3. Enumerate the number of mental health leave days available to a peace officer or telecommunicator; and
4. Detail the level of anonymity for a peace officer or telecommunicator who takes mental health leave.

A mental health leave policy may provide a list of mental health services available to peace officers and telecommunicators in the area of the district.

Gov't Code 614.015

Line of Duty Illness or Injury Leave

"Emergency medical services personnel" means a person described by Health and Safety Code 773.003, who is a paid employee of a district.

"Police officer" means a paid employee who is full-time, holds an officer license issued under Occupations Code Chapter 1701, and regularly serves in a professional law enforcement capacity in the police department of a district. The term includes the chief of the department.

Local Gov't Code 177A.001

A district shall provide to a police officer or emergency medical services personnel a leave of absence for an illness or injury related to the person's line of duty. The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury. If necessary, the district shall continue the leave for at least one year.

At the end of the leave of absence, the board may extend the leave of absence at full or reduced pay.

If the police officer or emergency medical services personnel is temporarily disabled by a line of duty injury or illness and the leave of absence and any extension granted by the board has expired, the person may use accumulated sick leave, vacation time, and other accrued benefits before the person is placed on temporary leave.

If the leave of absence and any extension granted by the board has expired, a police officer or emergency medical services personnel who requires additional leave shall be placed on temporary leave.

Local Gov't Code 177A.003

If able, a police officer or emergency medical services personnel may return to light duty while recovering from a temporary disability. If medically necessary, the light duty assignment may continue for at least one year.

After recovery from a temporary disability, a police officer or emergency medical services personnel shall be reinstated at the same rank and with the same seniority the person had before going on temporary leave. Another police officer or emergency medical services personnel may voluntarily do the work of the injured person until the person returns to duty.

Local Gov't Code 177A.004

Absence Control

Uniform enforcement of a reasonable absence-control rule is not retaliatory discharge. For example, a district that terminates an employee for violating a reasonable absence-control provision cannot be liable for retaliatory discharge as long as the rule is uniformly enforced. *Howell v. Standard Motor Prods., Inc., No. 4:99-CV-987-E, 2001 WL 196969 (N.D. Tex. Feb. 26, 2001) (Family and Medical Leave Act case); Specialty Retailers v. DeMoranville, 933 S.W.2d 490 (Tex. 1996) (age discrimination case); Cont'l Coffee Prods. Co. v. Cazarez, 937 S.W.2d 444 (Tex. 1996) (workers' compensation claim); Gonzalez v. El Paso Nat. Gas Co., No. EP-81-CA-323, 1986 WL 4796 (W.D. Tex. Mar. 5, 1986) (sex discrimination case)*

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

Leave Administration

The Superintendent shall develop administrative regulations addressing employee leaves and absences to implement the provisions of this policy.

Definitions

The term “immediate family” is defined as:

Immediate Family

1. Spouse.
2. Son or daughter, including a biological, adopted, or foster child, a son- or daughter-in-law, a stepchild, a legal ward, or a child for whom the employee stands *in loco parentis*.
3. Parent, stepparent, parent-in-law, or other individual who stands *in loco parentis* to the employee.
4. Sibling, stepsibling, and sibling-in-law.
5. Grandparent and grandchild.
6. Any person residing in the employee’s household at the time of illness or death.

For purposes of the Family and Medical Leave Act (FMLA), the definitions of spouse, parent, son, or daughter, and next of kin are found in DECA(LEGAL).

Family Emergency

The term “family emergency” shall be limited to disasters and life-threatening situations involving the employee or a member of the employee’s immediate family.

Leave Day

A “leave day” for purposes of earning, using, or recording leave shall mean the number of hours per day equivalent to the employee’s usual assignment, whether full-time or part-time.

School Year

A “school year” for purposes of earning, using, or recording leave shall mean the term of the employee’s annual employment as set by the District for the employee’s usual assignment, whether full-time or part-time.

Catastrophic Illness or Injury

A catastrophic illness or injury is a severe condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee’s immediate family that requires the services of a licensed practitioner for a prolonged period of time and that forces the employee to exhaust all leave time earned by that employee and to lose compensation from the District. Such conditions typically require prolonged hospitalization or recovery or are expected to result in disability or death. Conditions relating to pregnancy or childbirth shall be considered catastrophic if they meet the requirements of this paragraph.

Note: For District contribution to employee insurance during leave, see CRD(LOCAL).

Availability

The District shall make state personal leave and local leave for the current year available for use at the beginning of the school year.

State Leave Proration

If an employee separates from employment with the District before their last duty day of the school year or begins employment after the first duty day of the school year, state personal leave shall be prorated based on the actual time employed.

If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for state personal leave the employee used beyond their pro rata entitlement for the school year.

Medical Certification

An employee shall submit medical certification of the need for leave if:

1. The employee is absent more than three consecutive workdays because of personal illness or illness in the immediate family;
2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or Superintendent; or
3. The employee requests FMLA leave for the employee's serious health condition; a serious health condition of the employee's spouse, parent, or child; or for military caregiver leave.

In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]

State Personal Leave and Local Leave

The Board requires employees to differentiate the manner in which state personal leave and local leave is used.

Nondiscretionary Use

Nondiscretionary use of leave shall be for the same reasons and in the same manner as state sick leave. [See DEC(LEGAL)]

Nondiscretionary use includes leave related to the birth or placement of a child and taken within the first year after the child's birth, adoption, or foster placement.

Discretionary Use

Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.

Request for Leave

In deciding whether to approve or deny a request for discretionary use of state personal leave and/or local leave, the supervisor shall

not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the effect of the employee's absence on the educational program and District operations, as well as the availability of substitutes.

Discretionary use of state personal leave and/or local leave shall not exceed two consecutive workdays.

Schedule Limitations

Discretionary use of leave shall not be permitted during or on:

1. The first week of a new semester;
2. The day before or after a school holiday;
3. Days scheduled for end-of-semester or end-of-year exams;
4. Days scheduled for state-mandated assessments; or
5. Professional or staff development days.

Local Leave

Each employee shall earn five, six, or seven paid local leave days per school year based on months of service and in accordance with administrative regulations.

Local leave shall be used for personal illness, illness of an immediate family member, death in the immediate family, or family emergency. Up to three days of paid leave per year may be used for personal business.

An employee may contribute local leave to the Supplemental Sick Leave Bank in accordance with this policy.

Local leave shall accumulate without limit.

Funeral Leave

Each employee who is eligible for the comprehensive leave program shall be granted three days of bereavement leave per occurrence upon the death of a spouse, child, parent, current parent-in-law, sibling, or any other person residing in the employee's home at the time of death. Such leave shall be taken with no loss of pay or other paid leave.

Additional days in excess of the three days, or leave for other funerals not covered by this provision, shall be deducted from the employee's accrued leave.

A regular hourly employee shall not be eligible for funeral leave and may use accrued leave for a death in the employee's immediate family.

Supplemental Sick Leave Bank (SSLB)

The District shall establish a Supplemental Sick Leave Bank that employees may join through contribution of local leave.

Leave contributed to the bank shall be solely for the use of participating employees. An employee who is a member of the bank may request leave from the bank if the employee experiences a catastrophic illness or injury and has exhausted all paid leave and any applicable compensatory time.

Implementation procedures for the SSLB shall be published in the *Finance Procedures Manual*.

Professional Business

Short leaves with full pay may be granted to employees for visiting schools, for attending important professional meetings, or for carrying out some special assignments on recommendation of the department head and the Superintendent. An employee may be asked to file a written report. Each administrator may be allowed professional leave without salary deduction for attending national and state professional meetings, visiting schools, and attending other professional meetings, at their own expense, upon approval of the immediate supervisor and department head.

Procedures for authorization and reimbursement for a professional trip are outlined in the *Finance Procedures Manual.*

Board Meeting / Professional Consultation

When meetings between the Board or designee and the representative organization are scheduled during normal working hours of a school day, the members shall be relieved, as necessary, from all regular duties without loss of pay in order to permit their attendance at such meetings.

Employment Dispute Resolution Meetings

When it is necessary for any party of interest to attend an employment dispute resolution meeting, they shall, upon notice, be released without loss of pay in order to permit participation in the foregoing activities. Any employee who appears as a witness in such investigation or meetings shall be accorded the same right. [See DGBA(LOCAL) and appropriate regulations]

Unpaid Leave

Political Leave

Upon application, an employee shall be granted an unpaid leave of absence not to exceed four years, for the purpose of seeking or, if elected, serving in a public office.

Developmental Leave

An employee may be granted an unpaid leave for one year for the purpose of engaging in a study designed to improve the employee's professional competence. Such leave request shall be accompanied by a statement describing how the leave is designed to improve professional competence. A study leave shall be effective at the beginning of the semester following the date of request. Upon request, such leave may be extended for one additional year. Upon returning, the employee must provide proof of the academic work completed.

An employee with five years of service with the Teacher Retirement System of Texas (TRS) may purchase up to two years of credit for developmental leave by notifying TRS in advance of the intention to take such leave, having the District certify that the leave request will meet the requirements of improving professional competency, and making the appropriate deposit with TRS.

Family and Medical Leave

FMLA leave shall run concurrently with applicable paid leave and compensatory time, as applicable.

Note: See DECA(LEGAL) for provisions addressing FMLA.

Twelve-Month Period

For purposes of an employee's entitlement to FMLA leave, the 12-month period shall be July 1 through June 30.

Combined Leave for Spouses

When both spouses are employed by the District, the District shall limit FMLA leave for the birth, adoption, or placement of a child, or to care for a parent with a serious health condition, to a combined total of 18 weeks.

Intermittent or Reduced Schedule Leave

The District shall permit use of intermittent or reduced schedule FMLA leave for the care of a newborn child or for the adoption or placement of a child with the employee.

Certification of Leave

When an employee requests leave, the employee shall provide certification, in accordance with FMLA regulations, of the need for leave.

Fitness-for-Duty Certification

In accordance with administrative regulations, when an employee takes FMLA leave due to the employee's own serious health condition, the employee shall provide, before resuming work, a fitness-for-duty certification.

Leave at the End of Semester

When a teacher takes leave near the end of the semester, the District may require the teacher to continue leave until the end of the semester.

Temporary Disability Leave

Certified Employees

Any full-time employee whose position requires educator certification by the State Board for Educator Certification or by the District shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave placement and DEC(LEGAL) for return to active duty.]

All Other Employees

All other employees shall be eligible for temporary disability leave. The maximum length of temporary disability leave shall be 180 calendar days. [See DBB(LOCAL) for temporary disability leave.] Reinstatement to regular employment shall be on a position-available basis only.

Notification

An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent as a request for temporary disability leave.

Concurrent Use of Paid Leave

The District shall require the employee to use temporary disability leave and paid leave, including any compensatory time, concurrently with FMLA leave.

Workers' Compensation

Note: Workers' compensation is not a form of leave. The workers' compensation law does not require the continuation of the District's contribution to health insurance.

An absence due to a work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.

Paid Leave Offset

The District shall permit the option for paid leave offset in conjunction with workers' compensation income benefits.

Court Appearances

Absences due to compliance with a valid subpoena or for jury duty shall be fully compensated by the District and shall not be deducted from the employee's pay or leave balance.

Absences for court appearances related to an employee's personal business shall be deducted from the employee's accrued leave or, at the employee's option, be taken as leave without pay.

Payment for Unused Leave

The 1972 Plan

An employee hired before October 10, 1972, who leaves employment with the District shall be eligible to receive payment for accumulated, unused paid leave if they:

1. Have been continuously employed by the District since initial employment; and
2. Have become eligible for retirement in accordance with the provisions of TRS.

An employee who meets all criteria shall receive payment for the unused portion of any accumulated, unused paid leave at their current daily rate of pay, not to exceed one-half of the contract year or the number of days available as of August 31, 1986, whichever is less.

If an employee dies while under contract, any accumulated personal leave benefits, not to exceed one-half of the contract year or the number of days available as of August 31, 1986, shall be paid to the estate of the deceased.

Exception Unless otherwise approved by the Board, an employee is not eligible for buy-back of unused state sick leave, state personal leave, and local leave if they:

1. Are terminated from employment with the District;
2. Resign or retire in lieu of termination or nonrenewal;
3. Are under investigation for a terminable offense (while the investigation continues); or
4. Are found guilty in an investigation for a terminable offense.

DEFINITIONS

1. For the purposes of this regulation, the following definitions will apply to assault leave.

ASSAULT

a. For the purpose of this regulation and as described in Chapter 6 (Culpability Generally) of Texas Penal Code, Title 2: General Principles of Criminal Responsibility, an assault is an intentional, knowing, or reckless action causing bodily injury to another person.

ASSAULT LEAVE

b. Any eligible employee who is physically injured during the performance of the employee's regular duties, as a result of what he or she believes is an assault, may request a leave of absence to recover from the physical injuries resulting from the alleged assault. The leave of absence can only be for the duration of recovery from the physical injury and cannot extend past two years from the date of the assault. [See DEC(LOCAL), DI(LOCAL), and Texas Education Code 22.003(b).]

REPORTING ASSAULT

2. The guidelines for reporting physical assault are as follows:

NOTIFICATION

a. An eligible employee may report a physical assault sustained during the performance of regular duties to the supervisor, principal, or site administrator. The supervisor or administrator, or designee, with the assistance of the employee, if possible, must complete the Employee Injury and Treatment (EIT) form upon receiving a report of an assault. [See Houston Independent School District Employee Injury and Treatment form.] The supervisor or administrator must immediately forward a copy of the EIT form to Workers' Compensation and report the alleged assault to the District police department, if appropriate.

MEDICAL ATTENTION

b. In the event of injury, the employee will seek medical attention with a Workers' Compensation panel physician and/or other licensed medical provider.

ASSAULT LEAVE

3. An employee may request assault leave upon initial completion of the EIT form. [See paragraph 2.a.] If an employee does not request assault leave at this time, the employee may submit an amended EIT form to file for assault leave. The amended form must be completed and sent to Workers' Compensation within 30 calendar days from the date of the alleged assault.

TEMPORARY ASSAULT LEAVE

a. The initial assignment to assault leave is temporary while awaiting the investigation and confirmation that a physical injury occurred while in the course and scope of

employment and due to an assault. [See DGBA(LOCAL)]

INITIAL RECORD OF LEAVE

b. Beginning with the injured employee's first day of absence, the employee's time must be coded to reflect ASALT (assault leave). The timekeeper must code time as assault leave until advised otherwise by Workers' Compensation.

MEDICAL TREATMENT

c. The injured employee will take the original EIT form to the Workers' Compensation panel physician authorizing medical treatment. [See Houston Independent School District Employee Injury and Treatment form.] Following medical treatment, the Workers' Compensation panel physician provides a completed DWC Form 73-Work Status Report to the employee and Workers' and Unemployment Compensation. The employee is also responsible for forwarding any and all DWC 73-Work Status Reports to Workers' and Unemployment Compensation.

INVESTIGATION

4. Upon receipt of the assault leave request and the DWC 73-Work Status Report, Workers' and Unemployment Compensation sends an investigation request notice to the principal, supervisor, or site administrator along with the Assault Leave Investigation form.

WORK LOCATION INVESTIGATION

a. The principal, supervisor, or site administrator is responsible for conducting the investigation of the incident, utilizing the Assault Leave Investigation form. [See Assault Leave Investigation form.] The principal, supervisor, or site administrator will seek to obtain statements from the injured employee, the alleged assailant, and witnesses. The principal, supervisor, or site administrator will send the investigation report to Workers' and Unemployment Compensation within five business days of the request for assault leave.

POLICE REPORT

b. Where appropriate and applicable, a police report will be completed and forwarded to Workers' and Unemployment Compensation within five days of the request for assault leave. The principal, supervisor, or site administrator is responsible for providing Workers' and Unemployment Compensation with the incident number when the District police department is involved.

FALSE REPORT

c. An employee will not knowingly file a false police report. A person commits an offense if, with intent to deceive, he or she knowingly makes a false statement that is ma-

terial to a criminal investigation and makes this statement to:

- A peace officer conducting the investigation; or
- Any employee of a law enforcement agency that is authorized by the agency to conduct the investigation, and that the employee knows is conducting the investigation. [See Texas Penal Code, Chapter 37]

WORKERS' COMPENSATION REVIEW

d. Workers' and Unemployment Compensation will review the completed Assault Leave Investigation form and the medical documentation and present the information to the District's Assault Leave Committee for a decision regarding assault leave.

ASSAULT LEAVE COMMITTEE

5. The Assault Leave Committee will include the following members: a Human Resources business partner; the general manager, Benefits; a District EEO representative; a District Legal Services representative; the manager or senior manager, Workers' Compensation; and the Assault Leave administrator or assigned designee.

DECISION OF ASSAULT LEAVE COMMITTEE

a. Based on the findings of the investigation, police report, medical treatment information, other information regarding the incident, and discussion with the principal, supervisor, or site administrator concerning his or her personal knowledge of the events of the incident, the Assault Leave Committee will approve or disapprove the assault leave request.

NOTIFICATION OF DECISION

b. Upon the decision of the Assault Leave Committee, the Workers' Compensation department will send a memorandum along with any pertinent forms and reports to the employee, the principal, supervisor, or site administrator, and Payroll Operations, notifying them of the approval or denial of the assault leave request.

PAYROLL REPORTING

6. If the results of the investigation do not support approval of the assault leave, the payroll transmittal must be adjusted to reflect Workers' Compensation or the employee's personal leave retroactive to the first date of absence in accordance with Section 5.b. of this regulation.

ADJUST EMPLOYEE ABSENCE

a. The Workers' Compensation department will notify Payroll Operations within 24 hours of the decision of approval or disapproval of assault leave. In the event that the assault leave has been disapproved, Payroll Operations will charge the employee's personal leave with

those days allocated for assault leave. In no event will an employee have more than 20 work days deducted from his or her accrued leave bank as a result of or due to the time it takes to make a decision to disapprove a request for assault leave.

COMBINED BENEFITS

b. Under no circumstances should the combined benefits of Workers' Compensation and assault leave exceed 100 percent of the employee's regular pay. The employee will reimburse the District for any overpayments.

APPEALS PROCESS

7. If the request for assault leave is initially denied, the employee will have 30 calendar days from the date of decision to dispute the denial. Disputes or appeals to a decision of the Assault Leave Committee should be made in writing and submitted to the Workers' Compensation department. Should the appeal for assault leave be approved, notification of the approval including all pertinent forms and reports will be copied and sent to the employee; the principal, supervisor, or site administrator; and Payroll Operations. In the event that an employee is not satisfied with the decision made on appeal, the employee may appeal the dispute to Level Two of the District's Formal Dispute Resolution Process. [See DGBA]

EMPLOYEE ASSISTANCE PROGRAM SERVICES

8. If the assault leave is approved, Workers' and Unemployment Compensation will advise the Employee Assistance Program (EAP) provider of the assault and request that a representative of the EAP contact the injured employee to offer EAP services. The EAP contact and services offered will be held in the strictest of confidence.

COORDINATION OF BENEFITS

9. Assault leave benefits will be coordinated with Workers' Compensation benefits. The District will supplement Workers' Compensation benefits to ensure that the injured employee receives 100 percent of his or her regular pay. Assault leave benefits may continue for a maximum of up to two years from the date of the assault on the condition that the employee provides a Medical Status Report every 30 days from his or her Workers' Compensation panel physician substantiating that the injured employee's physical medical condition prohibits his or her return to duty.

RETURN TO WORK

10. The guidelines for returning to work are as follows:

TEXAS DEPARTMENT OF INSURANCE

a. If the Texas Department of Insurance Division of Workers' Compensation (TDI-DWC) orders a medical examination by a state-appointed designated doctor and the designated doctor is instructed to address return-to-work status, the designated doctor's report has presumptive

weight and supersedes any and all other Workers' Compensation panel physicians. The employee's work status will be based on the date of receipt of the work status report if the work status report is retroactive. Should the designated doctor's decision be overturned by TDI-DWC, the injured employee's benefits will be reinstated retroactively.

CHANGE IN ELIGIBILITY

b. A change in eligibility for assault leave benefits may occur as a result of one of the following conditions:

- If at any point during the two-year maximum allowed recovery period from the date of assault, the employee is released to return to work, by either a Workers' Compensation panel physician or state-appointed designated doctor, with restrictions that are able to be accommodated by the District, the employee will no longer be eligible for assault leave benefits; or
- If the employee is no longer being treated for any physical injuries due to the assault, the employee is no longer eligible for assault leave benefits.

AMERICANS WITH DISABILITIES ACT (ADA) REFERRAL

c. If after the two-year maximum allowed recovery period from the date of physical injury from the assault the employee has not been released to return to work, the employee will no longer be eligible for assault leave benefits. However, the employee's Workers' Compensation panel physician or state-appointed designated doctor, whichever is applicable, may provide evidence to substantiate that the employee's current medical condition has degenerated as a result of the injury and that the employee cannot perform his or her essential job functions. The matter would then be referred to the ADA Accommodation Request Review Committee to determine whether reasonable accommodations can be made for the employee.

CONSULTATION

11. This regulation has been through consultation (Administrative: April 11, 2016; Instructional: April 6, 2016; Noninstructional: April 5, 2016).

MAINTENANCE RESPONSIBILITY

12. The chief financial officer, Finance, is responsible for the maintenance of this regulation.

EFFECTIVE DATE

13. This regulation shall be effective as of the adoption date, April 20, 2016.

BUSINESS AND CONSULTATION LEAVE

1. In order to encourage involvement and active participation in professional activities, the District allows employees to be absent with full pay for the purposes outlined below. See References (a) and (b). Any employee desiring such leave should submit a request to the appropriate superior (principal, department head, or supervisor) at least ten school days in advance of the pending absence and submit a written request on the Off Campus Duty form. See Reference (d). Such leave will not be charged against the employee's accumulated leave balance.

PROFESSIONAL BUSINESS

a. Short leaves with full pay may be granted to employees for visiting schools, for attending important professional meetings, or for carrying out some special assignment on recommendation of their department head and the Superintendent. The employee may be asked to file a written report. Each administrator may be allowed professional leave without salary deduction to attend national and state professional meetings, visit schools, and attend other professional meetings, at his or her own expense, upon approval of the administrator's immediate supervisor and department head.

   The District Board of Education will provide a budgeted amount for the costs of travel and per diem expenses of administrators who wish to attend national, state, and other professional meetings. Procedures for authorization of and reimbursement for a professional trip are outlined in Reference (c).

PROFESSIONAL CONSULTATION

b. When meetings between the Board of Education or its designee and a representative organization are scheduled during normal working hours of a school day, the members of the organization will be relieved, as necessary, from all regular duties without loss of pay in order to attend such meetings.

CONSULTATION

2. This regulation has been through consultation (Administrative: March 9, 2004; Instructional: February 5, 2004; Noninstructional: May 11, 2004).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DEC(LEGAL)

(b) Board Policy DEC(LOCAL)

(c) Finance Procedures Manual §200 Accounts Payable

(d) Form – Off Campus Duty

DISPUTE RESOLUTION LEAVE

1. When it is necessary for an employee to attend an employment dispute resolution meeting, he or she will, upon notice, be released without loss of pay in order to participate in the meeting. Any employee who appears as a witness in such a meeting will be accorded the same right. See Reference (a).

CONSULTATION

2. This regulation has been through consultation (Administrative: July 6, 2004; Instructional: July 1, 2004; Noninstructional: May 11, 2004).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for the maintenance of this regulation.

REFERENCE:

(a) Board Policy DEC(LOCAL)

COURT APPEARANCE

1. Employees subpoenaed for non-District mandatory court appearances as court witnesses may be absent without loss of pay provided a copy of the subpoena is submitted to the department's time recorder and maintained in the department's payroll files. Absences for court appearances related to an employee's personal business will be deducted from the employee's personal leave or taken by the employee as leave without pay. Practice regarding mandatory court appearances for District-related matters is described in References (a), (b), and (c).

CONSULTATION

2. This regulation has been through consultation (Administrative: May 11, 2006; Instructional: May 10, 2006; Noninstructional: May 9, 2006).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for the maintenance of this regulation.

REFERENCES:

(a) Board Policy DEC(LEGAL)

(b) Board Policy DEC(LOCAL)

(c) BDD(REGULATION)

Funeral Leave

Contract, regular, and probationary employees may be absent without loss of pay and without personal leave deduction in cases of the death of a spouse, parent, current parent-in-law, child, sibling, or any person residing in the employee's home at the time of death for a period not to exceed three days per occurrence. [See Board Policy DEC(LEGAL) and DEC(LOCAL)]

Additional days and all other funerals will be charged to the local personal leave balance for contract, regular, and probationary employees. A regular hourly employee may use personal leave days for a death in the employee's immediate family.

Maintenance Responsibility

The chief officer, Human Resources, is responsible for maintenance of this regulation.

Effective Date

This regulation is effective as of the adoption date, August 19, 2024.

JURY DUTY LEAVE

1. Employees called for jury duty may be absent without loss of pay subject to verification of the actual days served via the affidavit provided by the Shepherd of the Jury. If the employee is released from jury duty before noon, he or she must report to work. If jury duty is scheduled for noon or after, the employee must report to work in the morning.

MAINTENANCE RESPONSIBILITY

2. The deputy superintendent of human talent, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) DEC8(REGULATION)

RESERVE MILITARY DUTY LEAVE

1. Members of the state military forces or members of any of the reserve components of the armed forces will be entitled to leave, not to exceed 15 workdays in any one federal fiscal year (July 1–June 30), from their duties without loss of time, efficiency rating, vacation time, or salary for all days during which they are engaged in authorized training or duty ordered or authorized by the proper authority. Leaves in excess of 15 workdays may be taken from the personal leave bank. See References (a) and (b).

CONSULTATION

2. This regulation has been through consultation (Administrative: August 13, 2001; Instructional: August 14, 2001; Noninstructional: November 15, 2001).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DEC(LEGAL)

(b) Board Policy DEC(LOCAL)

General Information

Comprehensive Leave Program

Comprehensive leaves are all leaves established for employees. The Comprehensive Leave Program of the Houston Independent School District (HISD) includes both compensated leave and unpaid leave privileges. The types of leaves that may be used by employees without loss of pay are described in DED(REGULATION), DEC2(REGULATION), DEC3(REGULATION), DEC4(REGULATION), DEC5(REGULATION), DEC6(REGULATION), DEC7(REGULATION), and DECA(REGULATION). The types of leave for which employees will not be paid are described in this regulation.

The District shall provide employees with five days per year of state personal leave. State personal leave days may be accumulated without restriction and may be used for any reason. However, an employee may not use more than 10 state personal leave days in one year except that the division superintendent may grant an exception to this provision upon request and in unique circumstances.

The District grants paid leave as set forth in the chart below. An employee shall accrue one day of paid leave per month of service to be credited at the beginning of each year. The first five days accrued shall be designated as state personal leave the remainder of days accrued shall be designated as local leave. The chart also designates other common leave types.

Types of Leave	Paid/ Unpaid	Number of Days Paid
State Personal Leave [See DEC(LEGAL)]	Paid	5 days per year
Local Personal Leave 10-month employees 11-month employees 12-month employees	Paid	 5 days per year 6 days per year 7 days per year
Temporary Disability All leave-eligible employees For full-time educators, temporary disability leave shall be in accordance with Education Code 21.409. Temporary disability leave may be granted to other District employees with limitations established in DEC(LOCAL).	Unpaid	180 calendar days

Types of Leave	Paid/ Unpaid	Number of Days Paid
Funeral Leave On the death of a spouse, parent, current parent-in-law, child, sibling, or other person residing in the employee's household	Paid	3 days per event
Vacation Leave For 12-month employees only	Paid	Up to 4 weeks or per contract
Family Medical Leave [See DECA(REG)]	Unpaid	Up to 12 weeks
Military Leave	Unpaid	Not to exceed 4 years, depending on military orders.

Use of Leave

In deciding whether to approve or deny a request for discretionary use of state personal leave and/or local leave, the supervisor shall not seek or consider the reasons for which an employee requests to use leave. The supervisor shall, however, consider the duration of the requested absence in conjunction with the employee's absence from the educational program and District operations, as well as the availability of substitutes. Supervisors may also deny leave on days when there are already other absences that will impact the quality of instruction in the school.

An employee must get approval to take any number of leave days regardless of type. Employees in a school and considered to be staff members of the school must get approval from the school principal or acting principal. All other employees must receive approval to take leave from their supervisor at the director level. Failure to receive approval from the principal or supervisor may result in disciplinary action up to and including termination.

Employees must request leave at least two weeks in advance or as soon as possible. Failure to give adequate notice may impact whether the leave request is granted. In the event a request cannot be made prior to the person having to take leave (such as in the case of an unexpected illness) the employee must make every effort to inform their principal or director as soon as possible, including by phone.

Discretionary use of state personal leave and/or local leave shall not exceed two consecutive workdays. Principals and supervisors

will not approve requests for over two consecutive workdays. However, a division superintendent, chief officer, or designee, may approve such a request in unique and rare circumstances.

Discretionary use of leave shall not be permitted for employees who have exhausted state and local leave days. Employees may take advantage of specific types of leaves for which they are eligible as outlined in Policy DEC(LOCAL) and DEC(LEGAL), such as family medical leave, military leave, and temporary disability leave. Employees who qualify under the Americans with Disabilities Act (ADA) may receive additional time off if deemed a reasonable accommodation in compliance with the ADA.

The District will not allow "docked days" for exempt employees who have exhausted state and local leave and are absent beyond their allocation except as permitted by District board policy. An employee who is absent beyond their allocated number of days will be subject to disciplinary action up to and including dismissal. A docked day is when an employee is denied pay because the employee does not have sufficient leave time to cover an absence.

Regardless of the amount of leave in an employee's leave bank, no employee may be absent for more than 15 days of leave per fiscal year (July 1 through June 30), except as otherwise provided in policy. Employees who have not yet accrued 15 days may not use unpaid days and shall be subject to involuntary reassignment and/or disciplinary action up to and including termination once they exhaust all paid leave days.

Applicable to Campus Employees

Discretionary use of leave, including vacation days, shall not be permitted during or on:

- The first week of a new semester;
- The day before or after a school holiday or recess day;
- Days scheduled for end-of-semester or end-of-year exams or during days scheduled for exams that are administered across the feeder pattern, unit, or division;
- Days scheduled for state-mandated assessments;
- Professional or staff development days.

Unpaid Leave

A leave of absence without pay for a period not to exceed one year may be granted to a continuing contract professional or regular noninstructional employee upon approval of the division superintendent or chief. Such leaves may be extended upon the recommendation of the chief officer, Human Resources, and the approval of the Superintendent. When an unpaid leave has been taken, fail-

ure of the employee to notify Human Resources by April 1 of their intention to return the following fall term, or at least 60 days prior to the requested date of return, may be cause for termination of the contract of a professional educator, or for termination of employment of a noninstructional employee. Return from an unpaid leave will be on a position-available basis. One category of leave may not be used to extend any other category of leave.

Military Leave Other than Reserve Military Duty Leave

An employee who is inducted or called up for military duty in any branch of the Armed Forces of the United States will be granted a military leave of absence. Upon return from such leave, an employee will be placed in the same position on the salary schedule they would have occupied if employed in the District during said period, provided the military leave does not exceed four years and the employee returns directly to HISD from military service.

Political Leave

Upon application, a leave of absence not to exceed four years will be granted to any employee for the purpose of seeking or, if elected, serving in a public office.

Developmental Leave

An employee may be granted a leave for one year for the purpose of engaging in a study designed to improve the employee's professional competence if approved by the division superintendent or chief. Such a leave request must be accompanied by a statement describing how the leave is designed to improve professional competence. A study leave will be effective at the beginning of the semester following the date of request. Upon request, such leave may be extended for one additional year.

Retirement System Credit

An employee with five years of service with the Teacher Retirement System (TRS) may purchase up to two years of credit for developmental leave. The employee must notify the TRS in advance of their intention to take such leave, having the District certify that the leave request will meet the requirements of improving the employee's professional competency and make the appropriate deposit with the TRS.

Return to Duty

The request for a return to duty must be accompanied by a transcript from an accredited college or university or other documentation indicating the accomplishment of the purpose for the leave.

Peace Officers

Quarantine Leave

Notwithstanding the above, a District peace officer shall be granted 5 days of quarantine leave when ordered by the local health authority or supervisor to quarantine or isolate due to possible known exposure to a communicable disease while on duty.

Mental Health Leave

A District peace officer or a full-time licensed telecommunicator (e.g., a police dispatcher) who experiences a traumatic event in the scope of employment will be granted a maximum of five days of

mental health leave per traumatic event. The amount of leave time necessary is determined by the chief of police or designee.

Extended Leave for Illness or Injury

For a District peace officer who experiences an illness or injury related to their line of duty and who, following the required leave of absence with full pay for a period commensurate with the nature of the illness or injury as required by law, is unable to return to work, the District shall extend the leave of absence, not to exceed two years, with no loss of pay.

Administrative Internship Program

The purpose of the HISD internship program is to increase the quality of teaching and administration within the District. On-the-job-experience for one semester provides enriching and broadening experiences for the participants. In addition, administrators and teachers working on doctoral degrees must satisfy a required residence period in a university according to university policy. Teachers working on certification in administration or supervision in a state university must complete the internship prior to professional certification. HISD employees and doctoral students who are not HISD employees may apply. The doctoral student program is subject to HISD Board-approved funding.

Application Procedure for HISD Employees

The procedure for requesting an internship placement in HISD will be as follows:

1. The employee applies to their university advisor or program coordinator and requests permission to register for the required internship course offered by the university.
2. An HISD teacher seeking administrative certification and required by their university to complete an internship in a school or the central office may apply as follows:
    - The teacher contacts the District's manager, University Relations, to discuss the placement request;
    - The teacher requests permission from the university advisor or program coordinator to enter the internship program;
    - The teacher obtains verbal permission from their immediate supervisor to participate in the internship program;
    - The teacher identifies an administrator who is willing to supervise the activities to be performed and to assess the teacher;
    - The teacher completes the Internship Application and obtains the signatures from the university advisor or program coordinator and field supervisor's signatures. [See

the Houston Independent School District Internship Application]; and

- The teacher submits the request to the manager, University Relations, for approval.

3. The teacher will receive the approved application for distribution to the university advisor or program coordinator and field supervisor.

An employee must perform their regular duties within the school hours. A classroom teacher, at their discretion, can perform administrative duties during the off period.

Application Procedure for Nonemployee Doctoral Students

The procedure for entrance of a nonemployee doctoral student into the HISD Internship Program will be as follows:

1. The doctoral student requests that their university recommend them to the chief officer, Human Resources, for the internship.
2. The chief officer, Human Resources, obtains the name of the HISD administrator who agrees to supervise the applicant and notifies the manager, University Relations.
3. The manager, University Relations, notifies the university advisor or program coordinator of the approval and the name of the HISD administrator who will supervise the applicant.
4. All applicants who are not current employees of HISD must complete an Access to Police Records form and submit it with the application form at least two weeks prior to beginning the internship.

Maintenance Responsibility

The chief officer, Human Resources, is responsible for maintenance of this regulation.

Effective Date

This regulation is effective as of the adoption date, August 19, 2024.

Note: This policy summarizes the Family and Medical Leave Act (FMLA) and implementing regulations, including FML for an employee seeking leave because of a relative's military service. For provisions on leaves in general, see DEC. For provisions addressing leave for an employee's military service, see DECB.

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General Provisions

Covered Employer

All public elementary and secondary schools are "covered employers" under the FMLA, without regard to the number of employees employed. The term "employer" includes any person who acts directly or indirectly in the interest of a district to any of the district's employees. *29 U.S.C. 2611(4), 2618(a); 29 C.F.R. 825.104(a)*

Eligible Employee

"Eligible employee" means an employee who:

1. Has been employed by a district for at least 12 months. The 12 months need not be consecutive;
2. Has been employed by a district for at least 1,250 hours of service during the 12-months immediately preceding the commencement of leave; and
3. Is employed at a worksite where 50 or more employees are employed by the district within 75 miles of that worksite.

29 U.S.C. 2611(2); 29 C.F.R. 825.110

[A district that has no eligible employees must comply with the requirements at General Notice, below.]

Qualifying Reasons for Leave

A district shall grant leave to eligible employees:

1. For the birth of a son or daughter, and to care for the newborn child;
2. For placement with the employee of a son or daughter for adoption or foster care [For the definitions of "adoption" and "foster care," see 29 C.F.R. 825.122.];
3. To care for the employee's spouse, son or daughter, or parent with a serious health condition;
4. Because of a serious health condition that makes the employee unable to perform the functions of the employee's job [For the definition of "serious health condition," see 29 C.F.R. 825.113.];
5. Because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty) [For the definition of "military member," see 29 C.F.R. 825.126(b). For the definition of "covered active duty" and "call to covered active duty status," see 29 C.F.R. 825.102.]; and
6. To care for a covered service member with a serious injury or illness incurred in the line of duty if the employee is the spouse, son, daughter, parent, or next of kin of the service

member. [For the definitions of “covered service member” and “serious injury or illness,” see 29 C.F.R. 825.102, .122.]

29 U.S.C. 2612(a); 29 C.F.R. 825.112

For provisions regarding treatment for substance abuse, see 29 C.F.R. 825.119.

Qualifying Exigency

An eligible employee may take FMLA leave for one or more of the following qualifying exigencies:

1. Short-notice deployment.
2. Military events and related activities.
3. Childcare and school activities.
4. Financial and legal arrangements.
5. Counseling.
6. Rest and recuperation.
7. Post-deployment activities.
8. Parental care.
9. Additional activities, provided that the district and employee agree that the leave shall qualify as an exigency and agree to both the timing and duration.

29 C.F.R. 825.126

Pregnancy or Birth

Both parents are entitled to FMLA leave to be with a healthy newborn child (i.e., bonding time) during the 12-month period beginning on the date of birth. In addition, the expectant mother is entitled to FMLA leave for incapacity due to pregnancy, for prenatal care, or for her own serious health condition following the birth of the child. The expectant mother is entitled to leave for incapacity due to pregnancy even though she does not receive treatment from a health-care provider during the absence and even if the absence does not last for more than three consecutive calendar days. A spouse is entitled to FMLA leave if needed to care for a pregnant spouse who is incapacitated, during her prenatal care, or following the birth of a child if the spouse has a serious health condition. [For the definition of “needed to care for,” see 29 C.F.R. 825.124.] *29 C.F.R. 825.120*

Definitions

“Equivalent Position”

An “equivalent position” is one that is virtually identical to the employee's former position in terms of pay, benefits, and working conditions, including privileges, perquisites, and status. It must involve the same or substantially similar duties and responsibilities, which

must entail substantially equivalent skill, effort, responsibility, and authority. *29 C.F.R. 825.215(a)*

"Next of Kin" "Next of kin of a covered service member" (for purposes of military caregiver leave) means:

1. The blood relative specifically designated in writing by the covered service member as his or her nearest blood relative for purposes of military caregiver leave under the FMLA. The designated individual shall be deemed to be the covered service member's only next of kin; or
2. When no such designation has been made, the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority:
    a. Blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions,
    b. Brothers and sisters,
    c. Grandparents,
    d. Aunts and uncles, and
    e. First cousins.

    If there are multiple family members with the same level of relationship to the covered service member, all such family members shall be considered the covered service member's next of kin and may take FMLA leave to provide care to the covered service member, either consecutively or simultaneously.

29 C.F.R. 825.127(d)(3)

"Parent" "Parent" (for purposes of family, medical, and qualifying exigency leave) means a biological, adoptive, step or foster father or mother, or any other individual who stood in loco parentis to the employee when the employee was a son or daughter. This term does not include parents "in law." *29 C.F.R. 825.122*

For the definition of "parent of a covered service member" for purposes of military caregiver leave, see 29 C.F.R. 825.127(d)(2).

"Son or Daughter" "Son or daughter" (for purposes of family and medical leave) means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under age 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence. *29 C.F.R. 825.122*

For the definition of “son or daughter on active duty or call to active duty status” for purposes of qualifying exigency leave, see 29 C.F.R. 825.122.

For the definition of “son or daughter of a covered service member” for purposes of military caregiver leave, see 29 C.F.R. 825.127(d)(1).

“Spouse”

“Spouse” means a husband or wife. For purposes of this definition, husband or wife refers to the other person with whom an individual entered into marriage as defined or recognized under state law for purposes of marriage in the state in which the marriage was entered into or, in the case of a marriage entered into outside of any state, if the marriage is valid in the place where entered into and could have been entered into in at least one state.

This definition includes an individual in a same-sex or common law marriage that either:

1. Was entered into in a state that recognizes such marriages; or
2. If entered into outside of any state, is valid in the place where entered into and could have been entered into in at least one state.

29 C.F.R. 825.102, .122

Leave Entitlement and Use

Amount of Leave

Except in the case of military caregiver leave, an eligible employee's FMLA leave entitlement is limited to a total of 12 workweeks of leave during a 12-month period for any one or more of the qualifying reasons.

Spouses who are employed by the same district may be limited to a combined total of 12 weeks of FMLA leave during any 12-month period if leave is taken for the birth of a son or daughter, the placement of a child for adoption or foster care, or to care for a parent with a serious health condition.

29 U.S.C. 2612(a), (f); 29 C.F.R. 825.120(a)(3), .200, .201

Determining the 12-Month Period

Except with respect to military caregiver leave, a district may choose any one of the following methods for determining the “12-month period” in which the 12 weeks of leave entitlement occurs:

1. The calendar year;
2. Any fixed 12-month “leave year,” such as a fiscal year or a year starting on an employee's “anniversary” date;
3. The 12-month period measured forward from the date any employee's first FMLA leave begins; or

4. A “rolling” 12-month period measured backward from the date an employee uses any FMLA leave.

29 C.F.R. 825.200(b)

Military Caregiver Leave

In the case of military caregiver leave, an eligible employee’s FMLA leave entitlement is limited to a total of 26 workweeks of leave during a “single 12-month period.” The “single 12-month period” is measured forward from the date an employee’s first FMLA leave to care for the covered service member begins, regardless of the method used by a district to determine the 12-month period for other FMLA leaves. During the “single 12-month period,” an eligible employee’s FMLA leave entitlement is limited to a combined total of 26 workweeks of FMLA leave for any qualifying reason. *29 C.F.R. 825.200(f), (g)*

Spouses who are employed by the same district may be limited to a combined total of 26 weeks of FMLA leave during the “single 12-month period” if leave is taken as military caregiver leave, for the birth of a son or daughter, for the placement of a child for adoption or foster care, or to care for a parent with a serious health condition. *29 C.F.R. 825.127(e)(3)*

Summer Vacation and Other Extended Breaks

If a district’s activity temporarily ceases and employees generally are not expected to report for work for one or more weeks (e.g., a school closing for two weeks for the Christmas/New Year holiday), those days do not count against the employee’s FMLA leave entitlement. Similarly, the period during the summer vacation when the employee would not have been required to report for duty is not counted against the employee's FMLA leave entitlement. *29 C.F.R. 825.200(h), .601(a)*

Intermittent or Reduced Leave Schedule

FMLA leave may be taken intermittently or on a reduced leave schedule under certain circumstances. “Intermittent leave” is FMLA leave taken in separate blocks of time due to a single qualifying reason. A “reduced leave schedule” is a leave schedule that reduces an employee's usual number of working hours per workweek, or hours per workday.

For leave taken because of the employee’s own serious health condition, to care for a spouse, parent, son, or daughter with a serious health condition, or military caregiver leave, there must be a medical need for leave and it must be that such medical need can be best accommodated through an intermittent or reduced leave schedule. Leave due to a qualifying exigency may also be taken on an intermittent or reduced schedule basis.

When leave is taken after the birth of a healthy child or placement of a healthy child for adoption or foster care, an employee may

take leave intermittently or on a reduced leave schedule only if the district agrees.

29 U.S.C. 2612(b); 29 C.F.R. 825.102, .202

Transfer to Alternative Position

If an employee requests intermittent or reduced schedule leave that is foreseeable based on planned medical treatment, a district may require the employee to transfer temporarily to an available alternative position for which the employee is qualified and which better accommodates recurring periods of leave than does the employee's regular position. *29 U.S.C. 2612(b)(2); 29 C.F.R. 825.204*

Calculating Leave Use

When an employee takes leave on an intermittent or reduced schedule, only the amount of leave actually taken may be counted toward the employee's leave entitlement. A district must account for intermittent or reduced schedule leave using an increment no greater than the shortest period of time that the district uses to account for use of other forms of leave, provided the increment is not greater than one hour. *29 C.F.R. 825.205*

Special Rules for Instructional Employees

Special rules apply to certain employees of school districts. These special rules affect leave taken intermittently or on a reduced schedule, or taken near the end of an academic term (semester) by instructional employees.

“Instructional employees” are those whose principal function is to teach and instruct students in a class, a small group, or an individual setting. This term includes not only teachers, but also athletic coaches, driving instructors, and special education assistants such as signers for the hearing impaired. It does not include teacher assistants or aides who do not have as their principal job actual teaching or instructing, nor does it include auxiliary personnel such as counselors, psychologists, or curriculum specialists. It also does not include cafeteria workers, maintenance workers, or bus drivers.

29 C.F.R. 825.600

Failure to Provide Notice of Foreseeable Leave

If an instructional employee does not give required notice of foreseeable leave to be taken intermittently or on a reduced schedule, a district may require the employee to take leave of a particular duration or to transfer temporarily to an alternative position. Alternatively, a district may require the employee to delay the taking of leave until the notice provision is met. *29 C.F.R. 825.601(b)*

20 Percent Rule

If an eligible instructional employee needs intermittent leave or leave on a reduced leave schedule to care for a family member with a serious health condition, to care for a covered service member, or for the employee's own serious health condition; the leave is foreseeable based on planned medical treatment; and the employee would be on leave for more than 20 percent of the total

number of working days over the period the leave would extend, a district may require the employee to choose:

1. To take leave for a period or periods of a particular duration, not greater than the duration of the planned treatment; or

2. To transfer temporarily to an available alternative position for which the employee is qualified, which has equivalent pay and benefits and which better accommodates recurring periods of leave than does the employee's regular position.

"Periods of a particular duration" means a block or blocks of time beginning no earlier than the first day for which leave is needed and ending no later than the last day on which leave is needed, and may include one uninterrupted period of leave. If an employee chooses to take leave for "periods of a particular duration" in the case of intermittent or reduced schedule leave, the entire period of leave taken will count as FMLA leave.

29 U.S.C. 2618(c); 29 C.F.R. 825.601, .603

Leave at the End of a Semester

As a rule, a district may not require an employee to take more FMLA leave than the employee needs. The FMLA recognizes exceptions where instructional employees begin leave near the end of a semester. As set forth below, the district may in certain cases require the employee to take leave until the end of the semester.

The school semester, or "academic term," typically ends near the end of the calendar year and the end of spring each school year. In no case may a school have more than two academic terms or semesters each year for purposes of the FMLA.

If a district requires the employee to take leave until the end of the semester, only the period of leave until the employee is ready and able to return to work shall be charged against the employee's FMLA leave entitlement. Any additional leave required by the district to the end of the semester is not counted as FMLA leave; however, the district shall maintain the employee's group health insurance and restore the employee to the same or equivalent job, including other benefits, at the end of the leave.

29 U.S.C. 2618(d); 29 C.F.R. 825.603

More Than Five Weeks Before End of Semester

A district may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave more than five weeks before the end of the semester;

2. The leave will last at least three weeks; and

3. The employee would return to work during the three-week period before the end of the semester.

During Last Five Weeks of Semester

A district may require an instructional employee to continue taking leave until the end of the semester if:

1. The employee begins leave during the last five weeks of the semester for any reason other than the employee's own serious health condition or a qualifying exigency;
2. The leave will last more than two weeks; and
3. The employee would return to work during the two-week period before the end of the semester.

During Last Three Weeks of Semester

A district may require an instructional employee to continue taking leave until the end of the semester if the employee begins leave during the three-week period before the end of the semester for any reason other than the employee's own serious health condition or a qualifying exigency.

29 C.F.R. 825.602

Substitution of Paid Leave

Generally, FMLA leave is unpaid leave. However, an employee may choose to substitute accrued paid leave for unpaid FMLA leave. If an employee does not choose to substitute accrued paid leave, a district may require the employee to do so. The term "substitute" means that the paid leave provided by the district, and accrued pursuant to established policies of the district, will run concurrently with the unpaid FMLA leave. An employee's ability to substitute accrued paid leave is determined by the terms and conditions of the district's normal leave policy. *29 U.S.C. 2612(d); 29 C.F.R. 825.207(a)*

Compensatory Time

If an employee requests and is permitted to use accrued compensatory time to receive pay during FMLA leave, or if a district requires such use, the compensatory time taken may be counted against the employee's FMLA leave entitlement. *29 C.F.R. 825.207(f)*

FMLA and Workers' Compensation

A serious health condition may result from injury to the employee "on or off" the job. If a district designates the leave as FMLA leave, the leave counts against the employee's FMLA leave entitlement. Because the workers' compensation absence is not unpaid, neither the employee nor the district may require the substitution of paid leave. However, a district and an employee may agree, where state law permits, to have paid leave supplement workers' compensation benefits.

If the health-care provider treating the employee for the workers' compensation injury certifies that the employee is able to return to a “light duty job” but is unable to return to the same or equivalent job, the employee may decline the district’s offer of a “light duty job.” As a result, the employee may lose workers' compensation payments, but is entitled to remain on unpaid FMLA leave until the employee's FMLA leave entitlement is exhausted. As of the date workers' compensation benefits cease, the substitution provision becomes applicable and either the employee may elect or the district may require the use of accrued paid leave.

29 C.F.R. 825.207(e)

Maintenance of Health Benefits

During any FMLA leave, a district must maintain the employee's coverage under any group health plan on the same conditions as coverage would have been provided if the employee had been continuously employed during the entire leave period.

An employee may choose not to retain group health plan coverage during FMLA leave. However, when the employee returns from leave, the employee is entitled to be reinstated on the same terms as before taking leave without any qualifying period, physical examination, exclusion of pre-existing conditions, and the like.

29 U.S.C. 2614(c); 29 C.F.R. 825.209

Payment of Premiums

During FMLA leave, the employee must continue to pay the employee’s share of group health plan premiums. If premiums are raised or lowered, the employee would be required to pay the new premium rates. *29 C.F.R. 825.210*

Failure to Pay Premiums

Unless a district has an established policy providing a longer grace period, a district’s obligations to maintain health insurance coverage cease if an employee's premium payment is more than 30 days late. In order to terminate the employee’s coverage, the district must provide written notice to the employee that the payment has not been received. Such notice must be mailed to the employee at least 15 days before coverage is to cease, advising that coverage will be dropped on a specified date at least 15 days after the date of the letter unless the payment has been received by that date. Coverage for the employee may be terminated at the end of the 30-day grace period, if the required 15-day notice has been provided.

Upon the employee's return from FMLA leave, the district must still restore the employee to coverage/benefits equivalent to those the employee would have had if leave had not been taken and the premium payment(s) had not been missed. The employee may not be required to meet any qualification requirements imposed by the

plan, including any new preexisting condition waiting period, to wait for an open season, or to pass a medical examination to obtain reinstatement of coverage.

29 C.F.R. 825.212

Recovery of Benefit Cost

If an employee fails to return to work after FMLA leave has been exhausted or expires, a district may recover from the employee its share of health plan premiums during the employee's unpaid FMLA leave, unless the employee's failure to return is due to one of the reasons set forth in the regulations. A district may not recover its share of health insurance premiums for any period of FMLA leave covered by paid leave. *29 C.F.R. 825.213*

Right to Reinstatement

On return from FMLA leave, an employee is entitled to be returned to the same position the employee held when leave began, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. An employee is entitled to reinstatement even if the employee has been replaced or his or her position has been restructured to accommodate the employee's absence. However, an employee has no greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period. *29 C.F.R. 825.214, .216(a)*

Moonlighting During Leave

If a district has a uniformly applied policy governing outside or supplemental employment, the policy may continue to apply to an employee while on FMLA leave. A district that does not have such a policy may not deny FMLA benefits on the basis of outside or supplemental employment unless the FMLA leave was fraudulently obtained. *29 U.S.C. 2618(e); 29 C.F.R. 825.216(e)*

Reinstatement of School Employees

A district shall make the determination of how an employee is to be restored to "an equivalent position" upon return from FMLA leave on the basis of established school board policies and practices. The "established policies" must be in writing, must be made known to the employee before the taking of FMLA leave, and must clearly explain the employee's restoration rights upon return from leave. Any established policy which is used as the basis for restoration of an employee to "an equivalent position" must provide substantially the same protections as provided in the FMLA. For example, an employee may not be restored to a position requiring additional licensure or certification. *29 C.F.R. 825.604*

Pay Increases and Bonuses

An employee is entitled to any unconditional pay increases that may have occurred during the FMLA leave period, such as cost of living increases. Pay increases conditioned upon seniority, length of service, or work performed must be granted in accordance with a district's policy or practice with respect to other employees on an

equivalent leave status for a reason that does not qualify as FMLA leave.

Equivalent pay includes any bonus or payment, whether it is discretionary or non-discretionary. However, if a bonus or other payment is based on the achievement of a specified goal such as hours worked, products sold, or perfect attendance, and the employee has not met the goal due to FMLA leave, then the payment may be denied, unless otherwise paid to employees on an equivalent leave status for a reason that does not qualify as FMLA leave. For example, if an employee who used paid vacation leave for a non-FMLA purpose would receive the payment, then an employee who used paid vacation leave for an FMLA-protected purpose also must receive the payment.

29 C.F.R. 825.215(c)

Key Employees

A district may deny job restoration to a key employee if such denial is necessary to prevent substantial and grievous economic injury to the operations of the district. *29 U.S.C. 2614(b); 29 C.F.R. 825.217-.219*

Notices and Medical Certification

Employer Notices

General Notice

Every covered employer must post on its premises a notice explaining the FMLA's provisions and providing information concerning the procedures for filing complaints with the Department of Labor's Wage and Hour Division. The notice must be posted prominently where it can be readily seen by employees and applicants for employment. Covered employers must post this general notice even if no employees are eligible for FMLA leave.

If a district has any eligible employees, it shall also:

1. Include the notice in employee handbooks or other written guidance to employees concerning employee benefits or leave rights, if such written materials exist; or
2. Distribute a copy of the general notice to each new employee upon hiring.

Electronic posting is sufficient if it meets the other requirements of this section.

If a district's workforce is comprised of a significant portion of workers who are not literate in English, the district shall provide the general notice in a language in which the employees are literate.

A district may use Department of Labor (DOL) form WHD 1420 or may use another format so long as the information provided includes, at a minimum, all of the information contained in that notice.

29 C.F.R. 825.300(a)

Eligibility Notice

When an employee requests FMLA leave, or when a district acquires knowledge that an employee's leave may be for an FMLA-qualifying reason, the district must notify the employee of the employee's eligibility to take FMLA leave. If the employee is not eligible for FMLA leave, the notice must state at least one reason why the employee is not eligible.

A district must provide the eligibility notice within five business days, absent extenuating circumstances. Notification of eligibility may be oral or in writing. The district may use DOL form WH-381 to provide such notification to employees. The district shall translate the notice in any situation in which it is required to translate the general notice.

29 C.F.R. 825.300(b)

Rights and Responsibilities Notice

Each time a district provides an eligibility notice to an employee, the district shall also provide a written rights and responsibilities notice. The rights and responsibilities notice must include the information required by the FMLA regulations at 29 C.F.R. 825.300(c)(1).

A district may use DOL form WH-381 to provide such notification to employees. A district may adapt the prototype notice as appropriate to meet these notice requirements. The notice may be distributed electronically if it meets the other requirements of this section. The district shall translate the notice in any situation in which it is required to translate the general notice.

29 C.F.R. 825.300(c)

Designation Notice

When a district has enough information to determine whether leave is being taken for an FMLA-qualifying reason, the district must notify the employee whether the leave will be designated as FMLA leave. If the district determines that the leave will not be designated as FMLA-qualifying, the district must notify the employee of that determination. Absent extenuating circumstances, a district must provide the designation notice within five business days.

A district may use DOL form WH-382 to provide such notification to employees. If the leave is not designated as FMLA leave because it does not meet the requirements of the Act, the notice to the employee that the leave is not designated as FMLA leave may be in the form of a simple written statement.

The designation notice must include the information required by the FMLA regulations at 29 C.F.R. 825.300(d)(1) (substitution of paid leave), (d)(3) (fitness for duty certification), and (d)(6) (amount

of leave charged against FMLA entitlement). For further provisions on designation of leave, see 29 C.F.R. 825.301.

29 C.F.R. 825.300(d)

Retroactive Designation

A district may retroactively designate leave as FMLA leave, with appropriate notice to the employee, if the district's failure to timely designate leave does not cause harm or injury to the employee. In addition, a district and an employee may agree that leave will be retroactively designated as FMLA leave. *29 C.F.R. 825.301(d)*

Employee Notice

An employee giving notice of the need for FMLA leave must state a qualifying reason for the leave and otherwise satisfy the requirements for notice of foreseeable and unforeseeable leave, below. The employee does not need to expressly assert rights under the Act or even mention the FMLA. *29 C.F.R. 825.301*

Foreseeable Leave

An employee must provide at least 30 days' advance notice before FMLA leave is to begin if the need for leave is foreseeable based upon an expected birth, placement for adoption or foster care, or planned medical treatment of the employee, a family member, or a covered service member. If 30 days' notice is not practicable, the employee must give notice as soon as practicable. For leave due to a qualifying exigency, the employee must provide notice as soon as practicable regardless of how far in advance the leave is foreseeable.

When planning medical treatment, the employee must consult with the district and make a reasonable effort to schedule the treatment so as not to disrupt unduly the district's operations, subject to the approval of the health-care provider.

29 C.F.R. 825.302

Unforeseeable Leave

When the approximate timing of leave is not foreseeable, an employee must provide notice to a district as soon as practicable under the facts and circumstances of the particular case. It generally should be practicable for the employee to provide notice of leave that is unforeseeable within the time prescribed by the district's usual and customary notice requirements applicable to such leave. *29 C.F.R. 825.303*

Compliance with District Requirements

A district may require an employee to comply with its usual and customary notice and procedural requirements for requesting leave, absent unusual circumstances. If an employee does not comply with usual notice and procedural requirements, and no unusual circumstances justify the failure to comply, FMLA leave may be delayed or denied. *29 C.F.R. 825.302(d), .303(c)*

Certification of Leave

A district may require that an employee's FMLA leave be supported by certification, as described below. The district must give notice of a requirement for certification each time certification is required. At the time the district requests certification, the district must advise the employee of the consequences of failure to provide adequate certification. *29 C.F.R. 825.305(a)*

Timing

In most cases, a district should request certification at the time the employee gives notice of the need for leave or within five business days thereafter or, in the case of unforeseen leave, within five business days after the leave commences. The district may request certification at a later date if the district later has reason to question the appropriateness of the leave or its duration. The employee must provide the requested certification to the district within 15 calendar days after the district's request, unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts. *29 C.F.R. 825.305(b)*

Incomplete or Insufficient Certification

A district shall advise an employee if it finds a certification incomplete or insufficient and shall state in writing what additional information is necessary to make the certification complete and sufficient. The district must provide the employee with seven calendar days (unless not practicable under the particular circumstances despite the employee's diligent, good faith efforts) to cure any such deficiency.

A certification is “incomplete” if one or more of the applicable entries have not been completed. A certification is “insufficient” if it is complete, but the information provided is vague, ambiguous, or non-responsive. A certification that is not returned to the district is not considered incomplete or insufficient, but constitutes a failure to provide certification.

29 C.F.R. 825.305(c)

Medical Certification of Serious Health Condition

When leave is taken because of an employee's own serious health condition, or the serious health condition of a family member, a district may require the employee to obtain medical certification from a health-care provider. A district may use DOL optional form WH-380-E when the employee needs leave due to the employee's own serious health condition and optional form WH-380-F when the employee needs leave to care for a family member with a serious health condition. A district may not require information beyond that specified in the FMLA regulations.

An employee may choose to comply with the certification requirement by providing the district with an authorization, release, or waiver allowing the district to communicate directly with the health-care provider.

For the definition of “health-care provider,” see 29 C.F.R. 825.125.

29 C.F.R. 825.306

Genetic Information

A district subject to the Genetic Information Nondiscrimination Act (GINA) shall comply with the GINA rules with respect to a request for medical information. *29 C.F.R. 1635.8(b)(1)(i)(A)* [See DAA]

Authentication and Clarification

If an employee submits a complete and sufficient certification signed by the health-care provider, a district may not request additional information from the health-care provider. However, the district may contact the health-care provider for purposes of clarification and authentication of the certification after the district has given the employee an opportunity to cure any deficiencies, as set forth above. To make such contact, a district must use a health-care provider, a human resources professional, a leave administrator, or a management official. Under no circumstances may the employee’s direct supervisor contact the employee's health-care provider.

“Authentication” means providing the health-care provider with a copy of the certification and requesting verification that the information on the form was completed and/or authorized by the health-care provider who signed the document; no additional medical information may be requested.

“Clarification” means contacting the health-care provider to understand the handwriting on the certification or to understand the meaning of a response. A district may not ask the health-care provider for additional information beyond that required by the certification form. The requirements of the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule must be satisfied when individually identifiable health information of an employee is shared with a district by a HIPAA-covered health-care provider.

29 C.F.R. 825.307(a)

Second and Third Opinions

If a district has reason to doubt the validity of a medical certification, the district may require the employee to obtain a second opinion at the district’s expense. If the opinions of the employee’s and the district’s designated health-care providers differ, the district may require the employee to obtain certification from a third health-care provider, again at the district’s expense. *29 C.F.R. 825.307(b), (c)*

Foreign Medical Certification

If the employee or a family member is visiting another country, or a family member resides in another country, and a serious health condition develops, the district shall accept medical certification as well as second and third opinions from a health-care provider who practices in that country. If the certification is in a language other

than English, the employee must provide the district with a written translation of the certification upon request. *29 C.F.R. 825.307(f)*

Recertification

A district may request recertification no more often than every 30 days and only in connection with an absence by the employee, except as set forth in the FMLA regulations. The district must allow at least 15 calendar days for the employee to provide recertification.

As part of the recertification for leave taken because of a serious health condition, the district may provide the health-care provider with a record of the employee's absence pattern and ask the health-care provider if the serious health condition and need for leave is consistent with such a pattern.

29 C.F.R. 825.308

Certification — Qualifying Exigency Leave

The first time an employee requests leave because of a qualifying exigency, a district may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status, and the dates of the covered military member's covered active duty service.

A district may also require that the leave be supported by a certification that addresses the information at 29 C.F.R. 825.309(b). The district may use DOL optional form WH-384, or another form containing the same basic information, for this certification. The district may not require information beyond that specified in the regulations.

29 C.F.R. 825.309

Certification — Military Caregiver Leave

When an employee takes military caregiver leave, a district may require the employee to obtain a certification completed by an authorized health-care provider of the covered service member. In addition, the district may request that the employee and/or covered service member address in the certification the information at 29 C.F.R. 825.310(c). The district may also require the employee to provide confirmation of a covered family relationship to the seriously injured or ill service member.

A district may use DOL optional form WH-385, or another form containing the same basic information, for this certification. The district may not require information beyond that specified in the regulations. A district must accept as sufficient certification "invitational travel orders" ("ITOs") or "invitational travel authorizations" ("ITAs") issued to any family member to join an injured or ill service member at his or her bedside.

A district may seek authentication and/or clarification of the certification under the procedures described above. Second and third opinions, and recertifications, are not permitted for leave to care for a covered service member.

29 C.F.R. 825.310

Intent to Return to Work

A district may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work. The district's policy regarding such reports may not be discriminatory and must take into account all of the relevant facts and circumstances related to the individual employee's leave situation. *29 C.F.R. 825.311*

Fitness for Duty Certification

As a condition of restoring an employee who took FMLA leave due to the employee's own serious health condition, a district may have a uniformly applied policy or practice that requires all similarly situated employees (i.e., same occupation, same serious health condition) who take leave for such conditions to obtain and present certification from the employee's health-care provider that the employee is able to resume work. A district may require that the certification specifically address the employee's ability to perform the essential functions of the employee's job. *29 C.F.R. 825.312*

Failure to Provide Certification

If the employee fails to provide the district with a complete and sufficient certification, despite the opportunity to cure, or fails to provide any certification, the district may deny the taking of FMLA leave. This provision applies in any case where a district requests a certification, including any clarifications necessary to determine if certifications are authentic and sufficient. *29 C.F.R. 825.305*

For failure to provide timely certification of foreseeable leave, see 29 C.F.R. 825.313(a). For failure to provide timely certification of unforeseeable leave, see 29 C.F.R. 825.313(b). For failure to provide timely recertification, see 29 C.F.R. 825.313(c). For failure to provide timely fitness-for-duty certification, see 29 C.F.R. 825.313(d).

Miscellaneous Provisions

Records

A district shall make, keep, and preserve records pertaining to its obligations under the FMLA in accordance with the recordkeeping requirements of the Fair Labor Standards Act (FLSA) and the FMLA regulations. A district shall keep these records for no less than three years and make them available for inspection, copying, and transcription by representatives of the DOL upon request.

If the district is preserving records electronically, the district must comply with 29 C.F.R. 825.500(b). A district that has eligible employees must maintain records with the data set forth at 29 C.F.R. 825.500(c). A district that has no eligible employees must maintain

just the data at 29 C.F.R. 825.500(c)(1). For districts in a joint employment situation, see 29 C.F.R. 825.500(e).

Records and documents relating to certifications, recertifications, or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate files/records from the usual personnel files.

If the Genetic Information Nondiscrimination Act (GINA) is applicable, records and documents created for purposes of FMLA leave that contain family medical history or genetic information shall be maintained in accordance with the confidentiality requirements of GINA (see 29 C.F.R. 1635.9), which permit such information to be disclosed consistent with the requirements of the FMLA. [For information regarding GINA, see DAA(LEGAL).]

If the Americans with Disabilities Act (ADA) is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements [see 29 C.F.R. 1630.14(c)(1)], except as set forth in this section of the regulations.

29 C.F.R. 825.500

Prohibition Against Discrimination and Retaliation

The FMLA prohibits interference with an employee's rights under the law, and with legal proceedings or inquiries relating to an employee's rights. *29 U.S.C. 2615; 29 C.F.R. 825.220*

Reasons for Taking Leave: FMLA

1. Under the Family and Medical Leave Act (FMLA) of 1993, up to 12 weeks of leave must be granted for any of the following reasons:

   - To care for the employee's child after birth, or placement for adoption or foster care;
   - To care for the employee's spouse, child, or parent who has a serious health condition; or
   - To care for a serious health condition that makes the employee unable to perform his or her job.

Eligibility

2. An employee is eligible if he or she has worked for the District for at least 12 months and for 1,250 hours during the previous 12 months. [See DECA(LEGAL)]

   Special "hours of service" requirements apply to airline flight crew employees.

Process

3. The employee may be required to provide advance leave notice and medical certification. Leave may be denied if requirements are not met.

   Notice

   a. The employee ordinarily must provide 30-day advance notice for an expected leave of absence. FMLA forms may be obtained from the appropriate human resources generalist, Human Resources, and must be returned no more than 15 calendar days from the first day of absence.

   Certification

   b. The Houston Independent School District (HISD) may require medical certification for the employee to support a request for leave because of a serious health condition. It is the employee's responsibility to ensure the medical documentation is complete and received by the appropriate HR generalist no later than the 15th calendar day from the first day of absence. HISD may require a second or third opinion at the District's expense.

   Return to Work

   c. The employee must provide the appropriate human resources generalist with a medical release certification statement to return to work. A return to work release must include any restrictions or limitations to performing the job.

Job Benefits and Protection

4. All employee benefits, health coverage, and job protection must remain in effect during an approved FMLA leave.

   Health Coverage

   a. For the duration of the FMLA leave, the employer must maintain the employee's health coverage under any

group health plan. The employee is responsible for paying his or her portion of the premiums.

Position

b. Upon return from the FMLA leave, an employee must be restored to his or her original or equivalent position with equivalent pay, benefits, and other employment terms.

Other Benefits

c. The use of FMLA leave cannot result in the loss of any employment benefit that accrued prior to the start of the employee's leave.

Concurrent Use of Leave

d. The District will require the use of all applicable state and local leave, personal leave, and vacation time, if available, the order to be determined by Board policy, followed by temporary disability leave, when applicable, concurrently with family and medical leave. An employee's family and medical leave entitlement will run concurrently with a workers' compensation absence if the injury is classified as a serious health condition.

Unlawful Acts by Employers

5. Under FMLA regulations, employers may not:

- Interfere with, restrain, or deny the exercise of any right provided under FMLA; or
- Discharge or discriminate against any person for opposing any practice made unlawful by FMLA or for involvement in any proceeding under or relating to FMLA.

Consultation

6. This regulation has been through consultation (Administrative: August 8, 2017; Instructional: October 5, 2017; and Noninstructional: August 8, 2017).

Maintenance Responsibility

7. The executive general manager, human resources, is responsible for maintenance of this regulation.

Effective Date

8. This regulation will be effective as of the adoption date, October 17, 2017.

Note: This policy addresses leave for an employee's military service. For provisions on leaves in general, see DEC. For provisions regarding the Family and Medical Leave Act (FMLA), including family and medical leave for an employee seeking leave because of a relative's military service, see DECA.

Federal Military Leave

Reemployment

Any person who is absent from a position of employment by reason of voluntary or involuntary service in the uniformed services shall be entitled to certain reemployment rights and benefits under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 U.S.C. 4301-4335, and its regulations at 20 C.F.R. Part 1002 if:

1. Unless notice is precluded by military necessity or is otherwise unreasonable or impossible, the person, or an appropriate officer of the uniformed service in which such service is performed, has given advance written or verbal notice of such service to such person's employer;

2. The cumulative length of the absence and of all previous absences from a position of employment with that employer by reason of service in the uniformed services does not exceed five years, calculated in accordance with 38 U.S.C. 4312(c); and

3. The person reports to or submits an application for reemployment to such employer in accordance with the provisions of 38 U.S.C. 4312(e) and (f) and 20 C.F.R. Part 1002, Subpart C.

38 U.S.C. 4312(a)-(c); 20 C.F.R. 1002.5(1)

For purposes of federal military leave, the term "uniformed services" means the Armed Forces; the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty; the commissioned corps of the Public Health Services; the commissioned officer corps of the National Oceanic and Atmospheric Administration (NOAA); system members of the National Urban Search and Rescue Response System during a period of appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; intermittent personnel who are appointed into Federal Emergency Management Agency service under section 306(b)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; and any other category of persons designated by the president in time of war or emergency.

The term “service in the uniformed services” means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty; active duty for training; initial active duty for training; inactive duty training; full-time National Guard duty; state active duty for a period of 14 days or more; state active duty in response to a national emergency declared by the president under the National Emergencies Act, 50 U.S.C. 1601 et seq.; state active duty in response to a major disaster declared by the president under Section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5170; a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person to perform any such duty; a period for which a system member of the National Urban Search and Rescue Response System is absent from a position of employment due to an appointment into federal service under Section 327 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act; a period for which a person is absent from a position of employment due to an appointment into service in the Federal Emergency Management Agency as intermittent personnel under section 306(b)(1) of the Robert B. Stafford Disaster Relief and Emergency Assistance Act; and a period for which a person is absent from employment for the purpose of performing funeral honors duty.

The term “state active duty” means training or other duty, other than inactive duty, performed by a member of the National Guard of a state not under 32 U.S.C. 502 or under U.S.C. Title 10; in service to the governor of a state; and for which the member is not entitled to pay from the federal government.

A person who is reemployed under USERRA is entitled to the seniority, and other rights and benefits determined by seniority, that the person had on the date of the commencement of uniformed service, plus the additional seniority, rights, and benefits that such person would have attained if the person had remained continuously employed.

38 U.S.C. 4303(13), (15)-(16), 4316(a)

Exceptions

An employer, including a school district is not required to reemploy a person if:

1. The employer’s circumstances have so changed as to make reemployment impossible or unreasonable;

2. The person is entitled to reemployment under 38 U.S.C. 4313(a)(3), 4313(a)(4), or 4313(b)(2)(B), and the reemployment of the person would impose an undue hardship on the employer; or

3. The employment from which the person leaves to serve in the uniformed services is for a brief, nonrecurrent period and there is no reasonable expectation that such employment will continue indefinitely or for a significant period.

38 U.S.C. 4312(d)

A person's entitlement to the benefits of 38 U.S.C. Chapter 43 by reason of the service of such person in one of the uniformed services terminates upon the occurrence of any of the following events:

1. A separation of such person from such uniformed service with a dishonorable or bad conduct discharge.

2. A separation of such person from such uniformed service under other than honorable conditions, as characterized pursuant to regulations prescribed by the U.S. secretary concerned.

3. A dismissal of such person permitted under or a dropping of such person from the rolls pursuant to 10 U.S.C. 1161(a) (dismissal of commissioned officers).

38 U.S.C. 4304

Notice

Each employer shall provide to persons entitled to rights and benefits under 38 U.S.C. Chapter 43 a notice of the rights, benefits, and obligations of such persons and such employers. The requirement for the provision of notice may be met by the posting of the notice where employers customarily place notices for employees. The U.S. Secretary of Labor shall provide to employers the text of the notice. *38 U.S.C. 4334*

State Protections for Member of Military or Rescue Team

Paid Leave of Absence

A person who is an officer or employee of the state, a municipality, a county, or another political subdivision of the state, including a school district, who is a member of the state military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team is entitled to a paid leave of absence from the person’s duties on a day on which the person is engaged in authorized training or duty ordered or authorized by proper authority for not more than 15 workdays in a fiscal year. During a leave of absence, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. *Gov’t Code 437.202(a)*

In addition to the leave provided under Government Code 437.202(a), a person described by Section 437.202(a) called to state active duty by the governor or another appropriate authority in response to a disaster is entitled to a paid leave of absence from

the person's duties for each day the person is called to active duty during the disaster, not to exceed seven workdays in a fiscal year. During a leave of absence under this provision, the person may not be subjected to loss of time, efficiency rating, personal time, sick leave, or vacation time. For purposes of this provision, "disaster" has the meaning assigned by Government Code 418.004. *Gov't Code 437.202(a-1)*

Notice

This state, a municipality, a county, or another political subdivision of this state, including a school district, shall provide written notice of the number of workdays of paid leave to which an officer or employee is entitled each fiscal year under Government Code 437.202(a) on employment, in the case of an employee, or as soon as practicable after appointment or election, in the case of an officer.

This state, a municipality, a county, or another political subdivision of this state, including a school district, shall, on the request of an officer or employee described by Government Code 437.202(a), provide to that officer or employee a statement that contains the number of workdays for which the officer or employee claimed paid leave under section 437.202(a) in that fiscal year.

Gov't Code 437.202(e)-(f)

Return to Employment

An employee of this state or a municipality, a county, or another political subdivision of this state with at least five full-time employees who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty. An employer, including a school district, may not terminate the employment of an employee who is a member of the military forces of this state or any other state because the employee is ordered to authorized training or duty by a proper authority. The employee is entitled to return to the same employment held when ordered to training or duty and may not be subjected to loss of time, efficiency rating, vacation time, or any benefit of employment during or because of the absence. The employee, as soon as practicable after release from duty, must give written or actual notice of intent to return to employment. *Gov't Code 437.202(d), .204(a)*

Reemployment

A public employee, other than a temporary employee, who leaves a state position or a position with a local governmental entity, including a school district, to enter active military service is entitled to be reemployed by the state or the local governmental entity in the same department, office, commission, or board of this state, a state institution, or local governmental entity in which the employee

was employed at the time of the induction, enlistment, or order, or to a position of similar seniority, status, and pay. To be entitled to reemployment, the employee must be discharged, separated, or released from active military service under honorable conditions not later than the fifth anniversary after the date of induction, enlistment, or call to active military service and must be physically and mentally qualified to perform the duties of the position.

"Military service" means service as a member of the Armed Forces of the United States, a reserve component of the Armed Forces of the United States, the Texas National Guard, or the Texas State Guard.

Gov't Code 613.001(2)-(3), .002

Exception

A public employee who cannot perform the duties of the position because of a disability sustained during military service is entitled to reemployment in the department, office, commission, or board of the state, a state institution, or a local governmental entity in a position that the employee can perform and that has like seniority, status, and pay as the former position, or the nearest possible seniority, status, and pay. *Gov't Code 613.003*

Application

To be reemployed, a veteran must apply for reemployment not later than the 90th day after the date the veteran is discharged or released from active military service. The application must be made in writing to the head of the department, office, commission, or board of this state, the state institution, or the local governmental entity and have attached to it evidence of the veteran's discharge, separation, or release from military service under honorable conditions. *Gov't Code 613.004*

Discharge

A person reemployed under Government Code Chapter 613 shall not be discharged without cause before the first anniversary of the date of the reemployment. *Gov't Code 613.005*

Application of Federal Laws to Texas Military Members Called to Duty

A service member of the Texas military forces who is ordered to state active duty or to state training or other duty by the governor, the adjutant general, or another proper authority under the law of this state is entitled to the same benefits and protections provided to persons:

1. Performing service in the uniformed services as provided by 38 U.S.C. 4301-4313 and 4316-4319 (USERRA); and
2. In the military service of the United States as provided by 50 U.S.C. 3901-3959, 3991, and 4011-4026 (Servicemembers Civil Relief Act).

Gov't Code 437.213

Use of Personal Leave

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. This provision applies to any personal or sick leave available under former law or provided by local policy.

A district may adopt a policy providing for paid leave for active military service as part of the consideration of employment.

Education Code 22.003(d), (e)

Note: For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), DFBA and DFBB (Term Contracts), and DFCA (Continuing Contracts).

Withholding Information

An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts), 21.156 (continuing contracts), and 21.211 (term contracts). *Education Code 26.008(b)*

Registry of Persons Not Eligible for Employment

A district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall discharge or refuse to hire a person listed on TEA's registry of persons who are not eligible to be employed. [See DBAA] *Education Code 22.092*

Discharge of Convicted Employees

A district shall discharge or refuse to hire an employee or applicant for employment if the district obtains information through a criminal history record information (CHRI) review that the employee or applicant has been:

1. Convicted of or placed on deferred adjudication community supervision for an offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or
2. Convicted of:
    a. A felony under Title 5, Penal Code, if the victim of the offense was under 18 years of age at the time the offense was committed; or
    b. An offense under the laws of another state or federal law that is equivalent to an offense under item 1 or 2a, above.

Exception

However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:

1. The date of the offense is more than 30 years before the date the person's employment will begin; and
2. The employee satisfied all terms of the court order entered on conviction.

Certification to Commissioner

Each school year, a superintendent shall certify to the commissioner that the district has complied with the above provisions.

Sanctions

The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee

when the employee was employed in a public school and on the registry of persons who are not eligible to be employed under Education Code 22.092 [see DBAA], if the educator knew that the employee had been adjudicated for or convicted of having an inappropriate relationship with a minor in accordance with Education Code 21.009(e), or when the person knew or should have known, through a CHRI review, that the employee has been convicted of or placed on deferred adjudication community supervision for an offense described above.

SBEC may impose a sanction on a superintendent who falsely or inaccurately certified to the commissioner that the district had complied with Education Code 22.085. [See Certification to Commissioner, above]

Termination for Failure to Disclose

A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to SBEC or the district. An employee so discharged is considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

Education Code 22.085; 19 TAC 249.15(b)(12), (14) [See DBAA for Refusal to Hire Convicted Applicants]

Certain Offenses Against Students

Mandatory Termination

If a district receives notice that SBEC has revoked the certificate of a person based on conviction of or placement on deferred adjudication community supervision for an offense for which the person is required to register as a sex offender under Code of Criminal Procedure, Chapter 62; a conviction of a felony under Penal Code Title 5 if the victim of the offense was under 18 years of age at the time the offense was committed; or conviction of or placement on deferred adjudication community supervision for an offense under Penal Code 43.24 (Sale, Distribution, or Display of Harmful Material to Minor), the district shall:

1. Immediately remove the person whose certificate has been revoked from campus or from an administrative office, as applicable, to prevent the person from having any contact with a student; and

2. If the person is employed under a probationary, continuing, or term contract, with the approval of the board or its designee:

    a. Suspend the person without pay;

    b. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and

c. Terminate the employment of the person as soon as practicable.

Education Code 21.058(a), (c)

Discretionary Termination

If a district becomes aware that a person employed by the district under a probationary, continuing, or term contract has been convicted of or received deferred adjudication for a felony offense, and the person is not subject to the mandatory termination provision above, the district may, with the approval of the board or its designee:

1. Suspend the person without pay;
2. Provide the person with written notice that the person's contract is void [see Notice to Employee, below]; and
3. Terminate the employment of the person as soon as practicable.

Education Code 21.058(c-1)

Notice to Employee

A person's probationary, continuing, or term contract is void if, with the approval of the board or its designee, the district provides written notice to the person, under the mandatory or discretionary termination provisions above, that the person's contract is void. *Education Code 21.058(c-2)*

No Appeal

Action taken by a district under the mandatory or discretionary terminations provisions above is not subject to appeal under Education Code Chapter 21 and the notice and hearing requirements of Chapter 21 do not apply to the action. *Education Code 21.058(e)*

Invalid or Expired Certification

An employee's probationary, term, or continuing contract is void if the employee:

1. Does not hold a valid certificate or permit issued by SBEC;
2. Fails to fulfill the requirements necessary to renew or extend the employee's temporary, probationary, or emergency certificate or any other certificate or permit issued under Education Code Chapter 21, Subchapter B; or
3. Fails to comply with any requirement under Education Code Chapter 22, Subchapter C [criminal history review, see DBAA], if the failure results in suspension or revocation of the employee's certificate.

Education Code 21.0031(a)

A certificate or permit is not considered to have expired if:

1. The employee has completed the requirements for renewal of the certificate or permit;
2. The employee submitted the request for renewal before the expiration date; and
3. The date the certificate or permit would have expired is before the date SBEC takes action to approve the renewal of the certificate or permit.

Education Code 21.0031(f)

District's Options

If a district has knowledge that an employee's contract is void under Education Code 21.0031(a), the district may:

1. Terminate the employee;
2. Suspend the employee with or without pay; or
3. Retain the employee for the remainder of the school year on an at-will employment basis in a position that does not require a contract under Education Code 21.002, at the employee's existing rate of pay or at a reduced rate.

The employee is not entitled to the minimum salary prescribed by Education Code 21.402.

Education Code 21.0031(b)

Exception

A district may not terminate or suspend an employee under 21.0031(b) because of the employee's lack of a valid certificate or permit, or failure to renew or extend a certificate or permit, if:

1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and
2. Not later than the 10th day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.

Education Code 21.0031(b-1)

No Appeal or Chapter 21 Hearing

A school district's decision under Education Code 21.0031(b) is not subject to appeal under Education Code Chapter 21, and the notice and hearing requirements of that chapter do not apply to the decision. *Education Code 21.0031*

Applicability

These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the

teacher is not certified. *Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)*

Report to SBEC

A superintendent shall report the educator's termination to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]

Report to Superintendent

A principal shall report the educator's termination to the superintendent if the conditions set forth at Education Code 21.006 exist. [See DP]

Falsification of Military Record

A district may discharge an employee, regardless of whether the employee is employed under an employment contract, if the district determines, based on a reasonable factual basis, that the employee, in obtaining the employee's employment or any benefit relating to the employee's employment, falsified or otherwise misrepresented any information regarding the employee's military record in a manner that would constitute an offense under Penal Code 32.54.

An employment contract entered into by a district with an employee discharged by the employer under Labor Code Chapter 105 is void and unenforceable as against public policy. [See DF series]

Labor Code Ch. 105

Board's Designee for Certain Termination Actions

The Superintendent shall serve as the Board's designee to place a contract employee on administrative leave without pay, provide written notice that the person's contract is void, and terminate employment as soon as practicable when the District:

1. Receives notice that an individual's certificate has been revoked by the State Board for Educator Certification (SBEC) for reasons that require immediate action by the District; or
2. Becomes aware that a contract employee has been convicted of or has received deferred adjudication for a felony offense.

[See also DFAA, DFBA, and DFCA, as appropriate.]

Administrative Leave A probationary contract employee may be placed on administrative leave by the Superintendent during an investigation of any allegations or charges against the employee or at any time the Superintendent determines that the District's best interest will be served by the administrative leave.

Temporary Reassignment of an Employee

The Superintendent or designee may place an employee on administrative leave, which means the employee is temporarily reassigned from their regular duties, if the Superintendent or designee determines it is in the best interest of the District.

PROBATIONARY CONTRACTS
TERMINATION AT END OF YEAR

DFAB
(LEGAL)

GROUNDS FOR TERMINATION

The Board may terminate a probationary contract at the end of the contract period if in the Board's judgment such termination will serve the best interests of the District.

NOTICE

The Board shall give the employee notice of its decision to terminate the employment not later than the tenth day before the last day of instruction required under the contract.

The notice must be delivered personally by hand delivery on the campus at which the employee is employed. If the employee is not present on the campus on the date that hand delivery is attempted, the notice must be mailed by prepaid certified mail or delivered by express delivery service to the employee's address of record with the District. Notice that is postmarked on or before the tenth day before the last day of instruction is considered timely for these purposes.

NO APPEAL

The Board's decision to terminate a probationary contract at the end of a contract period is final and may not be appealed.

Education Code 21.103(a)

FAILURE TO NOTIFY

If the Board fails to give notice of its decision to terminate a probationary contract within the time prescribed, the Board must employ the employee for the following school year in the same capacity under:

1. A probationary contract, if the person has been employed under a probationary contract for less than three consecutive school years; or
2. A continuing or term contract, according to District policy, if the person has been employed under a probationary contract for three consecutive school years.

Education Code 21.103(b)

PROBATIONARY CONTRACTS
RETURN TO PROBATIONARY STATUS

DFAC
(LEGAL)

UPON CHANGE IN PROFESSIONAL CAPACITY

An employee may be employed under a probationary contract if the employee voluntarily accepts an assignment in a new professional capacity that requires a different class of certificate under Education Code Chapter 21, Subchapter B than the class of certificate held by the employee in the professional capacity in which the employee was previously employed.

This provision does not apply to an employee who is returned by the District to a professional capacity in which the employee was employed by the District before the District employed the employee in the new professional capacity. The employee is entitled to be employed in the original professional capacity under the same contractual status as the status held by the employee during the previous employment by the District in that capacity.

Education Code 21.102(a-1) [See 19 TAC 230.33(b) for list of certificate classes]

IN LIEU OF DISCHARGE, TERMINATION, OR NONRENEWAL

In lieu of discharging a continuing contract employee, terminating a term contract employee, or not renewing a term contract, the District may, with written consent of the employee, return the employee to probationary contract status. *Education Code 21.106(a)*

AFTER BOARD PROPOSAL

Except as provided below, an employee may agree to be returned to probationary status only after receiving written notice that the Board has proposed discharge, termination, or nonrenewal. [See DF series] *Education Code 21.106(b)*

AFTER NOTICE FROM SUPERINTENDENT

An employee may agree to be returned to probationary contract status after receiving written notice of the Superintendent's intent to recommend discharge, termination, or nonrenewal.

NOTICE

The notice must inform the employee of the District's offer to return the employee to probationary contract status, the period during which the employee may consider the offer, and the employee's right to seek counsel. The District must provide the employee at least three business days after the employee receives the notice to agree to be returned to probationary contract status. This provision does not require the Superintendent to provide notice of intent to recommend discharge, termination, or nonrenewal.

Education Code 21.106(d)

NEW PROBATIONARY PERIOD

An employee returned to probationary status must serve a new probationary period as provided by Education Code 21.102 as if the employee were employed by the District for the first time. *Education Code 21.106(c)*

Suspension Without Pay

A board may, for good cause as determined by the board, suspend an employee without pay:

1. Pending discharge, or
2. In lieu of termination.

The suspension may not extend beyond the end of the school year.

Education Code 21.211(b)

Back Pay

If an employee is not discharged after being suspended without pay pending discharge, the employee is entitled to back pay for the period of suspension. *Education Code 21.211(c)*

Grounds for Dismissal

A board may terminate a term contract and discharge a term contract employee at any time for:

1. Good cause as determined by the board; or
2. A financial exigency that requires a reduction in personnel.

Education Code 21.211(a)

Notice

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

Hearing

If a term contract employee desires a hearing before an independent hearing examiner, the employee must file a written request with the commissioner of education not later than the 15th day after the date the employee receives notice of the proposed termination or suspension without pay. The employee must provide a district with a copy of the request and must provide the commissioner with a copy of the notice.

The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing.

Education Code 21.251(a), .253 [See DFD]

Financial Exigency

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract

[see DFBB] or a hearing under Education Code Chapter 21, Subchapter F, as determined by the board. *Education Code 21.159*

Report by Principal

The principal of a district, including a district of innovation, must notify the superintendent not later than the seventh business day after the date of an educator's termination of employment following an alleged incident of misconduct described by Education Code 21.006(b) [see DP]. *Education Code 21.006(b-2); 19 TAC 249.14(e)*

Administrative Leave A term contract employee may be placed on administrative leave by the Superintendent or designee during an investigation of any allegations or charges against the employee or at any time the Superintendent determines that the District's best interest will be served by the administrative leave.

Temporary Reassignment of an Employee — The Superintendent or designee may place an employee on administrative leave, which means the employee is temporarily reassigned from their regular duties, if the Superintendent determines it is in the best interest of the District.

Reduction in Force — In accordance with state law, term contract employees may be released from employment by the District at the end of a school year because of necessary reduction of personnel.

TERMINATION OF EMPLOYMENT
HEARINGS BEFORE HEARING EXAMINER

DFD
(LOCAL)

TIME LIMITS FOR ORAL ARGUMENT

The Board shall consider the hearing examiner's record and recommendation at the first Board meeting for which notice can be posted in compliance with the open meetings laws.

The Board shall allow ten minutes per party for oral argument. Administration shall be offered the opportunity to present argument first and may use a portion of the designated time for rebuttal after the other party has presented argument.

The Board reserves the right to grant additional time in equal amount to both parties, depending on the complexity of the issues and solely at the Board's discretion.

General Requirements

All resignations shall be submitted electronically via the District's online Voluntary Separation Form. Written submissions will be accepted at the discretion of the chief human resources officer. Each electronic submission shall be directed to one of the individuals authorized by this policy to receive resignations. The employee shall give reasonable notice and shall include in the submission a statement of the reason(s) for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

At-Will Employees

The Superintendent or designee shall be authorized to accept the resignation of an at-will employee at any time.

Contract Employees

The Superintendent, chief human resources officer, or other person designated by Board action shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. Such a resignation, properly submitted electronically through the Voluntary Separation Form, requires no further action by the District and is accepted upon receipt.

The Superintendent, chief human resources officer, or other person designated by Board action shall be authorized to receive and accept a contract employee's resignation submitted or effective at any other time. The authorized receiver shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

Withdrawal of Resignation

Once submitted, the resignation of an employee may not be withdrawn by the employee without consent of the Superintendent or designee.

Reemployment After Resignation

An employee who resigns and subsequently seeks reemployment in the District shall:

1. Be employed on a probationary basis in accordance with appropriate policies; [See DCA(LEGAL)]
2. Be placed on the salary schedule in accordance with the appropriate section of the *Compensation Manual*;
3. Forfeit seniority and any unused accumulated local personal leave; and
4. Be subject to the personnel policies or any settlement agreements pertaining to the reemployment of former employees.

An employee who resigns or retires to avoid District-initiated termination or nonrenewal shall not be eligible for reemployment

with the District. An employee who resigns after the District has initiated an investigation of alleged misconduct may be eligible for reemployment only after review and approval by the Office of Human Resources.

TERMINATION OF EMPLOYMENT
REDUCTION IN FORCE

DFF
(LEGAL)

BOARD AUTHORITY

A board is charged with the responsibility of governance of a district; governance includes the making of responsible choices in managing the finances and personnel of the district. *Stidham v. Anahuac Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 205-R2-687 (1990) (upholding reduction in force due to financial exigency)*

A district is always free to change its organizational structure as it seeks to increase its efficiency. *Wasserman v. Nederland Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 171-R1-784 (1988)*

CONSIDERATION FOR OPEN POSITIONS

The commissioner of education has held that, when a position is eliminated due to a necessary reduction in force, a district must transfer the employee to a different position if the teacher meets a district's objective criteria for that position. Objective criteria may include credentials, education, experience, applying for the position, and interviewing for the position. A district need not offer a position to a teacher who refuses to apply and interview for an open position. *Amerson v. Houston Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 022-R2-1202 (2003)*

PROBATIONARY CONTRACT

A probationary contract employee may be discharged at any time for good cause as determined by the board. If the employee is protesting proposed action to terminate a probationary contract before the end of the contract period on the basis of a financial exigency declared under Education Code 44.011 [see CEA], the employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the board. *Education Code 21.104(a), .1041(2)*

A board may terminate a probationary contract at the end of the contract period if in the board's judgment such termination will serve the best interests of the district. *Education Code 21.103(a)*

TERM CONTRACT

A board may terminate a term contract and discharge a term contract employee at any time due to a financial exigency that requires a reduction in personnel. *Education Code 21.211(a)*

An employee who is protesting proposed action to terminate a term contract at any time on the basis of a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel must notify the board in writing not later than the tenth day after the date the employee receives notice of the proposed action. The employee is entitled to a hearing in the manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or a hearing under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner)

[see DFD], as determined by the board. *Education Code 21.159(a), (b)(2)*

CONTINUING CONTRACT

A teacher employed under a continuing contract may be released and the teacher's employment terminated at the end of a school year because of a necessary reduction of personnel by the district. A necessary reduction of personnel shall be made primarily based upon teacher appraisals administered under Education Code 21.352 in the specific teaching fields and other criteria as determined by the board. *Education Code 21.157*

Before a teacher employed under a continuing contract may be released because of a necessary reduction of personnel, the board must notify the teacher in writing of the proposed action and the grounds for the action. *Education Code 21.158(a)*

If the teacher desires to protest the proposed necessary reduction of personnel, the teacher must notify the board in writing not later than the tenth day after the date the teacher receives notice. *Education Code 21.159(a)*

A teacher who timely notifies the board is entitled to a hearing in a manner provided under Education Code 21.207 for nonrenewal of a term contract [see DFBB] or in the manner provided under Education Code Chapter 21, Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the board. *Education Code 21.159(b)*

If the teacher does not timely request a hearing the board shall take the appropriate action and notify the teacher in writing not later than the 30th day after the date the board sent the notice of the proposed necessary reduction in personnel. *Education Code 21.159(c)*

FINANCIAL EXIGENCY

A board may adopt a resolution declaring a financial exigency for the district. *Education Code 44.011* [See CEA]

HEARING EXAMINER

The independent hearing examiner process does not apply to a decision to terminate a probationary or term contract before the end of the contract period or terminate a continuing contract at any time, based on a financial exigency declared under Education Code 44.011 [see CEA] that requires a reduction in personnel, unless the board has decided to use this hearing process. *Education Code 21.251*

WARN ACT

Local governments are not covered by the federal Worker Adjustment and Retraining Notification Act (WARN Act) (plant closings and mass layoffs). *20 C.F.R. 639.3(a)(ii)*

Plan to Reduce Personnel Costs

If the Superintendent determines that there is a need to reduce personnel costs, the Superintendent shall develop, in consultation with the Board as necessary, a plan for reducing costs that may include one or more of the following:

- Salary reductions [see DEA];
- Furloughs [see DEA];
- Reductions in force of contract personnel due to financial exigency, if the District meets the standard for declaring a financial exigency as defined by the commissioner [see CEA and provisions at Reduction in Force Due to Financial Exigency, below];
- Reductions in force of contract personnel due to program change [see DFFB]; or
- Other means of reducing personnel costs.

A plan to reduce personnel costs may include the reduction of personnel employed pursuant to employment arrangements not covered at Applicability, below.

- See DCD for the termination at any time of at-will employment.
- See DFAB for the termination of a probationary contract at the end of the contract period.
- See DFCA for the termination of a continuing contract, if applicable.
- See DCE for the termination at the end of the contract period of a contract not governed by Chapter 21 of the Education Code.

Reduction in Force Due to Financial Exigency

Applicability

The following provisions shall apply when a reduction in force due to financial exigency requires:

1. The nonrenewal or termination of a term contract;
2. The termination of a probationary contract during the contract period; or
3. The termination of a contract not governed by Chapter 21 of the Education Code during the contract period.

Definitions

Definitions used in this policy are as follows:

1. “Nonrenewal” shall mean the termination of a term contract at the end of the contract period.

2. “Discharge” shall mean termination of a contract during the contract period.

General Grounds

A reduction in force may take place when the Superintendent recommends and the Board adopts a resolution declaring a financial exigency. [See CEA] A determination of financial exigency constitutes sufficient reason for nonrenewal or sufficient cause for discharge.

Employment Areas

When a reduction in force under this policy is to be implemented, the Superintendent shall recommend the employment areas to be affected.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.
3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.
9. District-wide programs.
10. An individual campus.
11. Any administrative position(s), unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.

The Superintendent’s recommendation may address whether any employment areas should be:

1. Combined or adjusted (e.g., “elementary programs” and “compensatory education programs” can be combined to

identify an employment area of “elementary compensatory education programs”); and/or

2. Applied on a District-wide or campus-wide basis (e.g., “the counseling program at [named elementary campus]”).

The Board shall determine the employment areas to be affected.

Criteria for Decision

The Superintendent or designee shall apply the following criteria to the employees within an affected employment area based on the employee’s assignment at the time the Board approves the employment areas affected by the reduction in force. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by applying the first criterion, it is not necessary to apply the second criterion, and so forth. However, if there is only one individual in the identified employment area or if all individuals in the employment areas will be affected by the reduction in force, then there is no need to apply the criteria to the individual(s) in the affected employment area(s).

1. Performance: Effectiveness, as reflected by the most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA] and any other written evaluative information including, but not limited to, disciplinary information and directives previously issued. If the Superintendent or designee at their discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, they may proceed to apply the remaining criteria in the order listed below.

2. Extra Duties/Supplemental: Currently performing an extra-duty or supplemental assignment, for example, department or grade-level chair, band director, athletic coach, activity sponsor, and the like that the designee believes would have a detrimental impact on the school. In making the determination of whether this criterion applies, the principal may consider whether a replacement from among campus members, who are not subject to the reduction in force, can be found who can perform these duties at the same level.

3. Seniority: Length of continuous service in the District, as measured from the employee’s most recent date of hire. An authorized leave shall not be considered an interruption of continuous service.

4. Professional Background: Professional education and work experience related to the current or projected assignment.

Superintendent Recommendation

The Superintendent shall recommend to the Board the nonrenewal or discharge of the identified employees within the affected employment areas.

Board Vote

After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal or discharge, as appropriate.

If the Board votes to propose nonrenewal or discharge of one or more employees, the hearing shall be conducted by an independent hearing examiner in accordance with the process described at DFD(LEGAL) or DFBB(LOCAL).

Notice

The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal or discharge, as applicable. The notice shall include:

1. The proposed action, as applicable;
2. A statement of the reason for the proposed action; and
3. Notice, if applicable, that the employee is entitled to a hearing of the type determined by the Board.

Consideration for Available Positions

An employee who has received notice of proposed nonrenewal or discharge may apply for available positions for which they wish to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures. Assignments to new jobs shall be based on matching of skill sets.

Employees proposed for nonrenewal or discharge under this policy shall be considered for positions for which they apply and are qualified up until:

1. Final action by the Board to end the employee's contract, if the employee does not request a hearing; or
2. The evidentiary hearing by the independent hearing examiner, if the employee requests a hearing.

Hearing Request

Nonrenewal: Term Contract

An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

Discharge: Chapter 21 Contract

An employee receiving notice of proposed discharge from a contract governed by Chapter 21 of the Education Code may request a hearing. The hearing shall be conducted in accordance with DFD

	or the nonrenewal hearing process in DFBB, as determined by the Board and specified in the notice of proposed discharge.
Discharge: Non-Chapter 21 Contract	An employee receiving notice of proposed discharge during the period of an employment contract not governed by Chapter 21 of the Education Code may request a hearing before the Board or its designee in accordance with DCE(LOCAL).
Final Action	
Hearing Requested	If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.
No Hearing Requested	If the employee does not request a hearing, the Board shall take final action in accordance with DCE, DFBB, or DFD, as applicable, and shall notify the employee in writing.

REDUCTION IN FORCE
PROGRAM CHANGE

DFFB
(LOCAL)

Applicability

This policy shall apply when a reduction in force due to a program change requires the nonrenewal of a term contract. A program change may be due to, for example, a redirection of resources; efforts to improve efficiency; a change in enrollment; a lack of student response to particular course offerings; legislative revisions to programs; or a reorganization or consolidation of two or more individual schools, departments, or school districts.

Definitions

Definitions used in this policy are as follows:

1. "Program change" shall mean any elimination, curtailment, or reorganization of a program, department, school operation, or curriculum offering, including, for example, a change in curriculum objectives; a modification of the master schedule; the restructuring of an instructional delivery method; or a modification or reorganization of staffing patterns in a department, on a particular campus, or District-wide.
2. "Reorganization" shall mean a change in positions due to:
    a. A change, elimination, or addition of a function within a department or school; or
    b. A change in the role, responsibility, qualifications, or skill level of a significant number of employees within a department, school, or within a category of employees.
3. "Nonrenewal" shall mean the termination of a term contract at the end of the contract period.

General Grounds

A reduction in force may take place when the Superintendent determines that a program change is required. A determination of a program change constitutes sufficient reason for nonrenewal.

Employment Areas

When a reduction in force is to be implemented, the Superintendent shall recommend to the Board for approval the employment areas to be affected. The Superintendent, with input from campuses and/or departments, may assist the Board by making recommendations regarding the employment areas.

Employment areas may include, for example:

1. Elementary grades, levels, subjects, departments, or programs.
2. Secondary grades, levels, subjects, departments, or programs, including career and technical education subjects.

3. Special programs, such as gifted and talented, bilingual/ESL programs, special education and related services, compensatory education, or migrant education. Each special program is a separate employment area.
4. Disciplinary alternative education programs (DAEPs) and other discipline management programs.
5. Counseling programs.
6. Library programs.
7. Nursing and other health services programs.
8. An educational support program that does not provide direct instruction to students.
9. District-wide programs.
10. An individual campus.
11. Any administrative position(s), unit, or department.
12. Programs funded by state or federal grants or other dedicated funding.
13. Other contractual positions.
14. A job code that corresponds to the position/duties an affected employee currently performs.

The Superintendent's recommendation may address whether any employment areas should be:

1. Combined or adjusted (e.g., "elementary programs" and "compensatory education programs" can be combined to identify an employment area of "elementary compensatory education programs"); and/or
2. Applied on a District-wide or campus-wide basis (e.g., "the counseling program at [named elementary campus]").

The Board shall determine the employment areas to be affected.

Criteria for Decision

The Superintendent or designee shall apply the following criteria to an employee within an affected employment area based on the employee's assignment at the time the Board approves the employment areas affected by the reduction in force. The criteria are listed in the order of importance and shall be applied sequentially to the extent necessary to identify the employees who least satisfy the criteria and therefore are subject to the reduction in force. For example, if all necessary reductions can be accomplished by ap-

plying the first criterion, it is not necessary to apply the second criterion, and so forth. However, if there is only one individual in the identified employment area or if all individuals in the employment area will be affected by the reduction in force, then there is no need to apply the criteria to the individual(s) in the affected employment area(s).

1. Performance: Effectiveness, as reflected by:

    a. The most recent formal appraisal and, if available, consecutive formal appraisals from more than one year [see DNA]; and

    b. Any other written evaluative information including but not limited to disciplinary information and directives previously issued.

2. If the Superintendent or designee at their discretion decides that the documented performance differences between two or more employees are too insubstantial to rely upon, they may proceed to apply the remaining criteria in the order listed below.

3. Extra Duties/Supplemental: Currently performing an extra-duty or supplemental assignment, for example, department or grade-level chair, band director, athletic coach, activity sponsor, and the like that the designee believes would have a detrimental impact on the school. In making the determination of whether this criterion applies, the principal may consider whether a replacement from among campus members, who are not subject to the reduction in force, can be found, who can perform these duties at the same level.

4. Seniority: Length of continuous service in the District, as measured from the employee's most recent date of hire. An authorized leave shall not be considered an interruption of continuous service.

5. Professional Background: Professional education and work experience related to the current or projected assignment.

Superintendent Recommendation

The Superintendent shall recommend to the Board the nonrenewal of the identified employees within the affected employment areas.

Board Vote

After considering the Superintendent's recommendations, the Board shall determine the employees to be proposed for nonrenewal, as appropriate.

Notice

The Superintendent or designee shall provide each employee written notice of the proposed nonrenewal. The notice shall include a

statement of the reason for the proposed action and notice that the employee is entitled to a hearing.

Consideration for Available Positions

An employee who has received notice of proposed nonrenewal may apply for available positions for which they wish to be considered. The employee is responsible for reviewing posted vacancies, submitting an application, and otherwise complying with District procedures to be considered for a particular vacancy. Assignments to new jobs shall be based on matching of skill sets.

Employees proposed for nonrenewal under this policy shall be considered for positions for which they apply and are qualified up until:

1. Final action by the Board to end the employee's contract, if the employee does not request a hearing; or
2. The evidentiary hearing by the independent hearing examiner, the Board, or other person designated in DFBB(LOCAL), if the employee requests a hearing.

Hearing Request

An employee receiving notice of proposed nonrenewal of a term contract may request a hearing in accordance with DFBB.

Final Action

Hearing Requested

If the employee requests a hearing, the Board shall take final action after the hearing in accordance with DFBB and shall notify the employee in writing of its decision.

No Hearing Requested

If the employee does not request a hearing, the Board shall take final action in accordance with DFBB and shall notify the employee in writing of its decision.

Employee Free Speech

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

Garcetti v. Ceballos, 547 U.S. 410 (2006); Tinker v. Des Moines Indep. Cmty. Sch. Dist., 393 U.S. 503 (1969) [See also GKD]

Whistleblower Protection

A board or its agents shall not suspend or terminate the employment of, or take other adverse personnel action against, an employee who in good faith reports a violation of law by a district or another public employee to an appropriate law enforcement authority.

A "report" is made to an "appropriate law enforcement authority" if the authority is a part of a state or local governmental entity or the federal government that the employee in good faith believes is authorized to:

1. Regulate under or enforce the law alleged to be violated in the report; or
2. Investigate or prosecute a violation of criminal law.

Gov't Code 554.002

A supervisor who suspends or terminates the employment of or takes an adverse personnel action against an employee for reporting a violation of law shall be subject to civil penalties. *Gov't Code 554.008*

Definitions

"Employee" means an employee or appointed officer who is paid to perform services for a district. It does not include independent contractors. *Gov't Code 554.001(4)*

"Law" means a state or federal statute, an ordinance of a local governmental entity, or a rule adopted under a statute or ordinance. *Gov't Code 554.001(1)*

A "good faith" belief that a violation of the law occurred means that:

1. The employee believed that the conduct reported was a violation of law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Wichita County v. Hart, 917 S.W.2d 779 (Tex. 1996)

A "good faith" belief that a law enforcement authority is an appropriate one means:

1. The employee believed the governmental entity was authorized to:

   a. Regulate under or enforce the law alleged to be violated in the report, or

   b. Investigate or prosecute a violation of criminal law; and

2. The employee's belief was reasonable in light of the employee's training and experience.

Tex. Dep't of Transp. v. Needham, 82 S.W.3d 314 (Tex. 2002)

Whistleblower Complaints

An employee who alleges a violation of whistleblower protection may sue a district for injunctive relief, actual damages, court costs, and attorney's fees, as well as other relief specified in Government Code 554.003. *Gov't Code 554.003*

Initiate Grievance

Before suing, an employee must initiate action under a district's grievance policy or other applicable policies concerning suspension or termination of employment or adverse personnel action.

The employee must invoke a district's grievance procedure not later than the 90th day after the date on which the alleged suspension, termination, or other adverse employment action occurred or was discovered by the employee through reasonable diligence.

Legal Action

If a board does not render a final decision before the 61st day after grievance procedures are initiated, the employee may elect to:

1. Exhaust a district's grievance procedures, in which case the employee must sue not later than the 30th day after the date those procedures are exhausted to obtain relief under Government Code Chapter 554; or

2. Terminate district grievance procedures and sue within the timelines established by Government Code 554.005 and 554.006.

Gov't Code 554.005, 554.006 [See DGBA regarding grievance procedures]

Burden of Proof	If the employee brings a lawsuit, the employee has the burden of proof unless the suspension, termination, or adverse personnel action occurred within 90 days after the employee reported a violation of law, in which case the suspension, termination, or adverse personnel action is presumed, subject to rebuttal, to be because the employee made the report.
Affirmative Defense	It is an affirmative defense to a whistleblower suit that the district would have taken the action against the employee that forms the basis of the suit based solely on information, observation, or evidence that is not related to the fact that the employee made a report protected under the whistleblower law. *Gov't Code 554.004*
Notice of Rights	A board shall inform its employees of their rights regarding whistleblower protection by posting a sign in a prominent location in the workplace. The design and content of the sign shall be as prescribed by the attorney general. *Gov't Code 554.009*

Right to Report a Crime

A district employee may report a crime witnessed at the school to any peace officer with authority to investigate the crime. A district may not adopt a policy requiring a school employee to refrain from reporting a crime witnessed at the school or to report a crime witnessed at the school only to certain persons or peace officers. *Education Code 37.148*

Protection for Reporting Child Abuse

A district may not suspend or terminate the employment of, discriminate against, or take other adverse employment action against a professional employee who in good faith:

1. Reports child abuse or neglect to:
    a. The person's supervisor,
    b. An administrator of the facility where the person is employed,
    c. A state regulatory agency, or
    d. A law enforcement agency; or
2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.

"Adverse employment action" means an action that affects an employee's compensation, promotion, transfer, work assignment, or performance evaluation, or any other employment action that would dissuade a reasonable employee from making or supporting a report of abuse or neglect under Family Code 261.101.

A person may sue for injunctive relief, damages, or both if the person is suspended or terminated from the person's employment; is discriminated against; or suffers any other adverse employment action.

A district employee who has a cause of action under the provisions at Whistleblower Protection, above, may not bring an action under Protection for Reporting Child Abuse.

Family Code 261.110(a)-(c), (l)

Protection from Disciplinary Proceedings

For purposes of the following provisions, "disciplinary proceeding" means discharge or suspension of a professional employee, or termination or nonrenewal of a professional employee's term contract. [See DGC regarding immunity] *Education Code 22.0512(b)*

Reporting Child Abuse or Maltreatment

A district employee may not be subject to any disciplinary proceeding resulting from an action taken in compliance with Education Code 38.0041 [prevention of child abuse and other maltreatment, see FFG]. *Education Code 38.0041(g)*

Use of Physical Force

A professional employee may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Penal Code 9.62. This provision does not prohibit a district from enforcing a policy relating to corporal punishment or bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment. *Education Code 22.0512(a); Tex. Atty. Gen. Op. GA-0202 (2004)*

Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:

1. If the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and
2. When and to the degree the actor reasonably believes the force is necessary to further the special purpose or to maintain discipline in a group.

Penal Code 9.62

Failure to Follow Scope, Sequence, and Instructional Materials

A district may not penalize a teacher who does not follow the pacing of recommended or designated instructional materials or the pacing of the recommended or designated scope and sequence for a subject in the required curriculum under Education Code 28.002(a) in a particular grade level based on the teacher's determination that the teacher's students need more or less time in a specific area to demonstrate proficiency in the essential knowledge and skills for that subject and grade level [see EHAA].

A district may take appropriate action with respect to a teacher for conduct described above based on documented evidence of a deficiency in classroom instruction obtained through observation or substantiated and documented third-party information.

Education Code 28.0027(b), (c)

A classroom teacher employed by a district may not be subject to disciplinary proceedings for an allegation that the teacher violated Education Code 28.0022, the Establishment Clause of the First Amendment of the United States Constitution, or a related state or federal law if:

1. The teacher used only instructional material included on the list of approved instructional material maintained by the State Board of Education under Education Code 31.022 and adopted by the district; and

2. The allegation does not dispute that the teacher delivered instruction from the instructional material with fidelity.

This immunity is in addition to, and may not be construed to interfere with, any other immunity provided by law.

Education Code 22.05125

Instructional Materials and Technological Equipment

A board may not require an employee who acts in good faith to pay for instructional materials or technological equipment that is damaged, stolen, misplaced, or not returned. An employee may not waive this provision by contract or any other means.

Exception

A district may enter into a written agreement with an employee whereby the employee assumes financial responsibility for electronic instructional material or technological equipment usage off school property or outside of a school-sponsored event in consideration for the ability of the employee to use the electronic instructional material or technological equipment for personal business.

The written agreement shall be separate from the employee's contract of employment, if applicable, and shall clearly inform the employee of the amount of the financial responsibility and advise the employee to consider obtaining appropriate insurance. An employee may not be required to enter into such an agreement as a condition of employment.

Education Code 31.104(e); 19 TAC 66.107(c)

Controversial Topics

For any course or subject, including an innovative course, for a grade level from kindergarten through grade 12, a teacher may not be compelled to discuss a widely debated and currently controver-

sial issue of public policy or social affairs. *Education Code 28.0022(a)*

Note: For instructional requirements and prohibitions, including requirements for student discussion, see EMB.

Jury Duty

A district may not discharge, threaten to discharge, intimidate, or coerce any permanent employee because the employee serves as a juror or grand juror, or for the employee's attendance or scheduled attendance in connection with the service, in any court in the United States. An employee who is discharged, threatened with discharge, intimidated, or coerced is entitled to return to the same employment that the employee held when summoned for jury or grand jury service if the employee, as soon as practical after release from jury or grand jury service, gives the employer actual notice that the employee intends to return. *Civ. Prac. & Rem. Code 122.001*

A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against a school district employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation [see DEC]. *Education Code 22.006(a), (b)*

Voting

A person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly refuses to permit the other person to be absent from work on election day or while early voting is in process for the purpose of attending the polls to vote, or subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote. Penalty means a loss of wages or another benefit of employment.

It is an exception to the application of this provision that the person's conduct occurs in connection with an election in which the polls are open on election day or while early voting is in progress for voting for two consecutive hours outside of the voter's working hours.

Election Code 276.004

Breaks for Nursing Mothers

A district shall provide a reasonable break time for an employee to express breast milk for the employee's nursing child for one year after the child's birth each time the employee has need to express the milk.

A district shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

A district shall not be required to compensate an employee receiving reasonable break time for any time spent during the workday for such purpose unless otherwise required by federal or state law or municipal ordinance.

Break time provided shall be considered hours worked if the employee is not completely relieved from duty during the entirety of the break.

A district that employs less than 50 employees is not subject to these requirements, if the requirements would impose an undue hardship by causing the district significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the district.

This requirement does not preempt a state law or municipal ordinance that provides greater protections to employees.

29 U.S.C. 218d

Right to Express Breast Milk

A district employee is entitled to express breast milk at the employee's workplace. *Gov't Code 619.002*

The district shall develop a written policy on the expression of breast milk by employees under Government Code Chapter 619. The policy must state that the district shall support the practice of expressing breast milk and make reasonable accommodations for the needs of employees who express breast milk.

A district shall provide a reasonable amount of break time for an employee to express breast milk each time the employee has need to express the milk. The district shall provide a place, other than a multiple user bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

A district may not suspend or terminate the employment of, or otherwise discriminate against, an employee because the employee has asserted the employee's rights under Government Code Chapter 619. Government Code Chapter 619 does not create a private or state cause of action against a district.

Gov't Code Ch. 619

Charitable Contributions

A board or a district employee may not directly or indirectly require or coerce any district employee to:

1. Make a contribution to a charitable organization or in response to a fund-raiser; or
2. Attend a meeting called for the purpose of soliciting charitable contributions.

A board or district employee may not directly or indirectly require or coerce any district employee to refrain from the same acts.

Education Code 22.011

Protection of Nurses

A district may not suspend, terminate, or otherwise discipline or discriminate against a nurse who refuses to engage in an act or omission relating to patient care that:

1. Would constitute grounds for reporting the nurse to the Board of Nurse Examiners under Occupations Code Chapter 301, Subchapter I;
2. Constitutes a minor incident, as defined at Occupations Code 301.419; or
3. Would violate Occupations Code Chapter 301 or a rule of the Board of Nurse Examiners, if the nurse notifies the district at the time of the refusal that this is the reason for refusing to engage in the act or omission.

Occupations Code 301.352(a)

Direct Communication with Board Members

Employees shall not be prohibited from communicating with a member of the Board regarding District operations except when communication between an employee and a Board member would be inappropriate because of a pending hearing or appeal related to the employee.

Dispute Resolution Process

The dispute resolution process provides employees an orderly process for the prompt and equitable resolution of disputes when a concern has not been resolved. The Board intends that, whenever feasible, disputes be resolved at the lowest possible administrative level. This policy shall not be construed to create new or additional rights beyond those granted by Board policy or law.

Definitions

For purposes of this policy, “days” shall mean calendar days unless otherwise noted in this policy.

For the purposes of this policy, “Superintendent” shall mean the Superintendent or designee.

The terms “dispute,” “complaint,” and “grievance” shall have the same meaning. A dispute under this policy may include, but shall not be limited to, any of the following:

1. Grievances concerning an employee’s wages, hours, or conditions of work, including employment status.
2. Specific allegations of discrimination or harassment in employment on the basis of marital status, sexual orientation, gender identity, and/or gender expression.
3. Specific allegations of unlawful discrimination, such as discrimination based on veteran status or retaliation on the basis of the employee’s exercise of constitutional rights, including but not limited to, political affiliation.
4. Whistleblower complaints.

Other Complaint Processes

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with DIA.
2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with DIA.

3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with DIA.
4. Complaints concerning instructional resources shall be submitted in accordance with the EF series.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.
6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.
7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.

Notice to Employees

The principal shall inform employees of this policy through appropriate publications.

Freedom from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against an employee for bringing a concern or complaint. [See DG(LEGAL)]

Whistleblower Complaints

Employees who allege adverse employment action in retaliation for reporting a violation of law to an appropriate authority shall initiate a dispute resolution process under this policy within the time specified by law. [See DG(LEGAL)]

The complaint shall first be filed in accordance with the alternative entry into the dispute resolution process, provided below. Timelines for the employee and the District set out in this policy may be shortened to enable the Board to make a final decision within 60 days of the initiation of the complaint. [See DG]

Complaints Against Supervisors

Complaints alleging a supervisor's violation of law may be made to the next line supervisor who is in vertical alignment with the supervisor against whom the complaint is brought. A complaint alleging a violation of law by the Superintendent may be made to the chief human resources officer under the alternative entry process specified in this policy.

General Requirements

The dispute resolution form must specify the individual harm alleged. An employee is prohibited from bringing separate or serial grievances regarding the same event or action. All time limits shall be strictly complied with unless modified by mutual consent. Costs of any dispute shall be paid by the party incurring them.

Consolidation	When the Superintendent determines that two or more individual concerns are sufficiently similar in nature and remedy to permit their resolution through one proceeding, he or she may consolidate the disputes.
Representation at Dispute Resolution Conferences	An employee shall be entitled to representation at any and all meetings that directly relate to the issues that are being addressed in the dispute resolution process. An employee may represent himself or herself or be represented by an individual of his or her choosing. The representative may participate in person or by telephone conference call. An employee may not designate a representative who claims the right to strike.
Time Frames	The primary purpose of the dispute resolution process is the resolution of concerns in an expeditious manner. The time frames set forth at each level of the process are maximums and, whenever possible, the decision-maker should render a decision or resolution within a shorter period of time. All time frames shall be counted in calendar days, the first day commencing on the next calendar day after the event triggering the time frame. Time frames shall not include days that are Districtwide designated holidays. Although the employee may not file a separate grievance for failure of the administration to comply with established time frames under this policy, upon notification by the grievant or his or her representative, if it is found that an administrator has failed to meet a designated timeline, the Superintendent or designee shall issue written administrative directives to a responsible party. The grievant may seek the relief for the lack of compliance with the time frames as set forth below for each step of the process.
Untimely Filings	All time limits shall be strictly followed unless modified by mutual written consent. If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.
Costs Incurred	Each party shall pay its own costs incurred in the course of the complaint.
Complaint and Appeal Forms	Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint may be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One or Level Two conferences.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refiled with all the required information if the refiling is within the designated time for filing. However, no complaint form that has a completed Statement of Concern section and a Remedy Requested section of the form shall be dismissed for failure to submit relevant documentation.

Scheduling Conferences

All conferences shall take place during normal District business hours. All participants, including witnesses, shall be released from regular duties and shall suffer no loss of pay or other benefits if, and only if, they receive prior approval from their immediate supervisor. To minimize disruption in the workplace, the supervisor shall work with the hearing officer, the grievant, and the administration, as necessary, to manage the release of employees who are participants in the conference.

Audio Recording

As provided by law, an employee shall be permitted to make an audio recording of a conference or hearing under this policy at which the substance of the employee's complaint is discussed. The employee shall notify all attendees present that an audio recording is taking place. If the grievant records the conference, then the supervisor or administrator may also record the conference.

Mutual Agreement of the Parties

The parties involved may mutually consent to modify the procedures as may be necessary to accomplish the goal of resolving disputes in the most efficient and expeditious manner possible.

Withdrawal

An employee may withdraw a dispute at any time. Once withdrawn, a dispute may not be reopened.

Unless modified by written mutual consent, a dispute shall be deemed withdrawn if an employee fails to pursue the dispute or is otherwise deemed to be unreasonably protracting the process, including failure to attend a scheduled Level One or Level Two conference and/or Level Three hearing.

It is expected that an employee will participate in each phase of the dispute resolution process. Therefore, if the employee is unable to attend any phase of the dispute resolution process, the employee must provide written notification of the employee's intent not to attend the conference or hearing. In the case of a Level One or Level Two conference, such notice shall be given to the hearing officer and the District's representative at least 48 hours prior to the start

of the conference. In the case of a Level Three hearing, such notice shall be given to the Board President and the District's representative at least 48 hours prior to the start of the hearing.

Each side shall be allowed a maximum of two resets of a Level One or Level Two conference or Level Three hearing twice. If the Level One or Level Two conference or Level Three hearing does not take place after a second reset requested by the grievant, the grievance will be deemed withdrawn, and the dispute may not be reopened.

If the employee desires a representative to appear on the employee's behalf, either in person or via telephone, the notice shall contain a statement indicating that the representative is authorized to proceed with the conference or hearing in the employee's absence. Failure to attend a hearing without the prior notification described above will be deemed a withdrawal of the grievance. Once withdrawn, a dispute cannot be reopened.

Informal Resolution of Concerns

Whenever feasible, the Board encourages employees to present and discuss their concerns and complaints through informal conferences with their supervisor, principal, other appropriate campus administrator, and/or department manager or supervisor.

When informal discussions are not feasible and/or fail to resolve the concern or dispute, the employee may obtain a dispute resolution form from the school department or chief schools office, as appropriate, from the Office of Human Resources or by accessing the District's website. The employee may file a request for the formal process described below.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

Formal Process

The formal process shall consist of Levels One and Two, which are closed to the public. No members of the public may attend except the designated representative. A Level Three presentation to the Board shall be held during a properly posted Board meeting. The determination of whether the hearing shall be opened to the public or held in closed session is within the discretion of the Board, except that the hearing shall be held in closed session upon request by the employee who is the grievant in the dispute. The only exception to the grievant's election to hold the hearing in closed session shall be when the employee against whom the complaint or a charge is brought makes a written request for an open hearing, in which case the hearing shall be opened to the public.

Level One

An individual who has been unable to informally resolve a concern/dispute about a wage, hour, or condition of work may initiate a

formal dispute. The individual shall file a formal dispute by submitting a completed dispute resolution form within 30 calendar days from the date of the alleged action/decision that forms the basis of the concern/dispute and in accordance with the calculation of time frames as set forth above. If the employee did not learn of the action until a later date, the time shall be counted from the date a reasonable person should have learned of the action/decision through reasonable diligence and in accordance with the calculation of time frames as set forth above.

The completed form must clearly state the dispute regarding an issue of wages, hours, or conditions of work. The form must also clearly state a valid remedy that a supervisor may lawfully grant. A form may be rejected on the grounds that it is not a valid dispute of wages, hours, or conditions of work or that no valid remedy has been stated or may be granted for the alleged act/decision.

The completed dispute resolution form shall be filed with the principal/department head/work location supervisor who has direct supervision of that particular employee.

The immediate supervisor, or other appropriate administrator or designated supervisor assigned to hold the Level One conference, shall schedule a conference with the employee within seven calendar days of receipt of the completed dispute resolution form in accordance with the calculation of time frames as set forth above. The conference is not an evidentiary or due process hearing. The conference is an informal conference for the sole purpose of discussing and resolving concerns or disputes of an employee with respect to wages, hours, or conditions of work.

There shall be no cross-examination of any witnesses, nor shall this conference in any way resemble an evidentiary hearing. Each side shall simply make presentations to the supervisor or the person assigned to hold the Level One conference within the time restrictions set by that person.

After considering the matters presented at the conference and any other information he or she believes to be relevant to the dispute, the supervisor or other person assigned to conduct the Level One conference shall issue a decision or resolution with respect to the dispute held by the employee. The decision/resolution shall be rendered no later than seven calendar days from the date of the conference in accordance with the calculation of time frames as set out above. The decision/resolution shall be provided to the employee on the original dispute resolution form filed by the employee, with attachments, as appropriate.

Level Two

In the event the employee is not satisfied with the decision/resolution of the Level One hearing officer, or if the administration fails to

meet the designated time frame for either scheduling a conference or rendering a decision within the allotted time frame, the employee may appeal the dispute to Level Two of the dispute resolution process. If the employee does not have the original dispute resolution form, he or she may substitute a true and correct copy of the same for filing at Level Two.

An employee must file the appeal within seven calendar days of receipt of the decision/resolution. If the administration's timeline to issue the decision/resolution passes, an employee shall have seven calendar days from the date the decision/resolution was due to file his or her appeal. The appeal must be filed with the next line supervisor who is in vertical alignment with the supervisor hearing the dispute at Level One, and a copy must be sent to the Superintendent's designee.

The timelines at Level Two shall run from the date the appeal request is received by the Superintendent's designee. The Superintendent's designee, in consultation with the Superintendent's appropriate direct report, shall identify the Level Two hearing officer, who may or may not be a current District employee. The Level Two hearing officer shall schedule a conference within ten calendar days of the date of receipt of the dispute resolution form in accordance with the calculation of time frames as set forth above. The Level Two hearing officer shall have satisfied his or her duty to scheduling the conference, for purposes of following prescribed timelines, by contacting the employee or his or her representative, offering available dates and times for the hearing that shall occur at a mutually agreed-upon time, with mutual effort to convent the conference within a prescribed time frame. If the employee who filed the dispute is unable to attend or cannot secure the representation of choice for the scheduled conference date and time, the Level Two hearing officer shall convene the conference at a mutually agreed-upon date and time.

The conference is not an evidentiary or due process hearing; it is an informal conference for the sole purpose of resolving concerns or disputes brought up by an employee with respect to wages, hours, or conditions of work. The conference shall be recorded by a court reporter paid for by the District. The employee shall be allotted a specific amount of time to present his or her concerns. The employee may also present witnesses and may submit any available documentation. The administration shall be allotted the same amount of time to present its position and shall be allowed to present witnesses and submit any documentation on the issues addressed at the conference.

There shall be no cross-examination of witnesses, nor shall this conference in any way resemble an evidentiary hearing. Each side shall simply make presentations to the Level Two hearing officer within the time restrictions set by the Level Two hearing officer.

The Level Two hearing officer, after considering the matters presented at the conference and any other information he or she may have, shall arrive at a decision or resolution regarding the dispute. The decision/resolution shall be rendered no later than seven calendar days from the date on which the Level Two hearing officer receives the transcript of the conference in accordance with the calculation of time frames as set forth above. The decision shall be provided to the employee and the administration and/or their representatives on the original dispute resolution form filed by the grievant or as an affixed attachment to that document. The decision shall be deemed rendered upon confirmation of delivery via facsimile or electronic transmission, with the original to follow, or by proof of mailing of the original document.

Level Three

If either the administration or the employee is not satisfied with the decision/resolution of the Level Two hearing officer, either party may appeal the dispute to Level Three of the dispute resolution process. Additionally, if a decision/resolution is not rendered within the allotted time frame following receipt of the transcript of the conference by the Level Two hearing officer, the employee may appeal to Level Three. No appeal to Level Three may be initiated by the administration without consulting with the Office of the General Counsel.

The Board shall not conduct a Level Three hearing until after a Level Two hearing has been convened and a transcript of the hearing is available for the Board's review.

The appeal to the Board shall be filed within seven calendar days of the decision/resolution. If the Level Two hearing officer's timeline to issue the decision/resolution passes, an employee shall have seven calendar days from the day the decision/resolution was due to file his or her appeal. An appeal shall be filed by forwarding the original dispute resolution form or a true and correct copy, including all attachments and decisions rendered, to the Board Services Office, Level One of the Houston ISD's Hattie Mae White Education Support Center. A Level Three hearing request form or a cover letter addressed to the Board President containing a clear request for a hearing must accompany the dispute form, attachments, and decisions rendered to date.

The Board shall attempt to hear the dispute within 30 calendar days of its receipt, but the Board is not required to hear the dispute

within that time frame. Both parties, the employee, and the administration representative shall make oral arguments before the Board within time restrictions set by the Board. An appeal to the Board shall be based on the record developed at Level Two. No new documents may be submitted by the employee or the administration as part of the proceedings before the Board. In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of any Level Three presentation it allows. Any Level Three presentation, including the presentation by the employee or the employee's representative, any presentation from the administration or its representative, and questions from the Board with responses shall be recorded by audio recording, video/audio recording, or court reporter, at the discretion of the District.

After hearing and considering the concern of the employee or the administration and the response by the other party, the Board may choose to issue a disposition of the dispute or not to act on it. If the Board chooses to issue a disposition, it shall be done in writing, no later than at the next regularly scheduled Board meeting. The disposition shall be addressed to the employee and to the administration or its representative.

Alternative Entry into the Formal Dispute Resolution Process

An alternative method for entry into the formal dispute resolution process shall be used to address:

1. Concerns that are not under the authority of an employee's immediate supervisor;
2. If an employee is dissatisfied with the result of an investigation concerning specific good-faith allegations of unlawful discrimination on the basis of race, color, religion, sex (including allegations of sexual harassment), national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression; or
3. The employee exercising his or her constitutional rights.

Concerns of this nature shall specify the individual harm being alleged.

If the employee believes that the alternative entry into the dispute resolution process is appropriate for issues other than those stated in the previous paragraph, the employee shall transmit the dispute resolution form directly to the chief human resources officer, and a copy shall be sent to the employee's immediate supervisor. The chief human resources officer or designee shall determine whether the dispute presented should enter at Level One or Level Two of

the dispute resolution process, as well as the appropriate administrator to hear and resolve the dispute. The chief human resources officer or designee shall have five business days from the date the dispute is received to inform both the employee and the hearing officer identified to hear and resolve the dispute, in writing, the procedural entry level for that dispute and the hearing officer for that level, in accordance with the calculation of time frames as set forth above.

Notification from the chief human resources officer or designee to the named hearing officer shall include the original dispute resolution form or a true and correct copy of the same.

Receipt of notification by the hearing officer shall trigger time frames for the designated level of the grievance process in accordance with the calculation of time frames as set forth above, except that the time frame to contact the employee or his or her representative to schedule a hearing shall not exceed 14 calendar days from the date that the dispute was filed with the chief human resources officer. The dispute shall proceed using the timelines and procedures for the relevant level as outlined above.

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 emails, 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 email 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

Public Information on Private Device

A current or former board member or employee of a district who maintains public information on a privately owned device shall:

1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or

2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

Gov't Code 552.004(b) [See GB]

Loss of Retirement Annuity for Conviction of Certain Felonies

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 disabled individual);

2. Section 21.12 (improper relationship between educator and student);

3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault); or

4. Section 43.24 (sale, distribution, or display of harmful material to minor).

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 and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, 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, Penal Code 46.03, 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:

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*

Definitions

For purposes of defining prohibited conduct, the following shall apply:

- "Immorality" is conduct that the Board determines is not in conformity with the accepted principles of right and wrong behavior or that the Board determines is contrary to the moral standards that are accepted within the District.
- "Moral turpitude" is an act of baseness, vileness, or depravity in the private or social duties that a person owes another member of society in general and that is contrary to the accepted rule of right and duty between persons. Examples include but shall not be limited to: theft, attempted theft, swindling, forgery, indecency with a minor, prostitution, and the like.
- "Workplace" is defined as the site for performance of work done in connection with all assignments or duties of one's employment with the District, including any District building or premise; any District-owned or District-approved vehicle, including any vehicle used to transport students to and from school or school activities; or any off-school property during any school-sponsored or school-approved activity, event, or function, such as a field trip or athletic event where students are under the jurisdiction of the District.
- "Electronic media" includes all forms of digital media, such as text messaging, instant messaging, electronic mail (email), and internet and social media. Electronic media also includes all forms of telecommunications, such as landlines, cell phones, and web-based applications.
- "Electronic communication" means any communication facilitated by the use of any wired or wireless technology via the internet or any other electronic media. The term includes communication facilitated by the use of a telephone, email, instant messaging, videoconferencing, or webcam.
- "Social media" covers web-based, interactive communication between individuals, organizations, or communities, which includes but is not limited to web logs (e.g., blogs, electronic forums such as chat rooms, video-sharing websites (e.g., YouTube, Vimeo), editorial comments posted on the internet, and social networking sites including, but not limited to Facebook, Twitter, Google+, Instagram, LinkedIn, Wikispace, and Edmodo.
- "User" is defined as a District employee or District contractor using computers, internet and social media, email, chat

rooms, text messaging, instant messaging, and other forms of electronic communications or equipment for which the District has administrative responsibility. It also applies to any equipment that uses the District's network to access online resources.

General Guidelines

Employees shall be courteous to one another and the public, working together in a cooperative spirit to serve the best interests of the District. All District employees shall be expected to adhere to the standards of conduct set out in the *Educators' Code of Ethics*. [See DH(EXHIBIT)]

All District employees shall attend ethics training at least once every two years. The Office of Ethics and Compliance shall monitor participation in the training and maintain certification of successful completion for all employees in accordance with the District's records retention policy.

Employees wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA(LOCAL)]

E-Rate Matters

In the case of E-Rate matters, refer to governance provided at CAA.

Employee Responsibilities

Every employee shall be responsible for:

1. Arriving at work on time every day and following attendance procedures;
2. Satisfactorily completing the duties as specified by the job description and/or contract, if any;
3. Relating to colleagues and supervisors with respect, courtesy, and in a professional manner;
4. Spending the workday on work-related activities to the exclusion of personal business;
5. Dressing in a manner that is appropriate for the job assignment, that reflects positively on the District, and that includes the use of all issued safety equipment;
6. Recognizing that employment with the District is not guaranteed, but is dependent on employee performance, budget, and need;
7. Following the established rules of behavior for the District and society in general as defined by local, state, and federal laws;
8. Conducting their duties in a safe manner, following the District's general safety policies and department rules regarding proper use of approved safety equipment and apparel; and

9. Following the directives of the supervisor.

Violations of Standards of Conduct

Employees shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to their status as District employees. Violation of any policies, regulations, or guidelines, 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]

Discrimination, Harassment, or Abuse

District employees shall work, supervise others, or be supervised in a work environment free of discrimination, harassment, and abuse. Accordingly, the use of discriminatory remarks and/or epithets regarding an employee's race, sex, age, color, religion, ancestry, handicap or disability, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or national origin shall not be permitted. Employees shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees, as defined at DIA.
2. Students, as defined at FFH. [See FFG regarding child abuse and neglect.]

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

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

Workplace Bullying

The District considers workplace bullying to be unacceptable and will not tolerate it under any circumstances.

Workplace bullying is defined as engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs in the workplace that:

1. Has the effect or will have the effect of physically harming another employee, damaging the employee's property, or placing the employee in reasonable fear of harm to the employee's person or of damage to the employee's property;
2. Is sufficiently severe, persistent, and pervasive that the action or threat creates an intimidating, threatening, or abusive work environment for the employee;

3. Exploits an imbalance of power between the employee perpetrator and the employee victim through written or verbal expression or physical conduct; or

4. Interferes with the victim's employment or substantially disrupts the operation of the work location.

Workplace bullying does not include the legitimate exercise of employee management, including task assignment, employee coaching, and work-related employee discipline.

Allegations of workplace bullying shall be handled in accordance with DIA3(REGULATION).

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 DIA and FFH]

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

Freedom of Speech

The First Amendment of the United States Constitution prohibits the government from creating law that abridges the freedom of speech. Under Article 1, Section 8 of the Texas Constitution, every person shall be at liberty to speak, write, or publish their opinions on any subject, being responsible for the abuse of that privilege; and no law shall ever pass curtailing the liberty of speech. This policy is not intended to abrogate any individual's state and federal constitutional right to free speech on matters of public concern or to inhibit an employee's right to participate in political affairs in the employee's community, state, or nation as provided under Education Code 21.407(b). These rights must be exercised responsibly and within the context of the District's right to maintain and secure an effective and efficient workplace and school operations free from disruptions that detract from the District's objective of educating children.

Electronic Communication

The District recognizes the powerful impact that electronic communication and social media can have on education. The user participation and sharing of information inherent in these media can be beneficial to students and teachers; and when used responsibly and safely, they may be effectively integrated into the educational environment to support traditional instruction.

Use with Students

In accordance with administrative regulations, a certified or licensed employee, or any other employee designated in writing by

the Superintendent or designee, may use electronic communication 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. For specific procedures on the following, see the administrative regulation [see DH5(REGULATION)]:

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. Procedures for establishing professional media sites, limitations to communicating with students, content restrictions, administrative monitoring and review, privacy issues, adherence to applicable laws and policies, and site accessibility to parents and administrators.

Each employee shall continue to comply with the applicable state and federal laws, local policies, administrative regulations, and the Code of Ethics and Standards for Texas Educators including:

- Compliance with the Public Information Act and the Family Educational Rights and Privacy Act (FERPA), including retention and confidentiality of student records; [See CPC and FL]
- Copyright law; and [See CY]
- Technology resources. [See CQ]

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]

Personal Use — Each employee 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 employee's ability to effectively perform their 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 their supervisor when a student engages in improper electronic communication with the employee.

Disclosing Personal Information — An employee shall not be required to disclose their personal email address or personal phone number to a student.

Safety Requirements — All employees shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

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 CKE]
2. A District employee who holds a Texas handgun license stores 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 the handgun, or other firearm, or ammunition is 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]

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 within ten days if the employee is convicted for a violation of a criminal drug statute occurring in the workplace in accordance with Responsibility to Report Charges below.

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.

Drug Testing — All employees are subject to reasonable suspicion testing for alcohol and/or drug use. [See DHE(LOCAL)]

An employee who tests positive for prohibited drugs and/or alcohol shall be subject to termination, except when an employee voluntarily admits to alcohol or illegal drug use and commences counseling or rehabilitation prior to an event that leads to the initiation of any alcohol or drug testing. Such an employee must thereafter refrain from using alcohol and/or illegal drugs.

[See also DI(EXHIBIT) for Drug-Free Workplace Requirements and DHE(LOCAL) for alcohol and drug testing]

Unauthorized Persons on District Premises — A District employee shall not bring their own relative, personal aide, or hired helper to assist the employee in the performance of duties on District premises or at school-sponsored activities without prior approval from the principal/work location supervisor and/or Human Resources Department. [See also DC(LOCAL) and GKG(LOCAL)]

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

Money Lending — The District prohibits loans made by one employee to another with the intent of collecting interest.

Annual Criminal History Record Check — An annual criminal background check shall be conducted on all active personnel who do not have electronic fingerprints on file with the Texas Department of Public Safety.

Review Committee — A review committee will assess the records of employees found to have criminal records that may bar them from continued employment in the District. The committee shall use the standards for reviewing employees and applicants as set out in DC16(REGULATION).

Criminal History Record Check Prior to Promotion or Transfer — A criminal background check shall be conducted on all employees prior to any promotion or transfer to an administrator position, on a campus or within the central office, or as determined by the Superintendent's direct report.

Employees shall disclose a prior record when requested to do so at the time of employment. Failure to do so shall result in termination of employment.

Responsibility to Report Charges

Employees are required to notify the District within ten days should they be charged with, convicted of, granted deferred adjudication for, or entered a plea of nolo contendere to any felony or any misdemeanor involving moral turpitude. This notification must be made in writing to the custodian of records in the Human Resources Department. Failure to do so could result in termination of employment.

Reassignment Pending Final Disposition

An employee shall be subject to being temporarily reassigned when the District becomes aware of any pending charge, previous conviction, or deferred adjudication. The decision to reassign an employee shall be made by the appropriate direct report to the Superintendent or designee.

Determination Upon Final Disposition

A determination regarding what action, if any, to take will be made after the final disposition of the pending charge(s) or, in the case of a conviction or deferred adjudication, after a recommendation is made to the senior manager, Human Resources (HR) Operations, by the criminal history review committee. In the case of an employee, final disposition of pending charges means a conviction, deferred adjudication, or dismissal of the charges. An employee's completion of probation or other sentencing is not required for a final disposition by the District.

Reports of Misconduct

In its Declaration of Beliefs and Visions, the Board expressed its strong confidence in and appreciation for District personnel. The Board desires to provide a uniform system that adequately addresses the needs and concerns of all District employees. The Board therefore encourages employees and others connected with the District to bring forward reports in the form of complaints, comments, and suggestions in order to maintain effective and efficient operations, free from disruptions that detract from the District's main objective of educating children.

This policy applies not only to District employees but is also available to parents, students, patrons of the District, and the general public.

The Board recognizes that there are existing resources through which reports can be made and resolved. These resources include the Employee Hotline, the Employee Assistance Program, the Equal Employment Opportunity, Professional Standards, District Police, and Internal Affairs Departments, as well as other appropriate law enforcement authorities. The Board has designated the senior manager, HR Employee Relations, as the clearinghouse for all reports of wrongdoing and for the coordination of resolutions.

Effective Date

This policy shall be effective as of the adoption date, October 15, 2021.

EMPLOYEE STANDARDS OF CONDUCT DH1
(REGULATION)

EMPLOYEE MISCONDUCT

1. When there is a case of employee misconduct, work location supervisors may request a Professional Standards investigation. The procedures for making such a request are as follows:

WORK LOCATION INVESTIGATION

a. The work location supervisor or his or her designee investigates an allegation of employee misconduct.

PROFESSIONAL STANDARDS CONSULTATION

b. If the work location investigation reveals that a Professional Standards investigation may be appropriate, the work location supervisor contacts the director, Professional Standards, to discuss the matter.

REQUEST FOR PROFESSIONAL STANDARDS INVESTIGATION

c. If a decision is made that a Professional Standards investigation is appropriate, the supervisor sends a written request for authorization to conduct the investigation to the appropriate next line District superintendent, deputy superintendent, chief of staff, other direct report to the Superintendent, or other designee of the Superintendent. See Reference (a).

AUTHORIZATION TO CONDUCT INVESTIGATION

d. The appropriate District superintendent, deputy superintendent, chief of staff, other direct report to the Superintendent, or other designee of the Superintendent forwards written authorization to conduct the investigation to the director, Professional Standards. See Reference (a).

CONSULTATION

2. This regulation has been through consultation (Administrative: August 13, 2001; Instructional: August 14, 2001; Noninstructional: November 5, 2001).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) DH(EXHIBIT)

GENERAL INFORMATION

1. The following information applies to reports of wrongdoing, unethical conduct, and other concerns in the District. See Reference (a):

DEFINITION

a. Reports of wrongdoing, unethical conduct, and other concerns are defined as reports containing:

- Complaints that bring attention to alleged wrongdoing or unethical conduct as prescribed in Board policy (e.g. misuse of District funds or property or misconduct involving moral turpitude as defined in Board policy). See Reference (a);
- Information regarding violations of the Texas and United States Constitutions; State and Federal statutes (criminal and civil); Administrative Rules and Regulations including, but not limited to, the Texas Educators' Code of Ethics, State Board of Education rules, University Interscholastic League rules, and other similar regulations; and
- Concerns regarding matters that affect the District's major initiatives.

b. A report can be made by any of the following persons:

- All District personnel (full and part-time);
- Students and parents;
- Patrons of the District; and
- Members of the general public.

CONTENTS

c. A report of wrongdoing, unethical conduct, or other concerns must be made in good faith. The individual making the report must have a reasonable belief that the report is accurate at the time the report is made. However, making a report does not require that the individual have first-hand knowledge of a violation. Reports may be made on the basis of second-hand information.

REPORTS MADE IN BAD FAITH

d. Employees who intentionally or knowingly make a bad-faith report containing false allegations are subject to disciplinary action, up to and including termination. Any employee terminated as a result of noncompliance with these procedures will be afforded due process in accordance with District's Board Policies and Procedures.

RECOGNITION OF RIGHTS

e. The guidelines and procedures in this memorandum are not intended to restrict any individual's right to free

speech as a private citizen on matters of public concern under the Texas and United States Constitutions, nor is it to inhibit the employee's right to participate in political affairs in the employee's community, state, or nation as provided by Reference (c). These rights must be exercised responsibly within the context of the District's right to maintain and secure an effective and efficient workplace and school operations free of disruptions that detract from the District's objective of educating children. All reports on matters of private concern must be submitted as indicated in this memorandum, and any reports made by employees on matters of public concern in a manner not indicated in this memorandum must not create a substantial disruption of the workplace or the educational process. [See DG]

CLASSIFICATIONS

2. Classifications for complaints of wrongdoing, along with designations of groups to lead investigations into each classification of complaint, are as follows. The nature of a complaint could, at any time, require a change in the investigative procedures and likewise the units conducting the investigation;

CRIMINAL

a. The criminal classification involves misconduct that violates the Texas Penal Code or other criminal statutes (e.g. theft, sexual misconduct, and the like). The lead investigation will be handled by the District Police Department or the Office of Inspector General or jointly by the two, with assistance from Legal Services and the administration.

FRAUD/WASTE

b. The fraud/waste classification involves financial misappropriation, misuse of District property, or flagrant misuse of District resources. The lead investigation will be handled by the Office of Inspector General with assistance from the District Police Department, Legal Services, and the administration.

EMPLOYEE DISCIPLINE

c. The employee discipline classification involves nonperformance of job duties, inappropriate behavior, noncompliance with the Board policy and procedures, sexual harassment, or discrimination. See Reference (a). The lead investigation will be handled by the Office of Inspector General with assistance from the District Police Department, Legal Services, and the administration.

WORKPLACE CONFLICTS

d. The workplace conflicts classification involves employee and supervisor relationship issues or employment concerns. The lead investigation will be handled by Equal

Employment Opportunity with assistance from the administration.

SUBMITTING A REPORT

3. District employees are encouraged to make reports through their first-line supervisors. If an employee chooses not to use that avenue, reports can be made through the following avenues. Non-employees must use one of the methods at OTHER METHODS, below.

EMPLOYEE ALERTLINE

a. The AlertLine service (1-800-455-9551) may be used to make reports. See Reference (b). Employees will be able to access this toll-free number 24 hours per day, seven days per week. The hotline number should be prominently posted in all work locations.

OFFICE OF INSPECTOR GENERAL

b. Reports may be made directly to the inspector general who will serve as the clearinghouse for all complaints of misconduct. Reports may be made in person, by telephone conference, or in writing.

OTHER METHODS

c. There are other methods by which students, parents, employees, and the community can pursue resolutions to complaints and concerns. These include:

- The dispute resolution process;
- The consultation process;
- The parent and student grievance process [See FNG];
- The bid hearing process;
- The discrimination complaint process;
- The sexual harassment complaint process; and [See DIA or FFH]
- Issues related to E-Rate matters. [See CAA]

RESPONDING TO A REPORT

4. The District intends to investigate all complaints. Procedures and guidelines are as follows:

IMMEDIATE SUPERVISORS

a. When an employee brings to his or her immediate supervisor a concern, which is not covered by the dispute resolution process or any other District procedure, it is the responsibility of the supervisor to seek a resolution to the concern informally. The supervisor must evaluate the merits of the concern and determine to what extent an investigation is needed. All efforts to resolve the concern must be documented by the supervisor and reported immediately to the inspector general.

APPEALS

b. If the employee is not satisfied with the immediate supervisor's resolution, the employee should discuss the concern with the next level supervisor up to the Superintendent of Schools or a designee. Unlike the dispute resolution process, this process does not extend to the District Board of Education. Any resolution through this informal process is final with the Superintendent of Schools or a designee. This procedure does not preclude employees from reporting directly to the inspector general; utilizing the District AlertLine; or appearing before the Board at its public hearing of citizens.

INSPECTOR GENERAL

c. The inspector general is responsible for receiving, processing, and tracking the reports received through the District AlertLine and other avenues (e.g. telephone calls, written correspondence, and the like). The information from each report is recorded on a complaint form and then entered through a centralized Case Management and Tracking System. A code number is assigned to each case and referred by the inspector general to the appropriate investigative unit(s) for the initiation of a preliminary investigation. Upon determination of the merits of the report, the investigative unit will then determine to what extent a more detailed investigation is needed. Where appropriate, the inspector general will facilitate resolution through the appropriate department, up to and including the superintendent of schools.

CASE MANAGEMENT AND TRACKING SYSTEM

d. The purpose of the Case Management and Tracking System is to ensure effective, timely investigations of reported complaints. Guidelines are as follows:

- Supervisors are required to submit any reports of wrongdoing within their areas of responsibility immediately. Cases that are deemed minor in nature and that are resolved through the informal process should be reported to the inspector general to become a part of the overall Case Management database. (Such cases will not be assigned for investigation.);
- A case will be processed and assigned within 24 hours of receipt;
- The unit(s) assigned a case will immediately initiate a preliminary investigation. The extent of the investigation will be unique to each case;

- Status reports will be submitted weekly by the investigative unit(s) to the inspector general, and by the inspector general to the superintendent of schools for the duration of the investigation; and
- After the investigation is completed, the individual making the complaint, if known, will be informed about the resolution of the complaint.

ASSIGNING REPORTS TO INVESTIGATIVE UNITS

e. Reports may be assigned to one of the following investigative units by the inspector general:

- Employee Assistance Program;
- Equal Employment Opportunity;
- District Police Department;
- Office of Inspector General Auditing Division;
- Office of Inspector General Investigations Division; or
- Appropriate law enforcement authorities.

CONFIDENTIALITY

f. To the extent possible and as permitted by law, every effort will be made to maintain confidentiality for the person submitting the report; however, under certain circumstances, the identity of the reporter may be required in order to prevent harm to the health, safety, or welfare of District students, employees, or property.

PROHIBITION AGAINST RETALIATION

5. An employee will not be suspended, terminated, or otherwise discriminated against because the employee has made a report of wrongdoing, unethical conduct, or other concerns. An employee will not be suspended, terminated, or otherwise discriminated against because the employee has reported a violation of law to an appropriate law enforcement authority if the employee report has been made in good faith. A statement of this prohibition against retaliation will be posted in a prominent place in each District building.

SUPERVISOR FAILURE TO REPORT MISCONDUCT

6. All work location supervisors who know of any serious act of misconduct within their areas of responsibility, either directly or indirectly, and who intentionally or knowingly fail to report such an incident or to comply with the guidelines and procedures herein, could be subject to disciplinary action, up to and including termination.

CONSULTATION

7. This regulation has been through consultation (Administrative: April 8, 2008; Instructional: April 3, 2008; Noninstructional: April 8, 2008).

MAINTENANCE RESPONSIBILITY

8. The inspector general, Office of Inspector General, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DH(LOCAL)

(b) Board Policy CAA and Administrative Regulation CAA

(c) Texas Education Code 21.407(b)

REASONABLE SUSPICION TRAINING FOR DRUGS AND ALCOHOL

1. In accordance with federal law and Board policy, all supervisors are required to have two hours of reasonable suspicion training, one hour each for drugs and alcohol. [See References (a), (b), (c), (d), (e), and (g)] The training is part of the District Drug-Free Workplace Program and is offered through the Drug-Free Workplace Department, via quarterly training sessions, as well as private sessions for 50 or more supervisors. [See Reference (f)] A refresher course must be taken every four years.

CONSULTATION

2. This regulation does not require consultation.

MAINTENANCE RESPONSIBILITY

3. The manager, Employee Support Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DH(LEGAL)

(b) Board Policy DH(LOCAL)

(c) Board Policy DHE(LEGAL)

(d) Board Policy DHE(LOCAL)

(e) Board Policy DI(EXHIBIT)

(f) DH4(REGULATION)

(g) 49 Code of Federal Regulations 382.603 Training for Supervisors

DRUG-FREE WORKPLACE PROGRAM

1. The District Drug-Free Workplace Program was developed in response to federal requirements for the testing of all transportation employees. See Reference (i). The Board of Education decided to apply the Drug-Free Workplace Program not just to transportation employees, but to all employees performing driving or safety-sensitive functions (including police officers who carry firearms, motor vehicle mechanics and inspectors, transportation aides, operators of hazardous equipment, custodial staff, and Food Services employees). See References (a), (b), (c), (d), (e), and (j). Employees in, or applying for, driving or safety-sensitive positions are subject to pre-employment testing or testing before transferring to such a position; reasonable suspicion testing; testing after an accident or unsafe practice; testing upon returning to duty after an absence; testing as part of a follow-up to counseling or rehabilitation; and testing before transferring to another position. See References (a), (b), (c), and (d). In addition, all employees are subject to reasonable suspicion testing. See References (c) and (d).

COMPONENTS OF THE DRUG-FREE WORKPLACE PROGRAM

2. The Drug-Free Workplace Program has the following three principal components:

INFORMATION DISTRIBUTION

a. All applicants for driving or safety-sensitive positions, whether as new or transferring employees, are provided with information about the Drug-Free Workplace Program and its provisions for testing employees in such positions. Applicants for all positions in the District are provided with information about the Drug-Free Workplace Program and its provision for reasonable suspicion testing of all employees. Annual acknowledgement letters are sent to all employees in safety-sensitive positions with this regulation attached.

SUPERVISORY TRAINING

b. Drug- and alcohol-related training is provided to all supervisors of employees in driving and safety-sensitive positions, and to all supervisors who have the authority to order reasonable suspicion tests. Attendance and participation in the training are mandatory and will be documented. Once initial training is taken, refresher training is required every four years. See References (c), (d), and (h).

TESTING

c. Specific information about procedures for the various types of testing is contained in Reference (f). Information about obtaining District Police Department assis-

tance related to reasonable suspicion testing is contained in Reference (g).

CONSULTATION

3. This regulation has been through consultation (Administrative: December 11, 2007; Instructional: March 6, 2008; Noninstructional: March 11, 2008).

MAINTENANCE RESPONSIBILITY

4. The manager, Employee Support Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DH(LEGAL)

(b) Board Policy DH(LOCAL)

(c) Board Policy DHE(LEGAL)

(d) Board Policy DHE(LOCAL)

(e) Board Policy DI(EXHIBIT)

(f) DHE4(REGULATION)

(g) DHE1(REGULATION)

(h) DH3(REGULATION)

(i) 49 Code of Federal Regulations, Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs

(j) Safety Sensitive Positions for HISD Random Drug/Alcohol Testing

Social Media

1. The District recognizes the powerful impact that social media technology can have on education since the technology's very existence relies on the active participation, connectivity, and sharing of information among its users.

Use within the District

a. The District believes that the communication and collaboration inherent in the use of social media can enhance learning among students and, when used responsibly and safely, may be effectively integrated into the educational environment to support traditional instruction.

Social media have the potential to benefit the District curriculum and school activity, but misuse of these media can also expose users to inappropriate, offensive, and harmful material and behavior. Policy and regulations are necessary to ensure that all such communication that is supported by the District is safe and adheres to established standards of conduct. [See CQ(EXHIBIT)]

Expectations for Employee Conduct with Social Media

b. Employees are held to the same professional standards as they are in any other public forum as outlined by state and federal law, local policies, and the Code of Ethics and Standard Practices for Texas Educators. In addition, these standards of conduct apply to the employees' use of any form of social media. [See DH(LOCAL) and DH(EXHIBIT)]

Definitions

2. For the purposes of this memorandum, the following definitions will apply:

Social Media

a. "Social media" covers web-based, broadcast, or interactive communication between individuals, organizations, or communities, which includes, but is not limited to, web logs (e.g., blogs), electronic forums such as chat rooms, video-sharing websites (e.g., YouTube, Vimeo), editorial comments posted on the Internet, and social networking sites, including, but not limited to, Facebook, Twitter, Google+, Instagram, LinkedIn, and Wikispace.

Communication

b. "Communication" means the two-way transmission of web-based digital information between two or more people using District technology resources. When employees and District contractors communicate with students and parents, the information directly relates to the mission of the District, school, or classroom; supports the development of students in a positive way; safeguards the confidentiality of student and employee records; and/or enhances community engagement with the District.

Certified or Licensed Employee

c. “Certified or licensed employee” means a person employed in a position requiring certification by the State Board of Educator Certification or a professional license, and whose job duties may require the employee to communicate electronically with students. The term includes, but is not limited to, teachers, school counselors, principals, assistant principals, librarians, paraprofessionals, nurses, educational diagnosticians, licensed therapists, and athletic trainers.

Professional Social Media

d. “Professional social media” means a work-related online or Internet site or account that is established using District technology resources and is developed and managed at the school or department.

Personal Social Media

e. “Personal social media” means an online or Internet site or account that an employee has established or manages for non-work-related purposes.

Professional Network Site

f. “Professional network site” is a website that promotes connections, news feeds, and collaborations among people in like professions or among people who share similar employment experiences and responsibilities.

Posting

g. “Posting” means to display, upload, or share content such as video, pictures, comments, or remarks on a social media platform.

Use of District Technology Resources

3. An employee who wishes to communicate with students and parents through social media must establish a professional social media site that uses District technology resources, is open and accessible to administrators and parents, and addresses work-related and/or instructional issues.

Privacy Limitations

a. When accessing a professional social media site using District technology resources, employees should have no expectation of privacy on items they post, as the District reserves the right to monitor employees’ online activities. In addition, while employees are encouraged to set their social media privacy settings on the highest level, they should be aware that there are limitations to online privacy settings in general.

Authorized Personnel

b. Only a certified or licensed employee, or any other employee designated by the Superintendent of Schools or campus principal, may communicate through social media with students who are currently enrolled in the District. All other employees are prohibited from communicating with students through social media.

Compliance Provisions

c. Principals and department heads (or designees) are responsible for implementing appropriate monitoring systems for social media established and managed at their schools and departments. An employee who uses social media to communicate with students will observe the following:

- The employee will limit communications to matters within the scope of the employee's professional responsibilities (e.g., for classroom teachers, matters relating to class work, homework, and tests; for an employee with an extracurricular duty, matters relating to the extracurricular activity) or to topics that encourage community engagement within the District.
- The employee does not have a right to privacy with respect to communications with students and parents.
- The employee continues to be subject to applicable state and federal laws, local policies, administrative regulations, and the Code of Ethics and Standard Practices for Texas Educators, including:

  (a) Compliance with the Public Information Act and the Family Educational Rights and Privacy Act (FERPA), including retention and confidentiality of student records. [See CPC and FL]

  (b) Copyright law. [See CY(LOCAL)]

  (c) Prohibitions against soliciting or engaging in sexual conduct or a romantic relationship with a student. [See DH(LOCAL), DHB(LEGAL), and DIA(LOCAL)]

  (d) Prohibitions against obscene, discriminatory, defamatory, or threatening language, including harassment and cyberbullying among students and others. [See FFH and FFI]

  (e) Prohibitions against inciting violence or disruptive action.

  (f) Prohibitions against selling or purchasing illegal items or substances.

(g) Prohibitions against using social media for personal financial gain, advertising, promotion, and commerce or for conducting for-profit business and/or political activities.

(h) Prohibitions against posing as another individual for the purpose of publishing material in his or her name that defames or ridicules him or her.

(i) Media releases required for all District students, employees, and contractors whose images (photographs and videos) are posted online.

- Upon request from the administration, an employee will provide social network site(s) or other information regarding the method(s) of social media the employee uses to communicate with any one or more currently enrolled or former students.
- Upon written request from a parent or student, the employee will discontinue communicating on a one-to-one basis with the student through professional social media.
- The employee will be responsible for reporting to his or her principal or department head and documenting any inappropriate use or content that he or she sees on a professional social media site. Inappropriate content using District technology resources may lead to disciplinary and/or legal action.
- The employee must clearly state that he or she is expressing personal views and is not representing the District in any official capacity, unless there is written authorization from the Superintendent of Schools or designee.

Disciplinary Actions

d. Inappropriate use of social media with students that interferes with the employee's ability to effectively perform his or her job duties may result in disciplinary action, up to and including termination of employment.

School and Department Social Media Sites

4. Each school and department is responsible for the development, content management, and monitoring of any professional social media sites generated by any personnel from that work location. The principal or department head will approve the purpose of each site, its intended audience, and

subject matter and will assign a site administrator. Each site administrator will be responsible for:

a. Posting appropriate, accurate, and timely school- or work-related content on the site.

b. Reviewing comments from followers of the site prior to posting to ensure that all site content conforms to District standards. This function may be performed by or in conjunction with a designated workplace committee.

c. Removing comments that violate District standards. The comments function on school or department sites may also be disabled as deemed appropriate or necessary by the principal or district leadership and site administrator.

Retention of Social Media Records

5. Each employee will comply with the District's requirements for records retention and destruction. [See CPC]

Training

6. The District will provide training opportunities and/or materials to assist employees and parents in understanding acceptable and appropriate use of school- or department-based social media.

Expectation of Professional Conduct

7. As role models for the District's students, employees are responsible for their public conduct even when they are not acting as District employees. Employees will be held to the same professional standards in their public use of social media as they are for any other public conduct. If an employee's use of social media interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment. [See DH and GKA]

If an employee wishes to use a social network site or similar media for personal purposes, the employee is responsible for the content on the employee's page, including content added by the employee, the employee's friends, or members of the public who can access the employee's page and for web links on the employee's page. The employee is also responsible for maintaining privacy settings appropriate to the content.

Compliance Provisions for Personal Use of Social Media

8. When using social media for personal purposes, employees will observe the following guidelines:

- An employee may not establish or update the employee's personal social network(s) using the District's computers, network, or equipment. However, the District allows reasonable access to professional networking

sites, such as LinkedIn, using District technology resources, as long as such access does not interfere with the employee's primary job performance.

- The employee continues to be subject to applicable state and federal laws, local policies, administrative regulations, and the Code of Ethics and Standard Practices for Texas Educator, even when communicating regarding personal and private matters, regardless of whether the employee is using private or public equipment on or off campus. These restrictions include:

  (1) Confidentiality of student records. [See FL]

  (2) Confidentiality of health or personnel information concerning colleagues, unless disclosure serves lawful professional purposes or is required by law. [See DH(EXHIBIT)]

  (3) Confidentiality of District records, including educator evaluations and private e-mail addresses. [See GBA]

  (4) Copyright law. [See CY(LOCAL)]

  (5) Prohibition against harming others by knowingly making false statements about a colleague or the school system. [See DH(EXHIBIT)]

  (6) Prohibitions against obscene, discriminatory, defamatory, or threatening language, including harassment and cyberbullying among students and others. [See CQ and FFI]

  (7) Media releases required for all District students, employees, and contractors whose images (photographs and videos) are posted online.

Any employee communication with currently enrolled students and their parents may be considered to be an official educational record; therefore, to ensure adherence to the District's requirements for records retention and destruction, the preferred method of electronic communication between employees and students and/or parents is the official District communication methods (e.g., e-mail) issued to the employee.

Consultation

9. This regulation has been through consultation (Administrative: June 6, 2017; Instructional: June 1, 2017; Noninstructional: June 6, 2017).

Maintenance Responsibility

10. The chief Human Resources officer, Human Resources, is responsible for the maintenance of this regulation.

Effective Date

11. This regulation will be effective as of the adoption date, August 7, 2017.

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*

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 knowingly misappropriate, divert, or use monies, personnel, property, or equipment committed to his or her charge for personal gain or advantage.

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

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

   Standard 1.5. The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents 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 or distribution of controlled substances and/or abuse of 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.

Standard 1.14. The educator shall not assist another educator, school employee, contractor, or agent in obtaining a new job as an educator or in a school, apart from the routine transmission of administrative and personnel files, if the educator knows or has probable cause to believe that such person engaged in sexual misconduct regarding a minor or student in violation of the law.

2. Ethical Conduct Toward Professional Colleagues

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

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

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.

3. Ethical Conduct Toward Students

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

Standard 3.2. The educator shall not 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.

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, e-mail, 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:

a. The nature, purpose, timing, and amount of the communication;

b. The subject matter of the communication;

c. Whether the communication was made openly or the educator attempted to conceal the communication;

d. Whether the communication could be reasonably interpreted as soliciting sexual contact or a romantic relationship;

e. Whether the communication was sexually explicit; and

f. 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

Note: This policy applies to a district of innovation under Education Code, Chapter 12A. [See AF]

Permissive Reports

The superintendent may notify the State Board for Educator Certification (SBEC) of any educator misconduct that he or she believes in good faith may be subject to sanctions under 19 Administrative Code, Chapter 249, Disciplinary Proceedings, Sanctions, and Contested Cases, and/or Chapter 247, Educators' Code of Ethics. *19 TAC 249.14(d)*

Required Reports

A superintendent shall notify SBEC if:

1. An educator employed by or seeking employment with the district, or an applicant or holder of an SBEC certificate, has a criminal record and the district obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established by the Texas Department of Public Safety under Government Code 411.0845;
2. An educator's employment at the district was terminated and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below];
3. The educator submitted a notice of resignation and there is evidence that the educator engaged in misconduct listed below [see Reportable Misconduct, below]; or
4. The educator engaged in conduct that violated the assessment instrument security procedures established under Education Code 39.0301.

Education Code 21.006, 22.087; 19 TAC 249.14(d)

Reportable Misconduct

A superintendent shall make a report to SBEC under items 2 and 3, above, if an educator was terminated or resigned and there is evidence that the educator:

1. Sexually or physically abused a student or minor or engaged in any other illegal conduct with a student or minor;
2. Possessed, transferred, sold, or distributed a controlled substance, as defined by Health and Safety Code Chapter 481 or by 21 U.S.C. 801 et seq.;
3. Illegally transferred, appropriated, or expended school property or funds;
4. Attempted by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle the individual

to be employed in a position requiring such certificate or permit or to receive additional compensation associated with a position;

5. Committed a crime, any part of such crime having occurred on school property or at a school-sponsored event; or

6. Solicited or engaged in sexual conduct or a romantic relationship with a student or minor.

Education Code 21.006(b); 19 TAC 249.14(d)

Investigation

A superintendent shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct described above at Reportable Misconduct, items 1 and 6, despite the educator's resignation from employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

Deadline to Report

The superintendent shall promptly notify SBEC in writing by filing a report within seven business days after the date the superintendent receives a report from a principal [see DP(LEGAL)] or knew of the circumstances described above. *Education Code 21.006(c); 19 TAC 249.14(d)* [See Required Reports, above]

Contents of Report

The report must be in writing and in a form prescribed by SBEC and may be filed through a confidential and secure internet portal developed and maintained by SBEC. The report shall include the name or names of any student or minor who is the victim of abuse or unlawful conduct by an educator and the factual circumstances requiring the report and the subject of the report by providing the following available information:

1. Name and any aliases;

2. Certificate number, if any, or social security number;

3. Last known mailing address and home and daytime phone numbers;

4. All available contact information for any alleged victim or victims;

5. Name or names and any available contact information of any relevant witnesses to the circumstances requiring the report;

6. Current employment status of the subject, including any information about proposed termination, notice of resignation, or pending employment actions; and

7. Involvement by a law enforcement or other agency, including the name of the agency.

Education Code 21.006(c-1); 19 TAC 249.14(f)

The name of the student or minor is not public information under the Public Information Act. [See GBAA] *Education Code 21.006(h)*

Notice

To the Board and Educator

A superintendent shall notify the board and the educator of the filing of a written report with SBEC. The superintendent shall notify the board before filing the report. *Education Code 21.006(d); 19 TAC 249.14(d)(3)(B)*

Before Accepting Resignation

Before accepting an employee's resignation that requires filing a report, the superintendent shall inform the educator in writing that a report will be filed and that sanctions against his or her certificate may result as a consequence. *19 TAC 249.14(d)(3)(A)*

Exception to Notice Requirements

A superintendent is not required to notify SBEC or file a report with the board if, before the educator's termination or resignation, the superintendent:

1. Completes an investigation into an alleged incident of misconduct for:
    a. Abuse or unlawful act with a student or minor; or
    b. Involvement in a romantic relationship with or solicitation or engagement in sexual contact with a student or minor; and
2. Determines the educator did not engage in the alleged incident of misconduct.

Education Code 21.006(c-2); 19 TAC 249.14(d)

Policy to Notify Parents

The board shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have abused or otherwise committed an unlawful act with a student or minor. [See FFF] *Education Code 21.0061*

Sanctions for Failure to Report

SBEC shall determine whether to impose sanctions, including an administrative penalty against a superintendent who fails to file a report. *Education Code 21.006(f); 19 TAC 249.14(d), (h), .15(b)(4)*

Administrative Penalty

If a superintendent is required to file a report and fails to file the report by the required date, SBEC may impose an administrative penalty of not less than $500 and not more than $10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. *Education Code 21.006(i)*

Criminal Offense

A superintendent required to file a report commits a state jail felony if the superintendent fails to file the report by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. *Education Code 21.006(j)*

Immunity

A superintendent or principal who, in good faith and while acting in an official capacity, files a report with SBEC or communicates with another superintendent or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed. *Education Code 21.006(e)*

Definitions

"Abuse" includes the following acts or omissions:

Abuse

1. Mental or emotional injury to a student or minor that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
2. Causing or permitting a student or minor to be in a situation in which the student or minor sustains a mental or emotional injury that results in an observable and material impairment in the student's or minor's development, learning, or psychological functioning;
3. Physical injury that results in substantial harm to a student or minor, or the genuine threat of substantial harm from physical injury to the student or minor, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline; or
4. Sexual conduct harmful to a student's or minor's mental, emotional, or physical welfare.

19 TAC 249.3(1)

Reported Criminal History

"Reported criminal history" means information concerning any formal criminal justice system charges and dispositions. The term includes arrests, detentions, indictments, criminal informations, convictions, deferred adjudications, and probations in any state or federal jurisdiction. *19 TAC 249.3(44)*

Solicitation of a Romantic Relationship

"Solicitation of a romantic relationship" means deliberate or repeated acts that can be reasonably interpreted as the solicitation by an educator of a relationship with a student that is romantic in nature. A romantic relationship is often characterized by a strong emotional or sexual attachment and/or patterns of exclusivity, but does not include appropriate educator-student relationships that arise out of legitimate contexts such as familial connections or longtime acquaintance. The following acts, considered in context,

may constitute prima facie evidence of the solicitation by an educator of a romantic relationship with a student:

1. Behavior, gestures, expressions, or communications with a student that are unrelated to the educator's job duties and evidence a romantic intent or interest in the student, including statements of love, affection, or attraction. Factors that may be considered in determining the romantic intent of such communications or behavior include:
    a. The nature of the communications;
    b. The timing of the communications;
    c. The extent of the communications;
    d. Whether the communications were made openly or secretly;
    e. The extent that the educator attempts to conceal the communications;
    f. If the educator claims to be counseling a student, SBEC may consider whether the educator's job duties included counseling, whether the educator reported the subject of the counseling to the student's guardians or to the appropriate school personnel, or, in the case of alleged abuse or neglect, whether the educator reported the abuse or neglect to the appropriate authorities; and
    g. Any other evidence tending to show the context of the communications between educator and student.
2. Making inappropriate comments about a student's body, creating or transmitting sexually suggestive photographs or images, or encouraging the student to transmit sexually suggestive photographs or images.
3. Making sexually demeaning comments to a student.
4. Making comments about a student's potential sexual performance.
5. Requesting details of a student's sexual history.
6. Requesting a date, sexual contact, or any activity intended for the sexual gratification of the educator.
7. Engaging in conversations regarding the sexual problems, preferences, or fantasies of either party.
8. Inappropriate hugging, kissing, or excessive touching.

9. Providing the student with drugs or alcohol.
10. Violating written directives from school administrators regarding the educator's behavior toward a student.
11. Suggestions that a romantic relationship is desired after the student graduates, including post-graduation plans for dating or marriage.
12. Any other acts tending to show that the educator solicited a romantic relationship with the student.

19 TAC 249.3(51)

Reasonable Suspicion Searches

The District reserves the right to conduct searches when the District has reasonable suspicion to believe that a search will uncover evidence of work-related misconduct. The District may search the employee, the employee's personal items, work areas, lockers, and private vehicles parked on District premises or worksites or used in District business. Searches that reveal a violation of the District's standards of conduct may result in disciplinary action. [See DH]

Reasonable Suspicion Alcohol and Drug Testing

The District may remove an employee from duty and require testing if there is reasonable suspicion that the employee is under the influence of alcohol or drugs used in violation of District policy. The determination of reasonable suspicion may be based on specific observations of the appearance, behavior, speech, or body odors of the employee whose motor ability, emotional equilibrium, or mental acuity seems to be impaired while on duty or other relevant information. Any employee who is asked to submit to drug or alcohol screening shall be given the opportunity to provide relevant information about prescription or nonprescription medications that may affect the screening.

A District employee who refuses to comply with a directive to submit to testing based upon reasonable suspicion shall be subject to disciplinary action, up to and including termination.

A District employee confirmed to have violated the District's policy pertaining to alcohol or drugs may be subject to disciplinary action. [See DF series and DH]

Employees Covered by the Federal Department of Transportation Rules

In accordance with Department of Transportation (DOT) rules, the District shall establish an alcohol and controlled substances testing program to help prevent accidents and injuries resulting from the misuse of alcohol and controlled substances by the drivers of commercial motor vehicles, including school buses. The primary purpose of the testing program is to prevent impaired employees from performing safety-sensitive functions.

The Superintendent shall designate a District official who shall be responsible for ensuring that information is disseminated to employees covered under this testing program regarding prohibited driver conduct, alcohol and controlled substances tests, and the consequences that follow positive test results.

Federally Required DOT Testing Program Drug-Related Violations

The following constitute drug-related violations under the DOT rules:

1. Refusing to submit to a required test for alcohol or controlled substances.

2. Providing an adulterated, diluted, or a substituted specimen on an alcohol or controlled substances test.
3. Testing positive for alcohol, at a concentration of 0.04 or above, in a post-accident test.
4. Testing positive for controlled substances in a post-accident test.
5. Testing positive for alcohol, at a concentration of 0.04 or above, in a random test.
6. Testing positive for controlled substances in a random test.
7. Testing positive for alcohol, at a concentration of 0.04 or above, in a reasonable suspicion test.
8. Testing positive for controlled substances in a reasonable suspicion test.

An employee who operates a commercial motor vehicle, including a bus, and commits a drug-related DOT violation as defined above shall not be eligible for reinstatement as a driver.

Alcohol Results Between 0.02 and 0.04

In accordance with DOT rules, a driver tested under this policy and found to have an alcohol concentration of 0.02 or greater, but less than 0.04, shall be suspended from driving duties for at least 24 hours.

[In the event of a positive test result for alcohol of 0.02 or greater, see the disciplinary consequences at District-Imposed Consequences, below.]

Reasonable Suspicion DOT Testing

Only supervisors specifically trained in accordance with federal regulations may, based upon reasonable suspicion, remove a driver from a safety-sensitive position and require testing for alcohol and/or controlled substances. The determination of reasonable suspicion shall be based on specific observations of the appearance, behavior, speech, or body odors of the driver whose motor ability, emotional equilibrium, or mental acuity seems to be impaired. Such observations must take place just preceding, during, or just after the period of the workday that the employee is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

District-Defined Violations

An employee violates District policy if the employee tests positive for alcohol at a concentration of 0.02 or greater.

District-Imposed Consequences

In addition to the consequences established by federal law, a District employee confirmed to have violated the District's policy pertaining to alcohol or controlled substances shall be subject to termination of employment. [See DF series]

Note: The following provisions address the District's drug- and alcohol-testing program.

Employees Subject to District Drug and Alcohol Testing

Under its own authority, the District shall apply the DOT testing regulations to the categories of employees listed below:

1. Employees who drive District-owned, -leased, or -rented vehicles; and
2. Employees who perform safety-sensitive functions, including but not limited to, police officers who carry firearms, motor vehicle mechanics and inspectors, transportation aides, and operators of hazardous equipment.
3. Applicants for positions that operate District-owned, -leased, or -rented vehicles or that perform safety-sensitive functions are subject to pre-employment testing.
4. Any employee, when there is reasonable suspicion of use of alcohol or controlled substances in the workplace, is subject to, reasonable suspicion testing.

In addition, the DOT testing regulations shall apply to applicants for positions included in one of the above categories.

Reporting Workplace Violence

A district shall post a notice to employees of the contact information for reporting instances of workplace violence or suspicious activity to the Department of Public Safety (DPS). The notice must be posted in a conspicuous place, in sufficient locations to be convenient to all employees, and in English and Spanish, as appropriate.

A notice complies with Labor Code Chapter 104A, if, at a minimum, the information contained in the graphic at 40 Administrative Code 800.600(d) is conveyed:

The Texas Workforce Commission will make an electronic copy of the Reporting Workplace Violence poster[1] available on its website, which will be free of charge and allow employers to print a copy of the poster.

40 TAC 800.600(b)(2), (c)-(e); Labor Code 104A.002, .003

Hazard Communication Act

A district shall perform the following duties in compliance with the Hazard Communication Act:

Notice

A district shall post and maintain adequate notice, at locations where notices are normally posted, informing employees of their rights under the Hazard Communication Act. *Health and Safety Code 502.017(a)*

Education and Training

A district shall provide an education and training program for employees who use or handle hazardous chemicals. “Employee” means a person who may be or may have been exposed to hazardous chemicals in the person’s workplace under normal operating conditions or foreseeable emergencies. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. *Health and Safety Code 502.003(10), .009(a)*

A district shall keep the written hazard communication program and a record of each training session given to employees, including the date, a roster of the employees who attended, the subjects covered in the training session, and the names of the instructors. Records shall be maintained for at least five years. *Health and Safety Code 502.009(g)*

Workplace Chemical List

A district shall compile and maintain a workplace chemical list that contains required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by the executive commissioner of the Health and Human Services Commission for certain highly toxic or dangerous hazardous chemicals. The list must be readily available to employees and their representatives. All employees shall be made aware of the list before working with or in a

work area containing hazardous chemicals. *Health and Safety Code 502.005(a), (c)*

The district shall update the list as necessary but at least by December 31 of each year, and shall maintain the list for at least 30 years. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. *Health and Safety Code 502.005(b), (d)*

Safety Data Sheets — A district shall maintain a legible copy of a current manufacturer's safety data sheets (SDS) for each hazardous chemical. If the district does not have a current SDS for a hazardous chemical when the chemical is received, the district shall request an SDS in writing from the manufacturer or distributor in a timely manner or otherwise obtain a current SDS. Safety data sheets shall be readily available, on request, for review by employees or designated representatives at each workplace. *Health and Safety Code 502.006*

Protective Equipment — Employees shall be provided with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

Labeling — A label on an existing container of a hazardous chemical may not be removed or defaced unless it is illegible, inaccurate, or does not conform to the OSHA standard or other applicable labeling requirement. Primary and secondary containers must be relabeled in accordance with Health and Safety Code 502.007(a). An employee may not be required to work with a hazardous chemical from an unlabeled container except for a portable container intended for the immediate use of the employee who performs the transfer. *Health and Safety Code 502.007*

Pest Control Treatment Notice — The chief administrator or building manager shall notify persons who work in a district building of an indoor pest control treatment by:

1. Posting the sign made available by the certified applicator or technician in an area of common access that the persons are likely to check on a regular basis at least 48 hours before each planned treatment; and
2. Providing the pest control information sheet made available by the certified applicator or technician to a person working in the building on request.

Occupations Code 1951.455; 4 TAC 7.146, .147 [See CLB]

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[1] Reporting Workplace Violence poster: https://www.twc.texas.gov/sites/default/files/fdcm/docs/workplace-violence-poster-twc.pdf

Values and Expectations

The District recognizes that promoting a safe and positive work environment contributes to the fulfillment of the District's mission and provides for the intellectual, social, emotional, and physical growth of students.

An employee can expect:

1. A supervisor who follows District policy in relation to wages, hours, and conditions of work;
2. A procedure for resolving employment disputes;
3. Respect from colleagues and supervisors;
4. A safe and healthy work environment;
5. Assistance, as needed, from the Employee Assistance Program; and
6. Training or staff development to be available.

Protection from Physical Assaults

The District shall take reasonable steps to provide a safe environment for its students and employees. An employee may use reasonable force as is necessary to protect himself or herself from an attack, to protect another person or property, to quell a disturbance threatening physical injury to others, or to obtain possession of weapons or other dangerous objects upon the aggressor or within control of a student or other person. [See also DEC(LEGAL) on Assault Leave]

Effective Date

This policy shall be effective as of the adoption date, October 15, 2021.

FAIR PRACTICES

1. All District disciplinary actions will be handled in accordance with established policies and procedures. It is imperative that all supervisors address necessary disciplinary actions in a manner that is consistent with the District's Core Value of Common Decency. It is the position of the Houston Independent School District that no supervisor will discipline or reprimand an employee in a public setting or in a manner otherwise intending to cause an employee public embarrassment or ridicule.

CONSULTATION

2. This regulation has been through consultation (Administrative: September 8, 2004; Instructional: September 2, 2004; Noninstructional: October 12, 2004).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCE:

(a) Board Policy DI(LOCAL)

Note: This policy addresses complaints of discrimination, harassment, and retaliation of employees based on a protected characteristic identified in DAA(LEGAL).

For provisions related to discrimination, harassment, and retaliation of students, including the district's response to sexual harassment as defined by Title IX, see FFH.

Grievance Procedures

Section 504 — A district that receives federal financial assistance and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act. *34 C.F.R. 104.7(b), .11*

ADA — A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Americans with Disabilities Act (ADA). *28 C.F.R. 35.107, .140*

Title IX — A district that receives federal financial assistance shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX. *34 C.F.R. 106.8(c); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)* [For legally referenced material relating to Title IX grievance procedures, see FFH(LEGAL).]

Compliance Coordinators

Section 504 — A district that employs 15 or more persons shall designate at least one person to coordinate its efforts to comply with Section 504 of the Rehabilitation Act. The district's Section 504 notification [see DAA] shall also identify the responsible employee so designated. *34 C.F.R. 104.7(a), .8(a)*

ADA — A district that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the ADA, including any investigation of any complaint communicated to it alleging its noncompliance with the ADA or alleging any actions that would be prohibited by the ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee or employees so designated. *28 C.F.R. 35.107(a)*

ADEA — A district shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under the Age Discrimination in Employment Act (ADEA), including investigation of any complaints that the district receives alleging any actions that are prohibited by the ADEA. A district shall notify its employees of

	the identity of the responsible employee by name or title, address, and telephone number. *34 C.F.R. 110.25(a), (b)*
Title IX	A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator." The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district of the name or title, office address, electronic mail address, and telephone number of the employee(s) so designated. *34 C.F.R. 106.8(a)*

Note: This policy addresses discrimination, harassment, and retaliation against District employees. For Title IX and other provisions regarding discrimination, harassment, and retaliation against students, see FFH. For reporting requirements related to child abuse and neglect, see FFG.

Definitions

Solely for purposes of this policy, the term "employee" includes current employees, former employees, applicants for employment, and unpaid interns.

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any employee on the basis of race, color, religion, sex, national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

Discrimination

Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, sex, national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or any other basis prohibited by law that adversely affects the employee's employment.

In accordance with law, discrimination on the basis of sex includes discrimination on the basis of biological sex, gender identity, sexual orientation, gender stereotypes, or any other prohibited basis related to sex.

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.

Prohibited conduct also includes sexual harassment as defined by Title IX. [See FFH(LEGAL)]

Prohibited Harassment

Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee's race, color, religion, sex, national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

1. Has the purpose or effect of unreasonably interfering with the employee's work performance;

2. Creates an intimidating, threatening, hostile, or offensive work environment; or

3. Otherwise adversely affects the employee's performance, environment, or employment opportunities.

Examples

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; cyberharassment; 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.

Sex-Based Harassment

As required by law, the District shall follow the procedures below at Response to Sexual Harassment—Title IX upon a report of sex-based harassment, including sexual harassment, when such allegations, if proved, would meet the definition of sexual harassment under Title IX. [See FFH(LEGAL)]

Sexual Harassment

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:

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, contact, or communication, including electronic communication.

Workplace Bullying

The District considers workplace bullying to be unacceptable and shall not tolerate it under any circumstances.

Workplace bullying is defined as engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs in the workplace that:

1. Has the effect or will have the effect of physically harming another employee, damaging the employee's property, or placing the employee in reasonable fear of harm to the employee's person or of damage to the employee's property;
2. Is so sufficiently severe, persistent, and pervasive that the action or threat creates an intimidating, threatening, or abusive work environment for the employee;
3. Exploits an imbalance of power between the employee perpetrator and the employee victim through written or verbal expression or physical conduct; or
4. Interferes with the victim's employment or substantially disrupts the operation of the work location.

Workplace bullying does not include the legitimate exercise of employee management, including task assignment, employee coaching, and work-related employee discipline.

Allegations of workplace bullying shall be handled in accordance with DIA3(REGULATION).

Reporting Procedures

Any 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 nondiscrimination laws.

Alternative Reporting Procedures

An employee 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.

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

To ensure the District's prompt investigation, reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act.

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.

Any District employee who receives a report of prohibited conduct based on sex, including sexual harassment, shall immediately notify the Title IX coordinator.

Investigation of Reports Other Than Title IX

The following procedures apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. [See FFH(LEGAL)] For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX, see the procedures below at Response to Sexual Harassment—Title IX.

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

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

Interim Action

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

District 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 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.

Response to Sexual Harassment—Title IX

For purposes of the District's response to reports of harassment prohibited by Title IX, definitions can be found in FFH(LEGAL).

General Response

When the District receives notice or an allegation of conduct that, if proved, would meet the definition of sexual harassment under Title IX, the Title IX coordinator shall promptly contact the complainant to:

- Discuss the availability of supportive measures and inform the complainant that they are available, with or without the filing of a formal complaint;
- Consider the complainant's wishes with respect to supportive measures; and
- Explain to the complainant the option and process for filing a formal complaint.

The District's response to sexual harassment shall treat complainants and respondents equitably by offering supportive measures to both parties, as appropriate, and by following the Title IX formal

complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent.

If a formal complaint is not filed, the District reserves the right to investigate and respond to prohibited conduct in accordance with Board policies and administrative procedures.

Title IX Formal Complaint Process

To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

The Superintendent shall ensure the development of a Title IX formal complaint process that complies with legal requirements. [See FFH(LEGAL)] The formal complaint process shall be posted on the District's website. In compliance with Title IX regulations, the District's Title IX formal complaint process shall address the following basic requirements:

1. Equitable treatment of complainants and respondents;
2. An objective evaluation of all relevant evidence;
3. A requirement that the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
4. A presumption that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process;
5. Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process, including time frames for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;
6. A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
7. A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment;
8. Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;

9. A description of the supportive measures available to the complainant and respondent;

10. A prohibition on using or seeking information protected under a legally recognized privilege unless the individual holding the privilege has waived the privilege;

11. Additional formal complaint procedures in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures; and

12. Other local procedures as determined by the Superintendent.

Standard of Evidence — The standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be the preponderance of the evidence.

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 of harassment or discrimination, files a complaint of harassment or discrimination, serves as a witness, or otherwise participates or refuses to participate in an investigation.

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

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 control schedules, but for no less than the minimum amount of time required by law. [See CPC]

[For Title IX recordkeeping and retention provisions, see FFH(LEGAL) and the District's Title IX formal complaint process.]

Access to Policy and Procedures — Information regarding this policy and any accompanying procedures shall be distributed annually to District employees. 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.

Effective Date — This policy shall be effective as of the adoption date, August 14, 2020.

GENERAL GUIDELINES

1. The District adheres to a policy of nondiscrimination in employment, training, promotion, and program accessibility for all staff members and students in accordance with all applicable state and federal regulations. See References (a), (b), (f), (g), (h), (i), and (j).

IMPLEMENTATION

a. All District personnel are responsible for implementation of the Equal Employment Opportunity (EEO) policy throughout the District. See References (a) and (b). The EEO office, Human Resources, is responsible to the Superintendent for ensuring that the District adheres to this policy, and is responsible for implementation of appropriate monitoring systems, data collection and analysis, and other necessary oversight.

AMERICANS WITH DISABILITIES ACT COMPLIANCE

b. The District, in compliance with Reference (f), designates the manager, EEO, as the person to coordinate the District's efforts to comply with and carry out the District's responsibilities under the Americans with Disabilities Act (ADA). The office address and telephone number of the manager, EEO, must be published in the District's directory and also be prominently posted throughout the Hattie Mae White Educational Support Center in workrooms, kitchens, and Human Resources reception areas.

COMPLAINTS

c. Complaint procedures to assure compliance with federal and state laws and References (a) and (b) have been established. See COMPLAINTS ON CLAIMS OF DISCRIMINATION.

RETALIATION

d. Retaliation against employees or students who file discrimination complaints or who assist the District in an investigation of a discrimination complaint is strictly prohibited. Acts of retaliation will result in disciplinary action that may include termination.

BIENNIAL REPORT

e. The EEO office files the biennial EEO-5 report as required.

IMPLEMENTATION PROCEDURES

2. Implementation procedures for References (a) and (b) are as follows:

RECRUITMENT

a. The District solicits applications for employment from all types of schools, colleges, and employment agencies so that persons of both sexes and varied ethnic backgrounds may have equal opportunity to work for the District. Recruitment is conducted so as to ensure that every interested and qualified person may be aware of

vacancies and receive proper consideration for such positions upon application.

ADMINISTRATOR AND SUPERVISOR TRAINING

b. The executive general manager, Human Resources, provides a training program to ensure that all administrative and supervisory personnel understand the policy and the plan for its implementation. This training program is repeated periodically to ensure proper orientation of newly assigned people.

INTERVIEWER AND RECEPTIONIST TRAINING

c. First contact interviewers, receptionists, and recruiters must be made aware of the nondiscrimination policy and instructed on how to conduct interviews without regard for race, creed, color, sex, religion, marital status, national origin, or physical disability. See References (c) and (d).

APPLICATIONS

d. Application forms are reviewed periodically to ensure that the form is free of questions and requests for information that may be discriminatory.

DEPARTMENTAL RESPONSIBILITIES

e. Department heads are responsible for implementation of the nondiscrimination policy within their departments and for assisting Human Resources in the recruitment and selection process so as to ensure equal opportunities for all personnel.

EVALUATION

f. Human Resources evaluates the requirements of applicable federal rules, regulations, and guidelines related to equal employment opportunity.

COMPLAINTS OR CLAIMS OF DISCRIMINATION

3. Guidelines and procedures for complaints or claims of discrimination are as follows.

GUIDELINES

a. The following guidelines apply to the discrimination complaint process:

- Individuals who believe they have been subjected to illegal discrimination are encouraged to make their complaints immediately following an alleged act of discrimination;
- District employees are obligated to perform their duties as directed while complaints are pending resolution;
- If an individual believes that he or she is being retaliated against for having initiated a complaint, he or she should immediately report the alleged acts of retaliation to EEO;

- It is incumbent upon employees to maintain an appropriate working environment free of intimidation or retaliation both during an investigation and upon resolution of a complaint. No one will interfere with an investigation by intimidating witnesses or withholding information. Participants in an investigation will not discuss facts or circumstances of the complaint to the extent that it interferes with the investigation;
- Employees must be aware that intentionally filing false accusations of discrimination will result in disciplinary action; and
- Employees who are aware of discrimination against other employees are encouraged to report the discriminatory acts.

See Reference (d).

REPORTING PROCEDURES

b. An individual who believes he or she is the subject of illegal discrimination is encouraged to report the alleged discrimination immediately. The individual has the choice of reporting the alleged discriminatory acts, other than complaints of ADA noncompliance, to any of the following:

- His or her immediate supervisor;
- The school principal or work location supervisor;
- The appropriate assistant superintendent or department head; or
- The EEO office.

See References (d) and (k).

Complaints regarding allegations of noncompliance with the ADA will be directed to the manager, EEO, who will investigate the complaint. See Reference (e).

RESPONDING TO A CLAIM OF DISCRIMINATION

c. The response, in some cases, will involve a complete investigation with witness interviews and disciplinary action. In other circumstances, the response could only involve discussions with the individual making the claim and the individual who allegedly committed the act of discrimination. The scope of the response will be determined by the nature of the allegations and the amount of information necessary to review the allegations. See Reference (l). Any disciplinary action against an em-

ployee due to acts of discrimination will be recommended and implemented in accordance with References (a), (b), and (c).

COMPLAINT RECIPIENT'S RESPONSIBILITIES

(1) Every administrator or supervisor who receives a complaint of discrimination must respond and initiate action. In every event of a complaint of discrimination, the individual receiving the complaint will complete the EEO Complaint Form and submit copies to EEO. See Reference (k).

INVESTIGATOR'S RESPONSIBILITIES

(2) The following steps will be taken with every investigation and response:

- The investigator will obtain as much information as possible from the individual making the complaint, including dates, times, and locations of the alleged acts of discrimination, names of any witnesses, and physical and documentary evidence;
- The investigator will begin an investigation within five working days of receiving the information from the individual making the complaint;
- An investigation should include a discussion with the individual who allegedly committed the alleged discrimination to explain the specific allegations and to offer an opportunity for a response;
- Upon completion of the investigation, the individual making the complaint should be informed about the resolution of the complaint;
- Upon completion of the investigation, the individual who allegedly committed the discriminatory act should be informed of the resolution of the complaint. The individual may be accompanied by a representative of his or her choice to discuss the resolution of the complaint; and
- Upon completion of the investigation, the EEO Complaint Response Form, documentation of the steps taken to investigate the complaint and the proposed resolution must be sent to EEO. See References (k) and (l).

CONSULTATION

4. This regulation has been through consultation (Administrative: November 6, 2007; Instructional: November 1, 2007; Noninstructional: November 13, 2007).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DAA(LEGAL)

(b) Board Policy DAA(LOCAL)

(c) Board Policy DH(LOCAL)

(d) Board Policy DIA(LOCAL)

(e) DAA2(REGULATION)

(f) Americans with Disabilities Act of 1990, Section 35.107

(g) Civil Rights Act of 1964, Title VII (as amended)

(h) Civil Rights Act of 1991

(i) Education Amendments of 1972, Title IX (as amended)

(j) Rehabilitation Act of 1973, Section 504

(k) Form – EEO Complaint Form

(l) Form – EEO Complaint Response Form

GUIDELINES

1. The Houston Independent School District adheres to a policy that prohibits sexual harassment. These procedures are intended to ensure compliance with References (k) and (l), and applicable federal and state statutes. See References (p) and (q). Sexual harassment of students is addressed in Reference (o). The following guidelines apply to employee complaints or claims of sexual harassment:

   - Individuals who believe they have been sexually harassed are encouraged to make their complaints immediately following an alleged act of sexual harassment;
   - District employees are obligated to perform their duties as directed while complaints are pending resolution;
   - If an individual believes that he or she is being retaliated against for having initiated a complaint, he or she should immediately report the alleged acts of retaliation to the Equal Employment Opportunity (EEO) office;
   - All employees must maintain a working environment free of intimidation or retaliation both during an investigation and upon resolution of a complaint. No one will interfere with an investigation by intimidating witnesses or withholding information. The accused employee will be subject to reassignment pending the completion of an investigation if his or her immediate supervisor, department head, principal, regional superintendent, or assistant superintendent determines that the reassignment is appropriate to prevent further harassment, retaliation, or interference with the investigation. Participants in an investigation will not discuss facts or circumstances of the complaint to the extent that it interferes with the investigation;
   - Employees must be aware that intentionally filing false accusations of sexual harassment will result in disciplinary action;
   - Employees who are aware of sexual harassment of other employees are encouraged to report the acts of sexual harassment;
   - To the extent possible, every effort will be made to maintain confidentiality during an investigation; and
   - Employees who are aware of sexual harassment of students are required to report the acts of sexual harassment. See References (m) and (r).

REPORTING PROCEDURE

2. An individual who believes he or she has been is the subject of sexual harassment will be encouraged to report the alleged sexual harassment immediately. The individual has the choice of reporting the alleged sexual harassment to any of the following:

- His or her immediate supervisor;
- The school principal or work location supervisor;
- The appropriate assistant superintendent or department head; or
- The EEO office.

RESPONDING TO A CLAIM OF SEXUAL HARASSMENT

3. The response in some cases will involve a complete investigation with witness interviews and disciplinary action. In other circumstances, the response may only involve discussions with the individual making the claim and subsequent discussions with the individual who allegedly committed the sexual harassment. The scope of the response will be determined by the nature of the allegations and the amount of information necessary to review the allegations. Any disciplinary action against an employee due to acts of sexual harassment will be recommended and implemented in accordance with References (a), (b), (c), (d), (e) (f), (g), (h) (i), (j), (k), and (n).

COMPLAINT RECIPIENT'S RESPONSIBILITIES

a. Every administrator or supervisor who receives a complaint of sexual harassment must respond and initiate action. In every event of a complaint of sexual harassment, the individual receiving the complaint will complete the Complaint Form and submit copies to EEO. See Reference (s).

INVESTIGATOR'S RESPONSIBILITIES

b. The following steps will be taken with every investigation and response:

- The investigator will obtain as much information as possible from the individual making the complaint, including dates, times, and locations of the alleged acts of sexual harassment, names of any witnesses, and physical and documentary evidence;
- The investigator will begin an investigation within five working days of receiving the information from the individual making the complaint;
- An investigation will include a discussion with the individual who allegedly committed the sexual ha-

rassment to explain the specific allegations and to offer an opportunity for a response;

- Upon completion of the investigation, the individual making the complaint will be informed about the resolution of the complaint;
- Upon completion of the investigation, the individual who allegedly committed the acts of sexual harassment will be informed of the resolution of the complaint. The individual may be accompanied by a representative of his or her choice to discuss the resolution of the complaint; and
- Upon completion of the investigation, the Response Form, documentation of the complaint and the steps taken to investigate it, and the proposed resolution must be sent to EEO. See Reference (t).

CONSULTATION

4. This regulation has been through consultation (Administrative: December 6, 2005; Instructional: January 5, 2006; Noninstructional: January 10, 2006).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DFAA(LEGAL)

(b) Board Policy DFAA(LOCAL)

(c) Board Policy DFAC(LEGAL)

(d) Board Policy DFBA(LEGAL)

(e) Board Policy DFBA(LOCAL)

(f) Board Policy DFBB(LEGAL)

(g) Board Policy DFBB(LOCAL)

(h) Board Policy DFCA(LEGAL)

(i) Board Policy DFCA(LOCAL)

(j) Board Policy DGBA(LEGAL)

(k) Board Policy DOA(LEGAL)

(l) Board Policy DOA(LOCAL)

(m) Board Policy FFH(LOCAL)

(n) DCD1(REGULATION)

(o) FFH(REGULATION)

(p) Civil Rights Act of 1964, Title VII (as amended)

(q) Civil Rights Act of 1991

(r) Texas Family Code, Section 152.377, Chapter 261.101

(s) Form – Houston Independent School District Sexual Harassment Complaint Form

(t) Form – Houston Independent School District EEO Complaint Response Form

Reports of workplace bullying will be made immediately following an alleged act of workplace bullying. A failure to immediately report may impair the District's ability to investigate and address the prohibited conduct.

District employees are obligated to perform their duties as directed while complaints are pending resolution.

REPORTING PROCEDURES

Reporting procedures will be as follows:

1. Any employee who believes that he or she, or another employee, is the subject of workplace bullying is encouraged to report the alleged bullying immediately. The individual may report the alleged acts to any of the following persons:

   - His or her immediate supervisor;
   - The school principal or work location supervisor; or
   - The appropriate department chief.

   If the school principal or immediate supervisor is the subject of a workplace bullying complaint, the employee may report the complaint directly to the appropriate next line supervisor or department chief.

   REPORT FORMAT

   a. The employee may file a complaint orally or in writing by completing the Employee Complaint form. If the report is made orally, the supervisor, as noted at REPORTING PROCEDURES, above, will document the allegations in writing and record the date and circumstances of the interview. The employee may request a complaint form from the Employee Relations department.

   NOTICE TO EMPLOYEE RELATIONS

   b. Upon receiving a report of workplace bullying, the supervisor who received the complaint will provide a copy of the complaint form to Employee Relations in Human Resources within 48 hours of receiving the complaint.

FALSE CLAIM

2. A report of workplace bullying must be made in good faith. An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding workplace bullying will be subject to appropriate disciplinary action.

INVESTIGATIVE PROCEDURES

3. The supervisor or department chief to whom the report of alleged workplace bullying is made will conduct an investigation based on the allegations in the report and, if appropriate, will promptly take interim action calculated to prevent workplace bullying during the course of the investigation. The investiga-

tion must begin within five working days of receiving the employee complaint.

CONFIDENTIALITY

a. To the extent possible, every effort will be made to maintain confidentiality during an investigation.

INTERVIEWS

b. The investigator will interview the complainant, or the alleged victim, if that person is not also the complainant, the alleged bully ("respondent"), and witnesses, if any.

SUPPORTING DOCUMENTATION

c. Complainants and respondents are allowed to submit supporting documentation as appropriate.

INVESTIGATION TIME LINE

d. The investigation will be completed within 30 District calendar days from the date that the complaint report of alleged bullying is made.

INVESTIGATIVE REPORT

e. The investigator will prepare a written report of the investigation. The report will include a description of the alleged conduct, the evidence reviewed and considered, and a determination of whether bullying occurred. The investigator will forward a copy of the final Investigation Report and any appropriate materials to Employee Relations and the chief of the department in which the accused employee works within ten District calendar days of completion of the investigation.

DISCIPLINARY ACTION

f. If the investigation confirms the allegation of workplace bullying as defined in References (e) and (f), the chief of the department in which the accused employee works will take appropriate action to prevent further bullying and to address the actions of the accused employee, which may include disciplinary actions up to and including termination. [See References (a), (b), (c) and (d)]

APPEAL

4. An employee who alleges he or she has experienced workplace bullying and who is dissatisfied with the outcome of the investigation may file a grievance in accordance with DGBA (LOCAL) starting at Level II.

CONSULTATION

5. This regulation has been through consultation (Administrative: November 11, 2014, Instructional: November 6, 2014, Non-instructional: November 11, 2014.)

MAINTENANCE RESPONSIBILITY

6. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

EFFECTIVE DATE

7. This regulation will be effective as of the approval date, December 15, 2014.

REFERENCES:

(a) Board Policy DCD(LOCAL)

(b) Board Policy DFAA(LEGAL)

(c) Board Policy DFAA(LOCAL)

(d) Board Policy DFAC(LEGAL)

(e) Board Policy DH(LOCAL)

(f) Board Policy DIA(LOCAL)

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for employees:

Name: Danielle Delone and Breanna Turner

Position: Title IX Coordinator

Address: 4400 W. 18th St., Houston, TX 77092

Email: Title IX Coordinator (TitleIXComplaints@houstonisd.org)

Telephone: (713) 556-7333

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's 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 employees:

Name: Sabrina Ikhimokpa

Position: Director, Leave Administration

Address: 4400 W. 18th St., Houston, TX 77092

Email: ADA/Section 504 Coordinator (ADA@houstonisd.org)

Telephone: (713) 556-6590

Superintendent's Authority

All personnel are employed subject to assignment and reassignment by the Superintendent or designee when the Superintendent determines that the assignment or reassignment is in the best interest of the District. Reassignment shall be defined as a transfer to another position, department, or facility that does not necessitate a change in the employment contract of a contract employee. Any change in an employee's contract shall be in accordance with policy DC.

Any employee may request reassignment within the District to another position for which he or she is qualified.

When it becomes evident that staff will be reduced due to loss of funding, a program change, current projected staffing needs based on the master schedule, school closure, or consolidation, the department chief or designee in collaboration with the chief of Human Resources or designee will select personnel for release into the excess pool. [See DK3(REGULATION)]

The excess pool is a pool of qualified personnel who have been identified based on the criteria outlined in this policy. [See DK3(REGULATION)]

Except as overridden by the Superintendent, a principal shall not be required to accept any employee assigned to his or her campus for whom the principal does not approve.

Campus Assignments

The principal's criteria for approval of campus assignments and reassignments shall be consistent with District policy regarding equal opportunity employment, and with staffing patterns approved in the District and campus plans. [See BQ series] In exercising their authority to approve assignments and reassignments, principals shall work cooperatively with the central office staff to ensure the efficient operation of the District.

Supervision of Employees by Family Members

Principals and supervisors may hire and/or retain employees at the same school or work location who are related within the first, second, or third degree of consanguinity or affinity. Notwithstanding this provision, principals and supervisors are subject to the prohibition against employees reporting directly or indirectly to their own relatives, as described in this policy. [See also DBE(LEGAL), on Nepotism]

An employee shall not be assigned to work in a school, building, or department where the employee reports directly or indirectly to an administrator to whom the employee is related within the second degree by blood or marriage.

If such situations develop as a result of marriage, administrative transfer due to reorganization, or similar circumstance, both of the

employees involved shall bring it immediately to the attention of the appropriate administrator for resolution.

Supplemental Duties

Noncontractual supplemental duties for which supplemental pay is received may be discontinued by either party at any time. An employee who wishes to relinquish a paid supplemental duty may do so by notifying the Superintendent or designee in writing. Paid supplemental duties are not part of the District's contractual obligation to the employee and an employee shall hold no expectation of continuing assignment to any paid supplemental duty.

Work Schedules

The work week and daily time schedules shall be determined by the Superintendent or designee and principals.

Transitional Duty Program

A limited or transitional duty program shall be provided, in accordance with administrative regulations, for employees who have an occupational injury or occupational illness and are temporarily unable to return to full regular duty status. The light-duty assignment shall be temporary and, if rejected by the employee, shall result in a reduction of workers' compensation wage benefits. [See CRE(LEGAL)]

Temporary Assignment of an Employee Suspended with Pay

The Superintendent or designee may temporarily reassign an employee who has been suspended with pay from his or her regular duties when the Superintendent or designee determines it is in the best interest of the District. [See DFBA and DFCA(LEGAL)]

Preamble: Transformation of Professional Development

In support of the District's goal to improve human capital, we, the Houston ISD Board of Education, believe that staff members must be provided with rigorous professional development opportunities that are aligned with identified needs of the individual.

Staff Development

The District shall support the continued professional development of its employees by providing staff development opportunities to ensure that each employee is prepared to successfully contribute in their role in reaching the overall goal of increasing student achievement. Staff development activities shall be rigorous and targeted at identified deficiencies as indicated by student performance data.

Definition

"Staff development" shall be defined as the facilitation of activities that assist staff members to increase their capacity through continual improvement of their job-related skills, knowledge, and performance. Staff development may include models that foster effective practices such as individually guided models, observation-assessment models, development/improvement process models, inquiry models, training models, and other models meeting school/administrative and/or District/department needs.

The District shall provide, and employees may be required to participate in, staff development opportunities to increase knowledge and enhance skills and to be prepared to successfully perform their duties and responsibilities, as well as to address their individual needs as identified through their performance evaluations and/or needs assessments.

Decisions regarding staff development needs shall include, but not be limited to, consideration of student performance and value-added data. All staff development throughout the District shall be in alignment with the District's statement of beliefs and visions, the goals of the District Improvement Plan, including District initiatives, and the school/administrative District/department improvement plan. All staff development shall focus on improving and/or supporting student achievement. [See policies at BQA, BQB]

Staff Development Plan

The Superintendent shall recommend the District's professional development plan for all District employees. The Board shall annually review the professional development clearinghouse published by the State Board for Educator Certification (SBEC) and annually approve the District's professional development plan. The District's professional development plan must:

1. Be guided by the SBEC clearinghouse training recommendations;

2. Note any differences in the District's plan from the clearing-house recommendations; and

3. Include a schedule of the required professional development for all District employees.

General Principles

All non-teachers and other professional employees who work 20 standard hours or more per week shall be annually appraised in the performance of their duties and shall be provided assistance to improve job performance. The appraisal policies and regulations, annual Board-approved appraisal calendars, and District manuals shall govern the employee evaluation and appraisal system consistent with the general principles set out below.

Definition—Other Professional Employees

Other professional employees shall include school counselors, nurses, librarians, magnet coordinators, social workers, central office professionals, and other campus employees who are not appraised in the Texas Teacher Evaluation and Support System (T-TESS), Principal Supervisor Appraisal System (PSAS), or the School Leader Appraisal System (SLAS).

Criteria

The employee's performance of assigned duties and other job-related criteria shall provide the basis for the employee's appraisal. Employees shall be informed of the criteria on which they will be appraised at the beginning of the appraisal year.

Annual Appraisal Training

All appraisers of non-teacher employees and all non-teacher employees shall participate in initial appraisal training and in an annual update appraisal training if available thereafter.

Goal-Setting and Beginning-of-Year Conference

Employees shall participate in a goal-setting conference at the beginning of the appraisal year with their assigned appraiser. Each employee shall develop an individual professional development plan that focuses on professional growth targets.

Performance Review

Appraisal ratings shall be based on the appraisal instrument and cumulative performance data gathered by supervisors throughout the year. Employees participating in the annual appraisal process shall have an end-of-year conference to discuss the written appraisal and may have as many conferences about performance of duties as the appraiser deems necessary or as requested by the employee.

New Hires to the District

An employee who was hired within 90 days of the end of the appraisal period shall not have an annual appraisal. [Refer to the annual Board-approved appraisal calendar.]

Missed Deadlines

In the event an appraisal deadline is missed by either the employee or appraiser, the appraiser shall document the reason in a memorandum to the employee and a copy shall be sent to the appraiser's manager. The appraisal process shall continue. A missed deadline shall not invalidate an appraisal document.

Standard Hours Change

An employee whose standard hours increase to 20 hours or more per week prior to 90 days until the end of the appraisal period shall be appraised. An employee whose standard hours increase to 20

	hours or more per week within the 90 days until the end of the appraisal period shall not be appraised.
Employee Position Change	An employee whose position changes to a non-teacher position any time before the end of the appraisal period shall be appraised on the Non-Teacher Appraisal System.
Documentation and Records	Official appraisal records shall be maintained throughout a person's employment with the District as outlined in the District's Records Management Manuals.
Confidentiality	A document evaluating the performance of a teacher or administrator shall be confidential.
Employee Copy	All employees shall receive a copy of their annual appraisal.
Individual Professional Development Plan	Every non-teacher employee shall have an Individual Professional Development Plan (IPDP) that sets a path for professional growth. The plan shall be developed collaboratively with the non-teacher employee and their appraiser near the beginning of the appraisal period and revisited as necessary throughout the year.
Prescriptive Plan for Assistance	An appraiser may place an employee on a Prescriptive Plan for Assistance (PPA) at any time when performance or behavior becomes a concern as evidenced by observations, work products, and behavior aligned to the appraisal expectations. The PPA shall outline the areas for improvement identified by the appraiser, and specific developmental activities within the employee's plan shall be monitored.
Third-Party Input	The appraiser shall verify and document third-party information that the appraiser and/or employee want to use as cumulative data. Any documentation that will influence the employee's annual appraisal ratings must be shared in writing with the employee within ten working days of the appraiser's knowledge of the occurrence. A parent or legal guardian must sign if the initiating party is under 18 years of age.
Employee Response	Employees may submit a written response or rebuttal to their appraiser within ten working days of receipt of a written document. The appraiser will attach the employee's written response to the appraisal document.
Application of Assessment Systems	All aspects of the appraisal systems shall be applied consistently and fairly to all employees. When an employee feels that any one of these procedures has been misapplied, a dispute may be filed in accordance with the Dispute Resolution Process at DGBA(LOCAL). However, unless the procedure in question was maliciously misapplied, applied in bad faith, or not applied by an appraiser,

such misapplication or failure to follow the procedures shall not prevent or be any impediment to the Board or the Superintendent changing any employee's employment status under the terms of the employment contracts, if applicable, and state and federal laws.

Complaints Employees may present complaints regarding the evaluation and appraisal process in accordance with the District's Dispute Resolution Process. [See DGBA(LOCAL)]

Effective Date This policy shall be effective as of the adoption date, February 11, 2022.

APPRAISAL: NONCONTRACT EMPLOYEES

1. All noncontract employees will be observed and assessed yearly by the appropriate administrator or his or her designee in accordance with the applicable Board-approved appraisal program or instrument. See Reference (a).

GUIDELINES

EMPLOYEE NOTIFICATION

a. The evaluation procedure will be explained to all employees who have appraisal programs or who will be assessed using alternate methods. All new employees will be apprised of evaluation procedures as appropriate to their job descriptions. All evaluations will be conducted openly and with the knowledge of the employee.

EMPLOYEE RECEIPT

b. Once a formal evaluation has been completed, the employee will sign the document indicating receipt of the evaluation.

EMPLOYEE REBUTTAL

c. Should an employee disagree with an evaluation, he or she may attach a statement of rebuttal to the evaluation explaining the area(s) of disagreement.

DEFICIENCY CORRECTION

d. Should an evaluation reveal that the employee is deficient in the performance of his or her duties or responsibilities, steps will be taken by the supervisor and employee to correct the deficiencies. The methods employed will be consistent with policies and procedures regarding discipline. See Reference (b).

RECORDS

e. Human Resources will be responsible for filing all evaluation reports in the personnel folder or other appropriate location.

CONSULTATION

2. This regulation has been through consultation (Administrative: March 7, 2006; Instructional: March 2, 2006; Noninstructional: March 7, 2006).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DN(LOCAL)

(b) Board Policy DCD(LOCAL)

PERFORMANCE APPRAISAL DN3
(REGULATION)

APPRAISAL SYSTEM GUIDELINES

1. The Houston Independent School District (HISD) appraisal system administrative manuals approved by the HISD Board of Education will govern the appraisal system's operation and procedures and will be considered an extension of Board policy. See References (a) and (b). Administrators or administrative support personnel assigned pay grades 14 and above will be assessed by their immediate superior using the assessment instrument provided for the specific position. The criteria as set forth in the assessment instrument will reflect the employee's performance, productivity, and contribution to the District, based on the official job description for the individual position in accordance with the HISD administrative appraisal system, school-site, non-school site, and narrative.

CONSULTATION

2. This regulation has been through consultation (Administrative: April 16, 2002; Instructional: April 4, 2002; Noninstructional: April 9, 2002).

MAINTENANCE RESPONSIBILITY

3. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) HISD Appraisal System Non-School Site Administrator Manual

(b) HISD Appraisal System School Site Administrator Manual

Appraisal System and Process

The formal appraisal of District teachers shall be in accordance with a local appraisal system developed in compliance with statutory provisions and state rules.

General Requirements

District teachers shall be appraised annually as specified by the District evaluation system established by the Superintendent and administration. The Superintendent will specify how the evaluation system will be implemented and the timeline for appraisals in an evaluation manual and DNA(REGULATION) prior to the start of each evaluation period.

Components of the appraisal system shall ensure that teachers receive appropriate guidance and feedback and, in addition to the components described in the remainder of this policy, may include, but are not limited to, a written self-assessment, formal and informal observations, classroom walk-throughs, student learning indicators, and conferences. The appraisal process shall produce a summative performance report for the teacher, signed by the teacher and appraiser, and maintained as specified in the District's Records Management manual.

Appraisers

All teachers shall be assigned a primary appraiser. Appraisers shall be school-based administrators or other individuals who meet eligibility requirements, as specified in DNA(REGULATION), and who have undergone the requisite appraiser training and certification provided by the District.

Certification

Before conducting an appraisal, an appraiser shall be certified by the District. Periodic appraiser recertification and training shall be required.

Annual Training

Teachers shall participate in initial or update appraisal training annually as specified in the evaluation manual.

It is the teacher's responsibility to complete appraisal training annually. Failure to complete the appraisal training shall not impede the appraisal process.

Missed Deadlines

In the event an appraisal deadline is missed by either the teacher or the appraiser, the appraiser shall document the reason in a memorandum to the teacher and a copy shall be sent to the building principal. The appraisal process shall continue. A missed deadline shall not invalidate an appraisal document.

Application of Assessment Systems

All aspects of the appraisal systems shall be applied consistently and fairly to all employees. When an employee feels that any one of these procedures has been misapplied to them, a dispute may be filed in accordance with the Dispute Resolution Process at DGBA(LOCAL). However, unless the procedure in question was maliciously misapplied, applied in bad faith, or not applied by an

appraiser, such misapplication or failure to follow the procedures shall not prevent or be any impediment to the Board or the Superintendent changing any employee's employment status under the terms of the employment contracts, if applicable, and state and federal laws.

Complaints

Employees may present complaints regarding the evaluation and appraisal process in accordance with the District's Dispute Resolution Process. [See DGBA(LOCAL)]

General Principles

School leaders and other professional employees shall participate in the appraisal process on an annual basis as specified by the District evaluation system established by the Superintendent and administration. The Superintendent will specify how the evaluation system will be implemented and the timeline for appraisals in the evaluation manual and DNB(REGULATION) prior to the start of each evaluation period.

Employment Decisions

When relevant to the decision, written evaluations of a professional employee's performance, as documented to date, and any other information the administration determines to be appropriate shall be considered in decisions affecting contract status.

Exception

Written evaluations and other evaluative information need not be considered prior to a decision to terminate a probationary contract or a certified administrative performance contract at the end of the contract term.

Definition

Other professional employees are defined as:

- School Leaders — principals, assistant principals, and deans;
- School counselors;
- Nurses;
- Librarians;
- Magnet coordinators;
- Social workers; and
- Other professional employees who are not serving as a teachers of record.

School Leader Appraisal Criteria

School leader appraisals shall include, but not be limited to, the following criteria:

- Student performance;
- School performance; and
- Teacher effectiveness.

Performance Review of School Leaders

The following requirements shall be followed for the School Leader Appraisal System.

Training

School leaders shall complete initial or update training regarding the appraisal process and procedures annually.

Appraiser Certification

School leader appraisers shall complete standardized appraiser certification training prior to conducting appraisals.

Documentation and Records

Official appraisal records shall be maintained throughout a person's employment with the District as outlined in the District's Records Management Manuals.

Application of Assessment Systems

All aspects of the appraisal systems shall be applied consistently and fairly to all employees. When an employee feels that any one of these procedures has been misapplied to them, a dispute may be filed in accordance with the Dispute Resolution Process at DGBA(LOCAL). However, unless the procedure in question was maliciously misapplied, applied in bad faith, or not applied by an appraiser, such misapplication or failure to follow the procedures shall not prevent or be any impediment to the Board or the Superintendent changing any employee's employment status under the terms of the employment contracts, if applicable, and state and federal laws.

Complaints

Employees may present complaints regarding the evaluation and appraisal process in accordance with the District's Dispute Resolution Process. [See DGBA(LOCAL)]

Nondiscrimination

A district shall provide equal opportunities to all individuals within its jurisdiction or geographic boundaries. *Education Code 1.002(a)*

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. *Civ. Prac. & Rem. Code 106.001*

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. *Education Code 1.002(b)*

Federal Funding Recipients

No person shall be excluded from participation in, denied the benefits of, or subjected to discrimination by any district that receives federal financial assistance, on the basis of any of the following protected characteristics:

1. Sex.
2. Race, color, or national origin.
3. Disability, or relationship or association with an individual with a disability. [See EHB, EHBA series, and GA]
4. Age.

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 et. seq. (Age Discrimination Act of 1975)

Sexual Harassment

Sexual harassment of students in an education program or activity is discrimination on the basis of sex under Title IX. *Franklin v. Gwinnett Cnty. Pub. Sch., 503 U.S. 60 (1992)*

A district's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX. *34 C.F.R. 106.45(a)*

[See also DIA and FFH]

Grievance Procedures

A district must adopt and publish grievance procedures for prompt and equitable resolution of student complaints alleging any action that would be prohibited by these provisions. *34 C.F.R. 106.8 (Title IX), 104.7(b) (Section 504)* [See FFH]

Retaliation

A district shall not coerce, intimidate, threaten, retaliate or discriminate against, or interfere with any person who attempts to assert a right protected by the above laws or cooperates with investigation and enforcement proceedings under these laws. *34 C.F.R.*

100.7(e) (Title VI), 104.61 (Section 504), 106.71 (Title IX) [See FFH]

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)*

Designation of Responsible Employee

A district shall designate at least one employee to coordinate its efforts to comply with Section 504 and the ADA. The district shall make available to all interested individuals the name, office address, and telephone number of the employee(s) so designated. *34 C.F.R. 104.7(a), 28 C.F.R. 35.107*

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 dis-

ability. 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 impairment 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(a)(1); 34 C.F.R. 104.3(l)(2)*

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

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

34 C.F.R. 104.33(b)

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

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

Educational Setting

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

In providing or arranging for nonacademic and extracurricular services and activities, a district shall ensure that a student with a disability participates with students who do not have disabilities to the

maximum extent appropriate to the needs of the student with a disability. *34 C.F.R. 104.34(b), 104.37*

Evaluation and Placement

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

Military Dependents

In compliance with the requirements of Section 504, and with Title II of the Americans with Disabilities Act (42 U.S.C. Sections 12131–12165), the district shall make reasonable accommodations and modifications to address the needs of incoming military dependents with disabilities, subject to an existing Section 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the district from performing subsequent evaluations to ensure appropriate placement of the student. *Education Code 162.002 art. V, § C* [See FDD]

Procedural Safeguards

A district shall establish a system of procedural safeguards with respect to the identification, evaluation, and educational placement of persons who need or are believed to need special instruction or related services.

The system shall include notice, an opportunity for the student's parent or guardian to examine relevant records, an impartial hearing with the opportunity for participation by the student's parents or guardian and representation by counsel, and a review procedure. Compliance with the procedural safeguards of IDEA is one means of meeting this requirement. *34 C.F.R. 104.36*

Children Who Are Homeless

A district shall adopt policies and practices to ensure that homeless children are not stigmatized or segregated on the basis of their homeless status. [See FDC]

Liaison

A district shall designate an appropriate staff person, able to carry out the required duties, as the district liaison for homeless children. A district shall inform school personnel, service providers, advocates working with homeless families, parents and guardians of homeless children, and homeless children of the duties of the liaison. [See FFC]

42 U.S.C. 11432(g)(1)(J)(i), (ii), (g)(6)(B)

Religious Freedom

A district may not substantially burden a student's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003* [See also DAA and GA]

Adverse Action Prohibited	Notwithstanding any other law, a district may not take any adverse action against any person based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization. *Gov't Code 2400.002* [See GA]
Discrimination on the Basis of Sex	
Title IX	No person in the United States shall, on the basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination by any district receiving federal financial assistance. *20 U.S.C. 1681(a)* [See FFH for information regarding Title IX coordinator designation, policy notification, and complaint procedures.] 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, vocational, technical, home economics, music, and adult education courses. *34 C.F.R. 106.34* [See FFH for information on sexual harassment that may constitute discrimination on the basis of sex under Title IX.]
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. *34 C.F.R. 106.33*
Human Sexuality Classes	Portions of classes in elementary and secondary school that deal primarily 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. *34 C.F.R. 106.34*
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. *34 C.F.R. 106.35*
Pregnancy and Marital Status	A recipient shall not apply any rule concerning a student's actual or potential parental, family, or marital status that treats students differently on the basis of sex. *34 C.F.R. 106.40* [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.

Skills Assessment — Where use of a single standard of measuring skill or progress in physical education classes has an adverse effect on members of one sex, a district shall use appropriate standards that do not have such effect.

Contact Sports — 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.

34 C.F.R. 106.34, .43

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.

Single-Sex Teams — A district may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but not for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport.

Equal Athletic Opportunities — A district that operates or sponsors interscholastic or intramural athletics shall provide equal athletic opportunity for members of both sexes. The following factors shall be considered in determining whether 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

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.

Title IX Coordinator

The District designates and authorizes the 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 designates and authorizes the 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.]

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.

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	To address the periodic reevaluation requirement of law, the District shall adhere to the reevaluation timelines in the IDEA regulations. 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.
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 control schedules. [See CPC]
Effective Date	This policy shall be effective as of the adoption date, August 14, 2020.

Assistive Technology Devices and Services

1. For the purposes of this regulation, the following definitions will apply:

Assistive Technology Device

a. Assistive technology (AT) device means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability. The term does not include a medical device that is surgically implanted, or the replacement of that device. See References (a) and (b).

Assistive Technology Service

b. An AT service is any service that directly assists a child with a disability in the selection, acquisition, or use of an AT device. See Section 300.6 of Reference (a).

Assistive Technology Team

c. An AT team can be composed of a central AT team member, teacher, speech pathologist, occupational or physical therapist, the student's parent or guardian, the student, and or other pertinent staff members. The role of the team is to obtain information through the approved assessment process to determine the student's needs, his or her environment, and the tasks in which the student is involved. The team uses the results to identify appropriate devices and or services that will enhance the student's functioning level. See Reference (c).

Guidelines

2. The need for assistive technology must be considered for each student receiving special education services. Guidelines regarding the request for AT services and devices and the use and care of AT devices are as follows:

Purchase of Devices and Central Services

a. Using assessment results and following recommendations from the AT team, the admission, review, and dismissal (ARD) committee may recommend the purchase or availability of technology devices and services for a specific student. Such services and devices are provided by the Houston Independent School District (HISD) at no charge to the parents. See Sections 300.6 and 300.105 of Reference (a).

Staff members assigned to the Special Education Resource System (SERS) centers process all requests from the AT team for the purchase of AT devices. When the AT staff member receives the device, the AT team contacts the student's teacher and parent for training on how to use the device and to explain the SERS checkout procedures.

Use of Devices	b.	When the ARD committee determines that an AT device is needed by the student to provide him or her with a free, appropriate public education, the District makes the recommended device available for use in the student's school, home, or other settings as educationally necessary. See Sections 300.6 and 300.105 of Reference (a).
Repair of Devices	c.	The student's family and teachers must maintain reasonable care of the assigned device. When a device needs to be repaired, the general or special education teacher contacts the central AT team to make repair arrangements. The central AT team makes every effort to ensure the repairs are done in a timely fashion so that the student is not without the device for a prolonged period of time. See References (d) and (e).
Withdrawal of Student	d.	When a student withdraws from the District, the adaptive equipment assigned to the student may be purchased by the receiving school district or the parent. The purchase price will be established by Special Education. If the equipment is not purchased, it remains the property of HISD and must be returned to the AT team upon the student's withdrawal from HISD. See References (b) and (c).

Consultation

3. This regulation does not require consultation.

Maintenance Responsibility

4. The manager, Administration and Compliance, Special Education, is responsible for maintenance of this regulation.

References:

(a) Individuals with Disabilities Education Act, 2004

(b) Texas Education Code §30.0015 Transfer of Assistive Technology Devices

(c) Assistive Technology Guidelines

(d) Special Education Operating Guidelines

(e) Special Education Resource System Guidelines

Effective Communication

Consistent with Title II, the District is committed to taking appropriate steps to ensure that its communications with applicants, students, members of the public, and companions with hearing, vision, speech, or other sensory impairments are as effective as communications with others. In furtherance of that requirement, the District will furnish appropriate auxiliary aids and services where necessary to afford qualified individuals with disabilities an equal opportunity to participate in, and enjoy the benefits of, services, programs, and activities of the District.

Qualified Individual with a Disability

In order to be an individual protected by Title II, the individual must be a "qualified" individual with a disability. Under the Americans with Disabilities Act (ADA), including Title II, and under Section 504 of the Rehabilitation Act, a disability is:

1. A physical or mental impairment that substantially limits a major life activity;
2. A record of such an impairment; or
3. Being regarded as having such an impairment.

The definition includes individuals eligible for special education under the Individuals with Disabilities Education Act (IDEA) and individuals eligible for accommodations under Section 504 of the Rehabilitation Act. It also includes individuals who meet the definition, but who have not been determined eligible or who may have refused to consent for evaluation or for services under IDEA or under Section 504, but who meet the definition of a qualified individual with a disability.

Primary Consideration

When an auxiliary aid or service is required to assist with communication, the District will provide an opportunity for individuals with disabilities to request the auxiliary aids and services of their choice and must give primary consideration to the choice expressed by the individual. "Primary consideration" means that the public entity must honor the choice, unless it can demonstrate that another equally effective means of communication is available, or that use of the means chosen would result in a fundamental alteration in the service, program, or activity or in undue financial and administrative burdens.

Determination of Fundamental Alteration or Undue Financial or Administrative Burden

The District has the burden of proving that providing a requested auxiliary aid or service would result in a fundamental alteration or an undue burden, and the Superintendent or designee (i.e., another school official with authority to make budgetary or spending decisions) (for purposes of this policy, the District Section 504/ADA coordinator is the designee) must make the determination that a particular auxiliary aid or service would result in a fundamental al-

teration in the nature of the service, program, or activity or result in undue financial or administration burden. The determination the requested service would result in an undue financial burden must be determined after considering all resources available for use by the District in funding and operation of the service, program, or activity. Such a determination must be accompanied by the decision maker's written statement of the reasons for concluding that the requested auxiliary aid or service would cause such alteration or burdens.

Effectiveness

In order to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy, support independence of the individual with a disability and afford an equal opportunity to participate in, and enjoy the benefits of, a service, program, or activity conducted by the District.

Use of IDEA Funding

IDEA provides that federal special education funds must be used only in accordance with the applicable provisions of the IDEA and to pay the excess costs of providing special education and related services to children with disabilities. Accordingly, IDEA funds may be used only to pay for auxiliary aids and services under Title II that also are required to be provided under the IDEA, such as assistive technology or interpreter services that are included in the student's IEP. If a child receives auxiliary aids and services under Title II that are not included in the child's IEP, IDEA funds may not be used to pay for those services.

Type of Auxiliary Aid or Service

The type of auxiliary aid or service necessary to ensure effective communication will vary in accordance with the method of communication used by the individual; the nature, length, and complexity of the communication involved; and the context in which the communication is taking place. For example, will the communication with a deaf student be fairly simple so that handwritten or typed notes would suffice, or is the information being exchanged important, somewhat complex, technical, extensive, or emotionally charged, in which case, a qualified interpreter may be necessary?

Public Requests for Auxiliary Aids and Services

Public requests for an auxiliary aid or service for an individual with a hearing, vision, speech, or other sensory impairment will be directed to the District Information Center, if the service or activity is at a main District office. If the event or meeting is at a school, the request will be made to the principal of the school.

Student Requests for Auxiliary Aids and Services

Student requests for specific auxiliary aids or services to assist in effective communication will be made to the District Section 504/ADA coordinator as follows:

Schedule Requested Service	1. The District Section 504/ADA coordinator will make reasonable efforts to immediately schedule the requested service upon receiving the request.
Consultation Regarding Other Auxiliary Aids or Services	2. In conjunction with scheduling the service and as soon as practicable, the District Section 504/ADA coordinator will consult with the Senior Manager responsible for Auditory Impairment and Visual Impairment (AI/VI) Services, Speech Services, or Assistive Technology, depending upon the nature of the communication need and of the auxiliary aid or service requested. The purpose of the consultation with the Senior Manager is to determine whether the service requested will continue to be provided; whether there is another equally effective means of communication that still affords the individual with the disability an equal opportunity to participate in and benefit from the services, program, or activities; or whether the chosen method constitutes a fundamental alteration in the nature of the program, along with the reasons why, in which case the District still has the obligation to provide, to the maximum extent possible, an effective auxiliary aid or service. In the event the parent or adult student refuses to consent to any requested evaluation, the decision regarding effective communication and whether there is another equally effective means will be made using the best information available.

Students Eligible under IDEA

In situations involving Title II effective communication requests for students eligible under IDEA, the District Section 504/ADA coordinator will refer the student for a related services or assistive technology evaluation, as appropriate, based upon the nature of the communication assistance or auxiliary aid requested. In addition to the recommendations made as a part of the evaluation, the evaluation will make individualized recommendations, give primary consideration to the parent or adult student's request for an auxiliary aid or service and make recommendations regarding appropriateness and whether there may be alternate auxiliary aids or services that may be equally or more effective. The results of the evaluation will then be considered by an ARD/IEP committee. The ARD/IEP committee will also make a determination in cases where the recommended aid or service differs from that requested by the parent or adult student of whether the recommended service is equally or more effective in providing the individual with an equal opportunity to participate in and enjoy the benefits of services, programs, and activities of the District. Pending completion of the evaluations and the holding of an ARD/IEP committee meeting to consider the evaluation, the procedures below will be followed to address the assistance or auxiliary aid requested during the interim:

Schedule Requested Service

1. The District Section 504/ADA coordinator will make reasonable efforts to immediately schedule the requested service upon receiving the request.

Consultation Regarding Other Auxiliary Aids or Services

2. In conjunction with scheduling the service and as soon as practicable, the District Section 504/ADA coordinator will consult with the senior manager responsible for AI/VI Services, Speech Services, or Assistive Technology, depending on the nature of the communication need and of the auxiliary aid or service requested. The purpose of the consultation with the senior manager is to determine whether the service requested will continue to be provided; whether there is another equally effective means of communication that still affords the individual with the disability an equal opportunity to participate in and benefit from the services, program, or activities; or whether the chosen method constitutes a fundamental alteration in the nature of the program, along with the reasons why, in which case the District still has the obligation to provide, to the maximum extent possible, an effective auxiliary aid or service. In the event the parent or adult student refuses to consent to any requested evaluation, the decision regarding effective communication and whether there is another equally effective means will be made using the best information available, and until the determination is made, the District will give primary consideration to the request of the student or parent.

Examples of Effective Communication

Examples of effective communication include:

- In a lunchroom or restaurant, reading the menu to a person who is blind allows that person to decide what dish to order.
- In a retail setting, pointing to product information or writing notes back and forth to answer simple questions about a product may allow a person who is deaf to decide whether to purchase the product.

Other solutions may be needed where the information being communicated is more extensive or complex. For example:

- In a law firm, providing an accessible electronic copy of a legal document that is being drafted for a client who is blind allows the client to read the draft at home using a computer screen-reading program.
- In a doctor’s office, an interpreter generally will be needed for taking the medical history of a patient who uses sign language or for discussing a serious diagnosis and its treatment options.

Examples Underlying Primary Consideration Determination

Examples underlying primary consideration determination include:

- If a high school student was deaf at birth or lost his or her hearing before learning language, that person may use American Sign Language (ASL) as his or her primary form of communication and may be uncomfortable or not proficient with other forms of communication.
- A high school student who lost his or her hearing later in life and who uses a cochlear implant may not be as familiar with sign language and may feel most comfortable and proficient with an oral interpreter or with the use of a computer or other technology.
- A young student who is nonverbal and is fluent in ASL but cannot read yet may not be able to use a computer with written text and may be most comfortable and proficient communicating with a sign language interpreter.
- If a blind student is not able to read Braille, then provision of written material in Braille would not be accessible for that student. If homework assignments are available online, then the online program used by the school must be accessible to students who are blind.
- For a student with limited speech who does not yet read, a computer that writes words would not be accessible for that student. Instead, a device that uses pictures to communicate words, thoughts, and questions may be appropriate.

Consultation

This regulation does not require consultation.

Maintenance Responsibility

The General Counsel, Legal Services, is responsible for maintenance of this regulation.

Effective Date

This regulation will be effective as of the adoption date, December 21, 2017.

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for students:

Name: Danielle Delone and Breanna Turner

Position: Title IX Coordinator

Address: 4400 W. 18th Street, Houston, TX 77092

Email: Title IX coordinator (TitleIXComplaints@houstonisd.org)

Telephone: (713) 556-7333

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's 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: Cynthia Teagle

Position: Director, Response to Intervention/Interventions

Address: 4400 W. 18th Street, Houston, TX 77092

Email: ADA/Section 504 coordinator (cteagle@houstonisd.org)

Telephone: (713) 556-7122

Threat Assessment

Definitions

"Harmful, threatening, or violent behavior" includes behaviors, such as verbal threats, threats of self harm, bullying, cyberbullying, fighting, the use or possession of a weapon, sexual assault, sexual harassment, dating violence, stalking, or assault, by a student that could result in:

1. Specific interventions, including mental health or behavioral supports;
2. In-school suspension;
3. Out-of-school suspension; or
4. The student's expulsion or removal to a disciplinary alternative education program (DAEP) or a juvenile justice alternative education program (JJAEP).

"Team" means a threat assessment and safe and supportive school team established by the board under Education Code 37.115.

Education Code 37.115(a)

Threat Assessment and Safe and Supportive Schools Team

The board shall establish a threat assessment and safe and supportive school team to serve at each campus of the district and shall adopt policies and procedures for the teams.

The team is responsible for developing and implementing the safe and supportive school program in compliance with Texas Education Agency (TEA) rules at the district campus served by the team.

The policies and procedures adopted under Education Code 37.115 must:

1. Be consistent with the model policies and procedures developed by the Texas School Safety Center (TxSSC) [see Education Code 37.220];
2. Require each team to complete training provided by the TxSSC or a regional education service center (ESC) regarding evidence-based threat assessment programs;
3. Require each team established under this section to report the required information regarding the team's activities to TEA [see Reporting to TEA, below];
4. Require each district campus to establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate school employee; and

5. Provide for:

    a. A district employee who reports a potential threat to a team to elect for the employee's identity to be confidential and not subject to disclosure Government Code Chapter 552 (Public Information Act), except as necessary for the team, the district, or law enforcement to investigate the potential threat; and

    b. The district to maintain a record of the identity of a district employee who elects for the employee's identity to be confidential.

Membership

The superintendent shall ensure, to the greatest extent practicable, that the members appointed to each team have expertise in counseling, behavior management, mental health and substance use, classroom instruction, special education, school administration, school safety and security, emergency management, and law enforcement. A team may serve more than one campus of a district, provided that each district campus is assigned a team.

Oversight Committee

The superintendent may establish a committee, or assign to an existing committee established by the district, the duty to oversee the operations of teams established for the district. A committee with oversight responsibility must include members with expertise in human resources, education, special education, counseling, behavior management, school administration, mental health and substance use, school safety and security, emergency management, and law enforcement.

Team Duties

Each team shall:

1. Conduct a threat assessment that includes assessing and reporting individuals who make threats of violence or exhibit harmful, threatening, or violent behavior in accordance with district policies and procedures; and gathering and analyzing data to determine the level of risk and appropriate intervention, including:

    a. Referring a student for mental health assessment; and

    b. Implementing an escalation procedure, if appropriate, based on the team's assessment, in accordance with district policy;

2. Provide guidance to students and school employees on recognizing harmful, threatening, or violent behavior that may pose a threat to the community, school, or individual; and

3. Support the district in implementing the district's multihazard emergency operations plan [see CKC].

Use of Sentinel Assessment Instrument, Manual, and Field Guide

Effective August 1, 2025, when conducting a threat assessment, members of a threat assessment team shall utilize the threat assessment instrument, manual, and field guide in Sentinel [see CKA], which are consistent with the model policies published by the TxSSC. *19 TAC 103.1213(e)(1)(A)*

Parental Participation

Before a team may conduct a threat assessment of a student, the team must notify the parent of or person standing in parental relation to the student regarding the assessment. In conducting the assessment, the team shall provide an opportunity for the parent or person to participate in the assessment, either in person or remotely, and to submit to the team information regarding the student.

After completing a threat assessment of a student, the team shall provide to the parent of or person standing in parental relation to the student the team's findings and conclusions regarding the student.

Consent for Mental Health-Care Service

A team may not provide a mental health-care service to a student who is under 18 years of age unless the team obtains written consent from the parent of or the person standing in parental relation to the student before providing the mental health-care service. The consent must be submitted on a form developed by the district that complies with all applicable state and federal law. The student's parent or person standing in parental relation to the student may give consent for a student to receive ongoing services or may limit consent to one or more services provided on a single occasion.

Education Code 37.115(c)-(g)

Determination of Risk

On determination that a student or other individual poses a serious risk of violence to self or others, a team shall immediately report the team's determination to the superintendent. If the individual is a student, the superintendent shall immediately attempt to inform the parent or person standing in parental relation to the student. These requirements do not prevent an employee of the school from acting immediately to prevent an imminent threat or respond to an emergency.

A team identifying a student at risk of suicide shall act in accordance with the district's suicide prevention program. If the student at risk of suicide also makes a threat of violence to others, the team shall conduct a threat assessment in addition to actions taken in accordance with the district's suicide prevention program.

A team identifying a student using or possessing tobacco, drugs, or alcohol shall act in accordance with district policies and procedures related to substance use prevention and intervention.

Education Code 37.115(h)-(j)

Recordkeeping

Materials and information provided to or produced by a team during a threat assessment of a student under this provision must be maintained in the student's school record until the student's 24th birthday. *Education Code 37.115(j-1)*

[For information regarding the transfer of threat assessment records between school districts, see FD and FDA.]

Reporting to TEA

A team must report to TEA in accordance with TEA-developed guidelines the following information regarding the team's activities and other information for each campus the team serves:

1. The occupation of each person appointed to the team;
2. The number of threats and description of the type of threats reported to the team;
3. The outcome of each assessment made by the team, including:
    a. Any disciplinary action taken, including a change in school placement;
    b. Any action taken by law enforcement; or
    c. A referral to or change in counseling, mental health, special education, or other services;
4. The total number, disaggregated by student gender, race, and status as receiving special education services, being at risk of dropping out of school, being in foster care, experiencing homelessness, being a dependent of military personnel, being pregnant or a parent, having limited English proficiency, or being a migratory child, of, in connection with an assessment or reported threat by the team:
    a. Citations issued for Class C misdemeanor offenses;
    b. Arrests;
    c. Incidents of uses of restraint;
    d. Changes in school placement, including placement in a JJAEP or DAEP;
    e. Referrals to or changes in counseling, mental health, special education, or other services;

f. Placements in in-school suspension or out-of-school suspension and incidents of expulsion;

g. Unexcused absences of 15 or more days during the school year; and

h. Referrals to juvenile court for truancy; and

5. The number and percentage of school personnel trained in:

a. A best-practices program or research-based practice under Education Code 38.351 [see FFEB], including the number and percentage of school personnel trained in suicide prevention or grief and trauma-informed practices;

b. Mental health or psychological first aid for schools;

c. Training relating to the safe and supportive school program; or

d. Any other program relating to safety identified by the commissioner.

Education Code 37.115(k)

Threat Assessment and Safe and Supportive Team

In compliance with law, the Superintendent shall ensure that a multidisciplinary threat assessment and safe and supportive team is established to serve each campus. The Superintendent shall appoint team members. The team shall be responsible for developing and implementing a safe and supportive school program at each campus served by the team and shall support the District in implementing its multi-hazard emergency operations plan. This multi-hazard emergency operations plan shall include supports such as mental health intervention and suicide prevention for students, including training for appropriate District staff on early warning signs and the possible need for intervention.

Training

Each team shall complete training provided by an approved provider on evidence-based threat assessment programs.

Student Reports

Each campus shall establish a clear procedure for a student to report concerning behavior exhibited by another student for assessment by the team or other appropriate District employee.

Employee Confidentiality

A District employee who reports a potential threat to the team may request that their identity be kept confidential such that it will not be subject to disclosure under the state's public information law. While the employee will be required to identify themselves to the team when making the report, the employee's identity shall only be revealed when necessary for the team, the District, or law enforcement to investigate the reported threat and/or as otherwise required by lawful subpoena, valid court order, or other relevant and applicable law.

The District shall maintain a record of the identity of a District employee who elects for the employee's identity to remain confidential.

Imminent Threats or Emergencies

A member of the team or any District employee may act immediately to prevent an imminent threat or respond to an emergency, including contacting law enforcement directly.

Threat Assessment Process

The District shall develop procedures as recommended by the Texas School Safety Center. In accordance with those procedures, the threat assessment and safe and supportive team shall conduct threat assessments using a process that includes:

1. Identifying individuals, based on referrals, tips, or observations, whose behavior has raised concerns due to threats of violence or exhibition of behavior that is harmful, threatening, or violent.

2. Conducting an individualized assessment based on reasonably available information to determine whether the individual

poses a threat of violence or poses a risk of harm to self or others and the level of risk.

3. Implementing appropriate intervention and monitoring strategies, if the team determines an individual poses a threat of harm to self or others. These strategies may include referral of a student for a mental health assessment and escalation procedures as appropriate.

   For a student or other individual the team determines poses a serious risk of violence to self or others, the team shall immediately report to the Superintendent or designee, who shall immediately attempt to contact the student's parent or guardian. Additionally, the Superintendent or designee shall coordinate with law enforcement authorities as necessary and take other appropriate action in accordance with the District's multihazard emergency operations plan.

   For a student the team identifies as at risk of suicide, the team shall follow the District's suicide prevention program.

   For a student the team identifies as having a substance abuse issue, the team shall follow the District's substance abuse program.

   For a student whose conduct may constitute a violation of the District's Student Code of Conduct, the team shall make a referral to the campus behavior coordinator or other appropriate administrator to consider disciplinary action.

As appropriate, the team may refer a student:

1. To a local mental health authority or health-care provider for evaluation or treatment; or

2. For a full individualized and initial evaluation for special education services.

The team shall not provide any mental health-care services, except as permitted by law.

Guidance to School Community

The team shall provide guidance to students and District employees on recognizing harmful, threatening, or violent behavior that may pose a threat to another person, the campus, or the community and methods to report such behavior to the team, including through anonymous reporting.

Reports

The team shall provide reports to the Texas Education Agency as required by law.

Notice of Employee Responsibilities for Promoting Early Mental Health Intervention and Suicide Prevention

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1. What are the District's policies promoting early mental health intervention?

In accordance with District policies FFB(LEGAL) and FFB(LOCAL), school staff members and administrators will be trained to recognize signs, symptoms, behaviors, or verbal or written communications that may indicate a need for student early mental health intervention. Training is offered annually to counselors, teachers, nurses, administrators, and other campus- and department-based staff members, as well as law enforcement officers and social workers who regularly interact with students.

2. Who is the District's designated liaison for purposes of identifying students in need of early mental health intervention and suicide prevention?

Psychological Services, a department of the Academic Support Services division, receives calls for services and support for student threats of harm to self or others and promotes early mental health intervention in collaboration with parents, campus-based staff members, relevant central office departments, and community-based services. As provided in FFB(LOCAL), Psychological Services is the designated District liaison for purposes of identifying students in need of early mental health intervention and suicide prevention, herein referred to as "the District liaison." Psychological Services may be contacted at (713) 696-6430, and Academic Support Services may be contacted at (713) 556-6800.

3. Who is the campus-based liaison for early mental health intervention and suicide prevention?

The principal will designate the school's counselor, social worker, nurse, or trained designee to be the campus-based liaison for early mental health intervention and suicide prevention. The campus-based designee will be expected to work collaboratively with Psychological Services by participating in training to learn how to recognize early warning signs, respond to crisis situations, and support students who exhibit early warning signs of mental health distress or suicide.

4. **What are my responsibilities for providing notice to a student's parent or guardian after identification of early warning signs of mental health symptoms or suicidal thinking?**

All school staff members and administrators will communicate observations about the student (such as distress, feelings of hopelessness, and thoughts about harming himself/herself or others) to the campus-based liaison for early mental health intervention. The campus liaison will communicate the concerns to the District liaison and the parents or guardians and offer campus-, District-, or community-based resources that might help parents or guardians understand their child's needs and provide evidenced-based interventions that promote mental health and wellness to benefit the student.

5. What are my responsibilities for providing notice to a student's parent or guardian regarding psychological counseling for an at-risk student?

For legal requirements and guidance related to counseling, see CONSENT TO COUNSELING in FFE(LEGAL) and FFB(LOCAL).

6. Should I learn that one of my students has attempted suicide, to whom do I report this information?

When school personnel become aware of suicide attempts occurring on or off campus, the student will not be left alone, parents will be notified for an emergency conference, and school personnel will follow procedures in the Houston Independent School District (HISD) Emergency Preparedness Plan (Campus Crisis Intervention: Student Welfare-Verbal or Written Threats of Suicide).

7. Should I learn that one of my students has completed suicide, to whom do I report this information?

a. The Houston Independent School District (HISD) Emergency Preparedness Plan (Campus Crisis Intervention: Student Welfare-Fatality) sets forth the steps to be taken by the campus administrator, teacher, counselor, nurse, and other school personnel in the event of a suicide completion on campus.

b. When school personnel become aware of a student's suicide occurring off campus, the principal and the District liaison will be notified. A plan of support for the campus based on identified need will be developed in collaboration with the principal, District suicide prevention liaison, campus-based liaison, School Support Officer, and All-District Crisis Team members.

8. Will my report be kept confidential?

All school personnel who join with the parent to form a team of support for the student will maintain confidentiality according to applicable legal and local policies regarding student confidentiality and privacy, and only relevant information forming the basis of intervention will be shared on a "need-to-know" basis to address educational or safety needs. [See FL series, DH(LOCAL), and DH(EXHIBIT)]

9. Will I be liable in any way for making a report?

Previous case law has allowed schools in other states to be held liable for NOT reporting warning signs of suicidal thoughts or plans to the parent (guardian).

10. What will happen if I don't report suspected mental health symptoms?

The student may be at risk of the consequences of unmet mental health supports, including reduced motivation, drop in academic performance, strained peer relationships, school avoidance, or other behavioral changes that impact the student's academic achievement and school success. You may also be in violation of District policy.

11. What will happen if I don't report suicidal thinking or suicide attempts?

Student safety may be compromised, and you may be in violation of District policy. See question 9, above, and FFB(LOCAL).

12. What are my responsibilities for following up with a student who has contemplated or attempted suicide?

School personnel will continue to monitor the referred student for several months, even after improvement in symptoms, so that any recurrence of problematic symptoms or increased distress may be addressed immediately. A support team will be established to make sure the student's social-emotional, academic, and behavioral needs have been appropriately met. Any changes in functioning will be communicated to the parent or guardian in a timely manner in order that the student's interventions may be adjusted as needed.

13. How can I receive training or find resources for recognizing the warning signs of the need for early mental health intervention and suicidal thinking or suicide attempts?

a. The District liaison provides department- or campus-based training on Coming Together to Care for Students Who Wish to Harm Self or Others protocol and recognizing early warning signs of suicide and other mental health issues impacting education.

b. Counselors, social workers, psychologists, and nurses may offer suicide prevention training to campuses.

c. Online interactive training opportunities are available for Texas Public High School and Middle School Educators on the Texas Suicide Prevention Web site (www.texassuicideprevention.org/).

d. Employees may sign in to the *HISDConnect* Employee Portal to access "Coping with Crisis" resources or the "Ask a Psychologist" button on the Psychological Services Web site.

e. Mental Health America, the Texas School Safety Center, and the Texas Suicide Prevention Web sites include evidence-based information and provide additional materials and referral resources (www.mhahouston.org/, www.txssc.txstate.edu, and www.texassuicideprevention.org/).

f. Mental health brochures are routinely circulated at school in-services, parent meetings, and health fairs.

Policy and Program to Address Sexual Abuse, Trafficking, and Maltreatment

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

A district shall adopt and implement a policy addressing sexual abuse, sex trafficking, and other maltreatment of children, to be included in the district improvement plan [see BQ] and any information handbook provided to students and parents. *Education Code 38.0041(a)*

The policy included in any informational handbook provided to students and parents must address the following:

1. Methods for increasing staff, student, and parent awareness of issues regarding sexual abuse, trafficking, and other forms of maltreatment of children, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Actions a child who is a victim of sexual abuse, trafficking, or other maltreatment should take to obtain assistance and intervention; and
3. Available counseling options for students affected by sexual abuse, trafficking, or other maltreatment.

19 TAC 103.1401(b)(3)

Definitions

Child Abuse

"Abuse" includes the following acts or omissions by a person:

1. Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
2. Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
3. Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
4. Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;

5. Sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or disabled individual under Penal Code 21.02, indecency with a child under Penal Code 21.11, sexual assault under Penal Code 22.011, or aggravated sexual assault under Penal Code 22.021;

6. Failure to make a reasonable effort to prevent sexual conduct harmful to a child;

7. Compelling or encouraging the child to engage in sexual conduct as defined by Penal Code 43.01, compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Penal Code 20A.02(a)(7) or (8), solicitation of prostitution under Penal Code 43.021, or compelling prostitution under Penal Code 43.05(a)(2);

8. Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Penal Code or pornographic;

9. The current use by a person of a controlled substance as defined by Health and Safety Code Chapter 481, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;

10. Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Health and Safety Code Chapter 481;

11. Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Penal Code 43.25;

12. Knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Penal Code 20A.02(a)(5), (6), (7), or (8), or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or

13. Forcing or coercing a child to enter into a marriage.

Neglect

"Neglect" means an act or failure to act by a person responsible for a child's care, custody, or welfare evidencing the person's blatant disregard for the consequences of the act or failure to act that re-

sults in harm to the child or that creates an immediate danger to the child's physical health or safety.

Neglect includes:

1. The leaving of a child in a situation where the child would be exposed to an immediate danger of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

2. The following acts or omissions by a person:

    a. Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or an immediate danger of harm to the child;

    b. Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting an immediate danger of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

    c. The failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

    d. Placing a child in or failing to remove the child from a situation in which the child would be exposed to an immediate danger of sexual conduct harmful to the child; or

    e. Placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse as defined above at items 5-9 committed against another child;

3. The failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away; or

4. A negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment

plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

Neglect does not include:

1. The refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if:
   a. The child has a severe emotional disturbance;
   b. The person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and
   c. The person has exhausted all reasonable means available to the person to obtain the mental health services described at item b, above;
2. Allowing the child to engage in independent activities that are appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture; or
3. A decision by a person responsible for a child's care, custody, or welfare to:
   a. Obtain an opinion from more than one medical provider relating to the child's medical care;
   b. Transfer the child's medical care to a new medical provider; or
   c. Transfer the child to another health care facility.

Family Code 261.001(1), (4)

Other Maltreatment — This term has the meaning assigned by Human Resources Code 42.002.

Trafficking of a Child — The definition of child abuse or neglect includes the trafficking of a child in accordance with Education Code 38.004.

19 TAC 103.1401(a)

Duty to Report

Report by Any Person — Any person who has reasonable 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)*

Report by Any Professional	Any professional who has reasonable 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 has reasonable cause to believe that the child has been or may be abused or neglected or is the victim of an offense of indecency with a child. 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, juvenile probation officers, and juvenile detention or correctional officers. *Family Code 261.101(b)*
Abuse of Persons with Disabilities	A person having cause to believe that a person with a disability is in a state of abuse, neglect, or exploitation shall report the information immediately to the Texas Department of Family and Protective Services (DFPS). A person commits a Class A misdemeanor if the person has cause to believe that a person with a disability has been abused, neglected, or exploited or is in a state of abuse, neglect, or exploitation and knowingly fails to report. A person filing a report or testifying or otherwise participating in any judicial proceeding arising from a petition, report, or investigation is immune from civil or criminal liability on account of his or her petition, report, testimony, or participation, unless the person acted in bad faith or with a malicious purpose. *Human Resources Code 48.051, .052, .054*
Adult Victims of Abuse	A person or professional shall make a report in the manner required above if the person or professional has reasonable 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)*

Restrictions on Reporting

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 FFEB]

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 individual 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;
3. The facts that caused the individual to believe the child has been abused or neglected and the source of the information;
4. The individual's name and telephone number;
5. The individual's:
    a. Home address; or
    b. If the individual is a professional as defined by Family Code 261.101(b) [see Report by Any Professional, above], the individual's business address and profession; and
6. Any other pertinent information concerning the alleged or suspected abuse or neglect.

Family Code 261.102, .104

Confidentiality of Report

A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information Act) and may be disclosed only for purposes consistent with the Family Code and applicable federal or state law or under rules adopted by an investigating agency. *Family Code 261.201(a)-(a)(1)*

Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confiden-

tial 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)*

Abuse and Neglect Involving School Personnel and Those Responsible for Care

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 to a state agency under item 4, 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 103.1401(b)(1)-(2)

“Person responsible for a child’s care, custody, or welfare” means a person who traditionally is responsible for a child’s care, custody, or welfare, including:

1. A parent, guardian, managing or possessory conservator, or foster parent of the child;
2. A member of the child’s family or household as defined by Family Code Chapter 71;
3. A person with whom the child’s parent cohabits;
4. School personnel or a volunteer at the child’s school;
5. Personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or
6. An employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Human Resources Code Chapter 42.

Family Code 261.001(5)

Reporting Abuse, Neglect, or Exploitation in a JJAEP

Any report of alleged abuse, neglect, or exploitation, as those terms are defined in Family Code 261.405, in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. *Family Code 261.405(a)(4)(A), (b)*

Immunity from Liability

A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. *Family Code 261.106*

A district may not suspend or terminate the employment of, or otherwise discriminate against, or take any other adverse employment action against a professional who makes a good faith report of abuse or neglect. *Family Code 261.110(b)* [See DG]

Criminal Offenses

Failure to Report

A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see Duty to Report, above] and knowingly fails to make a report as provided by law.

A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see Duty to Report] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.

Family Code 261.109

False Report

A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. *Family Code 261.107(a)*

Coercion

A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. *Penal Code 39.06*

SBEC Disciplinary Action

The State Board for Educator Certification (SBEC) may take any of the actions listed in 19 Administrative Code 249.15(a) (impositions, including revocation of a certificate and administrative penalties) based on satisfactory evidence that the person has failed to report or has hindered the reporting of child abuse pursuant to Family Code 261.001, or has failed to notify the SBEC, the commissioner of education, or the school superintendent or director under the cir-

cumstances and in the manner required by Education Code 21.006, 21.0062, 22.093, and 19 Administrative Code 249.14(d)-(f). *19 TAC 249.15(b)(4)*

Note: The following legal provisions address child abuse and neglect investigations generally. See GRA for additional legal provisions addressing notification requirements and right of access to students when DFPS investigates reports of abuse and neglect at school. See 40 Administrative Code Chapter 707, Subchapter B for more information regarding investigations of abuse or neglect in a school setting.

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 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. *19 TAC 103.1401(b)*

The policies must require every school employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by 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. *19 TAC 103.1401(b)(1)*

The policies must be consistent with the Family Code Chapter 261 and 40 Administrative Code Chapter 700 (CPS) regarding investigations by DFPS, including regulations governing investigation of abuse by school personnel and volunteers. [See GRA]

The policies must require a report to DFPS if the alleged abuse or neglect involves a person responsible for the care, custody, or welfare of the child and 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. Applicable prohibitions against interference with an investigation of a report of child abuse or neglect, including:

    a. Family Code 261.302 and 261.303, prohibiting school officials from denying an investigator's request to interview a student at school; and

    b. Family Code 261.302, prohibiting school officials from 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. Oral reports made to DFPS are recorded;

5. Confidentiality provisions relating to a report of suspected child abuse or neglect, including the following:

    a. The requirement for the individual making the report to provide his or her name and telephone number;

    b. The requirement for the individual making the report to provide his or her home address or, if the individual making the report is a school employee, agent, or contractor, provide his or her business address and profession; and

    c. The limited circumstances under which the identity of the individual making a report may be disclosed;

6. Any disciplinary action that may result from noncompliance with a district's reporting policy; and

7. The prohibition under Education Code 26.0091 [see Psychotropic Drugs and Psychological Testing, above].

19 TAC 103.1401(b)(2)

The policies may 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.

The policies must:

1. Include the current toll-free number for DFPS;
2. Provide for cooperation with law enforcement child abuse investigations without the consent of the child's parent, if necessary, including investigations by DFPS; and
3. Include child abuse anti-victimization programs in elementary and secondary schools consisting of age-appropriate, research-based prevention designed to promote self-protection and prevent sexual abuse and trafficking.

19 TAC 103.1401(b)(5)-(8)

Annual Distribution and Staff Development

The policies required by these provisions and adopted by the board shall be distributed to all personnel at the beginning of each school year. The policies shall be addressed in staff development programs at regular intervals determined by a board. *19 TAC 103.1401(c)* [See also DH and GRA]

[For training requirements under these provisions, see DMA.]

Required Poster

Using a format and language that is clear, simple, and understandable to students, each public school shall post, in English and in Spanish:

1. The current toll-free DFPS Abuse Hotline telephone number;
2. Instructions to call 911 for emergencies; and
3. Directions for accessing the DFPS Texas Abuse Hotline website[1] for more information on reporting abuse, neglect, and exploitation.

A district shall post the information specified above at each school campus in at least one high-traffic, highly and clearly visible public area that is readily accessible to and widely used by students. The information must be on a poster (11x17 inches or larger) in large print and placed at eye-level to the student for easy viewing. Additionally, the current toll-free Texas Department of Family and Pro-

tective Services Abuse Hotline telephone number should be in bold print.

Education Code 38.0042; 19 TAC 103.1401(e)-(f)

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[1] Texas Abuse Hotline website: https://www.txabusehotline.org/

Program to Address Child Sexual Abuse, Trafficking, and Maltreatment

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District Improvement Plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law and District policy. Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

Reporting Child Abuse and Neglect

Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has reasonable cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified. The report must be made within 48 hours of when the professional first had reasonable cause to believe the abuse or neglect may have occurred.

A person is required to make a report if the person has reasonable cause to believe that an adult was a victim of abuse or neglect as a child and the person 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.

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

Restrictions on Reporting

In accordance with 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:

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.

Making a Report

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the Texas Abuse Hotline Website[1];
3. A local CPS office; or
4. 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 DFPS, 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. As defined by law, a person responsible for the care, custody, or welfare of a child includes school personnel and volunteers and day-care workers. [See FFG(LEGAL)]

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus princi-

pal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

Confidentiality

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential and disclosed only in accordance with the rules of the investigating agency.

Immunity

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.

Failing to Report Suspected Child Abuse or Neglect

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

Responsibilities Regarding Investigations

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

[1] Texas Abuse Hotline Website: http://www.txabusehotline.org

CHILD ABUSE AND NEGLECT

1. Texas law requires that any person "having cause to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse or neglect" must report the case to any local or state law enforcement agency and to the Department of Family and Protective Services (DFPS)/Harris County Children's Protective Services (CPS). See References (d), (e), (j), and (m). All school personnel will become acquainted with the provisions of the code and will cooperate with all agencies or departments dealing with child abuse or neglect. To view the Texas Family Code on reporting child abuse or neglect, go to the Texas Legislature Online Web site (http://www.statutes.legis.state.tx.us/Docs/FA/htm/FA.261.htm#261.101).

DISTRICT RESPONSIBILITIES

2. The Houston Independent School District (HISD) will provide its employees with information on Board policy and procedures for reporting suspected student abuse or neglect. See References (b), (c), (d), (e), (f) and (i). This information is provided through materials and training.

MATERIALS

a. HISD will collaborate with DFPS/CPS and other agencies in the development of informational materials for distribution to all HISD employees.

TRAINING

b. Health and Medical Services and Counseling and Guidance provide staff development training for new and selected staff members on subjects such as:

- Types of child abuse and neglect;
- Recognizing child abuse and neglect; and
- Board policies and procedures for reporting child abuse and neglect.

See References (v) and (w).

DEFINITIONS

3. For the purposes of this regulation, abuse and neglect are defined as follows. See References (j), (o), and (p). To view the Texas Penal Codes, go to the Texas Legislature Online Web site (www.capitol.state.tx.us/statutes/petoc.html).

ABUSE

a. Abuse includes the following acts or omissions by any person:

- Mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;

- Causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
- Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- Sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by Reference (t), sexual penetration with a foreign object, incest, sexual assault, or sodomy inflicted on or, shown to, or intentionally practiced in the presence of a child if the child is present only to arouse or gratify the sexual desires of any person;
- Sexual conduct harmful to a child’s mental, emotional, or physical welfare, including conduct that constitutes the offense of indecency with a child as defined in References (p), (q), and (r);
- Failure to make a reasonable effort to prevent sexual contact, sexual intercourse, or sexual conduct, as those terms are defined by Reference (t), sexual penetration with a foreign object, incest, sexual assault, or sodomy inflicted on, shown to, or intentionally practiced in the presence of a child if the child is present only to arouse or gratify the sexual desire of any person;
- Compelling or encouraging the child to engage in sexual conduct as defined by Reference (t);
- Causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child, if the person knew or should have known that the resulting photograph, film, or depiction of

the child is obscene (as defined by the Texas Penal Code) or pornographic;

- The current use of a controlled substance as defined by Reference (k) in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- Causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Reference (k); or
- Causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Reference (u).

NEGLECT

b. Neglect is defined as leaving a child in a situation where a child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and demonstrating an intent not to return by a parent, guardian, or managing or possessory conservator of the child, and includes the following acts or omissions by any person:

- Placing the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;
- The failure to seek, obtain, or follow through with medical care for the child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
- The failure to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
- Placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk or sexual conduct harmful to the child; or

- The failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

REPORTING CHILD ABUSE OR NEGLECT

4. HISD personnel suspecting child abuse or neglect will report the abuse or neglect according to all of the following procedures.

   a. Report any suspected abuse or neglect of a student's physical or mental health or welfare to:

      - The principal or immediate supervisor and the nurse or school counselor; and
      - DFPS/CPS at 1-800-252-5400 or a state or local law enforcement agency within 48 hours.

   b. The principal will assign the nurse or school counselor as his or her designee for assessment purposes. The principal's designee will observe the student and make an assessment of any suspected abuse or neglect. If any abuse or neglect is determined or even suspected by the principal's designee, he or she will:

      - Make an oral report to the DFPS/CPS at 1-800-252-5400 within 48 hours;
      - Notify the principal;
      - Submit a written report within five days to Harris County CPS, 2525 Murworth, Houston, Texas, 77054 with a copy forwarded to the principal. See Reference (x); and
      - Notify the nurse or school counselor as appropriate.

PRINCIPAL'S OR IMMEDIATE SUPERVISOR'S RESPONSIBILITIES

   c. The principal or immediate supervisor will:

      - Keep a copy of the report sent to DFPS/CPS on file. This copy will be kept confidential, as required by law;
      - Notify the HISD Police Department by telephone of the abuse or neglect report made to local law enforcement and DFPS/CPS; and
      - Notify the regional superintendent if the abuse or neglect involves a school employee.

REGIONAL SUPERINTENDENT

d. The regional superintendent will notify the Superintendent via copy of the report to DFPS/CPS only in the event a school employee is involved.

FURTHER INVESTIGATION

e. Further investigation of the potential criminal case is the responsibility of local law enforcement. Criminal investigation is not the responsibility of the school or the District.

NON-LIFE-THREATENING SITUATIONS OF CHILD ABUSE AND NEGLECT

f. DFPS/CPS has developed a Web site (www.txabusehotline.org) for school professionals to report non-life-threatening situations of child abuse and neglect via the Internet to its statewide hotline, Statewide Intake (SWI). Personnel may use the site to report non-life-threatening situations; however use of the site is not a substitute for reporting life-threatening and emergency situations as outlined in this regulation. See REPORTING CHILD ABUSE OR NEGLECT, above. SWI will send an e-mail response acknowledging receipt of the report and provide an intake number for identification and filing purposes.

LEGAL PROVISIONS

5. The following legal provisions apply to the reporting of child abuse and neglect.

IMMUNITY FROM LIABILITY

a. Any person reporting abuse or neglect is immune from civil or criminal liability as long as the report was made in good faith and without malice. See References (d), (e), and (o).

EXCEPTION TO REPORTING

b. If a school professional staff member (i.e., teacher, nurse, counselor, etc.) has cause to believe that the conduct of a person is barred from prosecution under the Texas Penal Code, the staff member is not required to make a report. See Reference (p). Section 21.11(b) of the Texas Penal Code provides a defense to the act if the actor is a child under 17 years old who:

- Was not more than three years older than the victim and of the opposite sex;
- Did not use duress, force, or a threat against the victim at the time of the offense; and
- At the time of the offense was not required under Chapter 62 of the Texas Code of Criminal Procedure to register for life as a sex offender or was not a person who under Chapter 62 had a reportable conviction or adjudication for an offense under this section. See Reference (l).

PROTECTION FOR REPORTING CHILD ABUSE

c. An employer may not suspend, terminate, or otherwise discriminate against a professional employee who in good faith reports child abuse or neglect to his or her supervisor, an administrator where the person is employed, a state regulatory agency, or a law enforcement agency, or initiates or cooperates with an investigation. See Reference (a).

FAILURE TO REPORT

d. Failure to report a case of child abuse or neglect is a class B misdemeanor, punishable by imprisonment of up to six months in jail, a fine of up to $1,000, or both. See Reference (s).

CONFIDENTIALITY

e. All reports of child abuse and neglect are confidential. See References (d), (e), (h), and (n).

REPORTS TO THE DISTRICT

6. Reports to the District regarding investigations of alleged child abuse or neglect by the DFPS will be handled in accordance with the Texas Family Code. See References (d) and (n).

ORAL REPORT

a. According to section 261.105(d) of the Texas Family Code, if the DFPS initiates an investigation and determines that the abuse or neglect involves an employee of an elementary or secondary school, and that the child is a student at the school; the department will orally notify the Superintendent of the District in which the employee is employed.

WRITTEN REPORT

b. As set forth in section 261.406(b) of the Texas Family Code, the DFPS will send a written report of its investigation, as appropriate, to the principal, unless the principal is alleged to have committed the abuse or neglect; the Superintendent; and the HISD Board of Education.

The Superintendent may forward a copy of the report to other staff members as appropriate.

COOPERATION WITH CPS INVESTIGATION

7. To assist with the determination of abuse or neglect, the principal will allow DFPS/CPS personnel to conduct an interview with the student in the school building. The principal is not required to inform the student's parents or guardians, or to secure their consent to the interview or to allow access by DFPS/CPS personnel to the student's school or school health records. If DFPS/CPS determines that a student needs protective custody, the principal may release the student to DFPS/CPS personnel. See References (d), (e), (g), and (h).

IDENTIFICATION OF CPS PERSONNEL

8. The principal must request the DFPS/CPS worker's identification along with the name of his or her supervisor for verification of identity and authorization of the investigation. The

principal will document the incident in writing and forward it to his or her immediate supervisor within three school days of the incident.

ANNUAL REVIEW GUIDELINES

9. HISD Board policies and procedures for reporting suspected child abuse and neglect will be reviewed annually to ensure that current information on state laws and guidelines regarding child abuse and neglect are being maintained by the District.

CONSULTATION

10. This regulation has been through consultation (Administrative: October 10, 2006; Instructional: October 5, 2006; Noninstructional: October 10, 2006).

MAINTENANCE RESPONSIBILITY

11. The assistant superintendent, Student Support Services, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DG(LEGAL)

(b) Board Policy FFAA(LEGAL)

(c) Board Policy FFAA(LOCAL)

(d) Board Policy FFG(LEGAL)

(e) Board Policy FFG(EXHIBIT)

(f) Board Policy GK(LOCAL)

(g) Board Policy GRA(LEGAL)

(h) Board Policy GRA(LOCAL)

(i) 19 Texas Administrative Code §61.1051 School Districts: Rules on Reporting Child Abuse and Neglect

(j) 19 Texas Administrative Code §249.15 State Board for Educator Certification: Disciplinary Action by Board

(k) Health and Safety Code §481 Texas Controlled Substances Act

(l) Texas Code of Criminal Procedure §62 Sex Offender Registration Program

(m) Texas Education Code §21.006 Requirement to Report Misconduct

(n) Texas Family Code, Chapter 261 Investigation of Report of Child Abuse or Neglect

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(o) Texas Penal Code §9.62 Justification Excluding Criminal Responsibility: Educator-Student

(p) Texas Penal Code §21.11 Sexual Offenses: Indecency with a Child

(q) Texas Penal Code §22.011 Sexual Assault

(r) Texas Penal Code §22.021 Aggravated Sexual Assault

(s) Texas Penal Code §39.06 Abuse of Office: Misuse of Official Information

(t) Texas Penal Code §43.01 Public Indecency: Definitions

(u) Texas Penal Code §43.25 Sexual Performance by a Child

(v) Emergency Preparedness Plan

(w) Recognizing and Reporting Child Abuse

(x) Form – Houston Independent School District Reporting Form for Child Abuse and Neglect

Notice of Employee Responsibilities for Reporting Child Abuse and Neglect

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

The applicable District policies—FFG(LEGAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact Student Support Services at (713) 556-7000.

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

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

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

Are there any restrictions on reporting?

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

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

To whom do I make a report?

Reports may be made to any of the following:

- A law enforcement agency: Student Support Services, at (713) 556-7000;
- The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (1-800-252-5400) or on the Web at www.txabusehotline.org; or
- If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to CPS, unless the report is to

the state agency that operates, licenses, certifies or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Probation Commission as a report of suspected abuse or neglect in a juvenile justice program or facility.

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

Will my report be kept confidential?

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

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

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

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

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

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

What are my responsibilities regarding investigations of abuse or neglect?

State law specifically prohibits school officials from:

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

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

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

Dating Violence

Policy Requirements

A district shall adopt and implement a dating violence policy to be included in the district improvement plan.

A dating violence policy must include:

1. 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;
2. A clear statement that dating violence is not tolerated at school; and
3. Reporting procedures and guidelines for students who are victims of dating violence, including a procedure for immediately notifying the parent or guardian of a student about a report received by the district identifying the student as an alleged victim or perpetrator of dating violence.

A dating violence policy must also address safety planning, enforcement of protective orders, school-based alternatives to protective orders, training for teachers and administrators at each district campus that instructs students in grade 6 or higher, counseling for affected students, and awareness education for students and parents.

Education Code 37.083, .0831 [See BQ]

Student Resources

To the extent possible, a district shall make available to students age-appropriate educational materials that include information on the dangers of dating violence and resources to students seeking help. *Education Code 37.0831(c)*

Sexual Harassment

A district may develop and implement a sexual harassment policy to be included in the district improvement plan. *Education Code 37.083* [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)*

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. *20 U.S.C. 1681 (Title IX)*

A district's treatment of a complainant or a respondent in response to a formal complaint of sexual harassment may constitute discrimination on the basis of sex under Title IX. *34 C.F.R. 106.45; 20 U.S.C. 1681* [See also FB regarding Title IX]

Designation of Title IX Coordinator

A district must designate and authorize at least one employee to coordinate its efforts to comply with its responsibilities under Title IX, which employee must be referred to as the "Title IX Coordinator."

Parties Entitled to Notice

The district must notify applicants for admission and employment, students, parents or legal guardians, employees, and all professional organizations holding professional agreements with the district ("Parties Entitled to Notice") of the name or title, office address, electronic mail address, and telephone number of the employee or employees designated as the Title IX Coordinator.

34 C.F.R. 106.8(a)

Reporting

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or sexual harassment), in person, by mail, by telephone, or by electronic mail, using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report. Such a report may be made at any time (including during nonbusiness hours) by using the telephone number or electronic mail address, or by mail to the office address, listed for the Title IX Coordinator. *34 C.F.R. 106.8(a)*

Notification of Policy

A district must notify the Parties Entitled to Notice, above, that the district does not discriminate on the basis of sex in the education program or activity that it operates, and that it is required by Title IX not to discriminate in such a manner. The notification must state that the requirement not to discriminate in the education program or activity extends to employment, and that inquiries about the application of Title IX to such district may be referred to the district's Title IX Coordinator, to the assistant secretary for civil rights of the Department of Education, or both. *34 C.F.R. 106.2(d), .8(b)(1)*

Publication Requirements

A district must prominently display the contact information required to be listed for the Title IX Coordinator and the nondiscrimination policy described at Notification of Policy, above, on its website, if

any, and in each handbook that it makes available to the Parties Entitled to Notice, above.

A district must not use or distribute a publication stating that the district treats applicants, students, or employees differently on the basis of sex except as such treatment is permitted by Title IX.

34 C.F.R. 106.8(b)(2)

Note: To distinguish the process described below from the district's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of Title IX sexual harassment in an education program or activity and against a person in the United States as the district's "Title IX formal complaint process."

Adopting and Publishing Complaint Procedures

A district must adopt and publish procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by Title IX and a Title IX formal complaint process that complies with 34 C.F.R. 106.45 for formal complaints as defined below.

A district must provide notice to the Parties Entitled to Notice, above, of the district's procedures and Title IX formal complaint process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the district will respond.

The requirements of this provision apply only to sex discrimination occurring against a person in the United States.

34 C.F.R. 106.8(c)-(d)

Response to Sexual Harassment

Definitions

"Actual knowledge" means notice of sexual harassment or allegations of sexual harassment to a district's Title IX Coordinator or any official of the district who has authority to institute corrective measures on behalf of the district, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge. This standard is not met when the only official of the district with actual knowledge is the respondent. The mere ability or obligation to report sexual harassment or to inform a student about how to report sexual harassment, or having been trained to do so, does not qualify an individual as one who has authority to institute corrective measures on behalf of the district. "Notice" as

used in this paragraph includes, but is not limited to, a report of sexual harassment to the Title IX Coordinator.

"Complainant" means an individual who is alleged to be the victim of conduct that could constitute sexual harassment.

"Consent" is not defined by the Title IX regulations, nor do the regulations require districts to adopt a particular definition of consent with respect to sexual assault.

"Formal complaint" means a document filed by a complainant or signed by the Title IX Coordinator alleging sexual harassment against a respondent and requesting that the district investigate the allegation of sexual harassment. At the time of filing a formal complaint, a complainant must be participating in or attempting to participate in the education program or activity of the district with which the formal complaint is filed. A formal complaint may be filed with the Title IX Coordinator in person, by mail, or by electronic mail, by using the contact information required to be listed for the Title IX Coordinator, and by any additional method designated by the district. As used in this paragraph, the phrase "document filed by a complainant" means a document or electronic submission (such as by electronic mail or through an online portal provided for this purpose by the district) that contains the complainant's physical or digital signature, or otherwise indicates that the complainant is the person filing the formal complaint. Where the Title IX Coordinator signs a formal complaint, the Title IX Coordinator is not a complainant or otherwise a party to a Title IX formal complaint, and must comply with the requirements of the Title IX formal complaint process, including the informal resolution process.

"Respondent" means an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.

"Sexual harassment" means conduct on the basis of sex that satisfies one or more of the following:

1. An employee of the district conditioning the provision of an aid, benefit, or service of the district on an individual's participation in unwelcome sexual conduct;

2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity; or

3. "Sexual assault" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "dating violence" as defined in 34 U.S.C. 12291(a)(10), "domestic violence" as defined in 34 U.S.C. 12291(a)(8), or "stalking" as defined in 34 U.S.C. 12291(a)(30).

	"Supportive measures" means nondisciplinary, nonpunitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the district's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the district's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or district-provided housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The district must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the district to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures. *34 C.F.R. 106.2, .30(a)*
Deliberate Indifference	A district with actual knowledge of sexual harassment in an education program or activity of the district against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A district is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.
Education Program or Activity	For the purposes of 34 C.F.R. 106.30 [see Definitions, above] and 106.45 [see Process for Title IX Formal Complaint, below], "education program or activity" includes locations, events, or circumstances over which the district exercised substantial control over both the respondent and the context in which the sexual harassment occurs. *34 C.F.R. 106.44(a)*
Title IX Coordinator Response	The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint. The Title IX Coordinator must respond in this manner with or without a formal complaint. *34 C.F.R. 106.44(b)(1)*

Supportive Measures Required

A district's response must treat complainants and respondents equitably by offering supportive measures and by following a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below] before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. [For Emergency Removal procedures, see below.]

Constitutional Restrictions

The Department of Education may not deem a district to have satisfied the district's duty to not be deliberately indifferent under Title IX based on the district's restriction of rights protected under the U.S. Constitution, including the First Amendment, Fifth Amendment, and Fourteenth Amendment.

34 C.F.R. 106.44(a)

Response to a Formal Complaint

In response to a formal complaint, a district must follow a process that complies with 34 C.F.R. 106.45 [see Process for Title IX Formal Complaint, below]. *34 C.F.R. 106.44(b)(1)*

Emergency Removal

The Title IX regulations do not preclude a district from removing a respondent from the district's education program or activity on an emergency basis, provided that the district:

1. Undertakes an individualized safety and risk analysis;
2. Determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal; and
3. Provides the respondent with notice and an opportunity to challenge the decision immediately following the removal.

This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

34 C.F.R. 106.44(c)

Administrative Leave

The Title IX regulations do not preclude a district from placing a nonstudent employee respondent on administrative leave during the pendency of a Title IX formal complaint. This provision may not be construed to modify any rights under Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act. *34 C.F.R. 106.44(d)*

Process for Title IX Formal Complaint

For the purpose of addressing formal complaints of sexual harassment, a district's process must comply with the following requirements. Any provisions, rules, or practices other than those required by this provision that a district adopts as part of its process for han-

dling formal complaints of sexual harassment must apply equally to both parties. *34 C.F.R. 106.45(b)*

A district's Title IX formal complaint process must:

1. Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a process that complies with the Title IX regulations before the imposition of any disciplinary sanctions or other actions that are not supportive measures against a respondent. Remedies must be designed to restore or preserve equal access to the district's education program or activity. Such remedies may include the same individualized services described as supportive measures; however, remedies need not be nondisciplinary or nonpunitive and need not avoid burdening the respondent;

2. Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;

3. Require that any individual designated by a district as a Title IX Coordinator, investigator, decision-maker, or any person designated by a district to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A district must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment, the scope of the district's education program or activity, how to conduct an investigation and Title IX formal complaint process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A district must ensure that decision-makers receive training on any technology to be used at a live hearing, if any, and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant. [See Hearings, below] A district also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence. [See Investigation of a Formal Complaint, below] Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal res-

olution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;

4. Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process;

5. Include reasonably prompt time frames for conclusion of the Title IX formal complaint process, including reasonably prompt time frames for filing and resolving appeals and informal resolution processes if the district offers informal resolution processes, and a process that allows for the temporary delay of the Title IX formal complaint process or the limited extension of time frames for good cause with written notice to the complainant and the respondent of the delay or extension and the reasons for the action. Good cause may include considerations such as the absence of a party, a party's advisor, or a witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities;

6. Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the district may implement following any determination of responsibility;

7. State whether the standard of evidence to be used to determine responsibility is the preponderance of the evidence standard or the clear and convincing evidence standard, apply the same standard of evidence for formal complaints against students as for formal complaints against employees, including faculty, and apply the same standard of evidence to all formal complaints of sexual harassment;

8. Include the procedures and permissible bases for the complainant and respondent to appeal;

9. Describe the range of supportive measures available to complainants and respondents; and

10. Not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

34 C.F.R. 106.45(b)(1)

Notice of Allegations

Upon receipt of a formal complaint, a district must provide the following written notice to the parties who are known:

1. Notice of the district's Title IX formal complaint process, including any informal resolution process.

2. Notice of the allegations of sexual harassment potentially constituting sexual harassment, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:

   a. The identities of the parties involved in the incident, if known;

   b. The conduct allegedly constituting sexual harassment; and

   c. The date and location of the alleged incident, if known.

   The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the Title IX formal complaint process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney and may inspect and review evidence [see Investigation of a Formal Complaint, below]. The written notice must inform the parties of any provision in the district's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the Title IX formal complaint process.

If, in the course of an investigation, the district decides to investigate allegations about the complainant or respondent that are not included in the Notice of Allegations, above, the district must provide notice of the additional allegations to the parties whose identities are known.

34 C.F.R. 106.45(b)(2)

Dismissal of a Formal Complaint

The district must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment even if proved, did not occur in the district's education program or activity, or did not occur against a person in the United States, then the district must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under Title IX; such a dismissal does not preclude action under another provision of the district's code of conduct.

The district may dismiss the formal complaint or any allegations therein, if at any time during the investigation or hearing: a complainant notifies the Title IX Coordinator in writing that the complainant would like to withdraw the formal complaint or any allega-

tions therein; the respondent is no longer enrolled or employed by the district; or specific circumstances prevent the district from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Upon a dismissal required or permitted pursuant to 34 C.F.R. 106.45(b)(3), the district must promptly send written notice of the dismissal and reason(s) therefor simultaneously to the parties.

Consolidation of Formal Complaints

A district may consolidate formal complaints as to allegations of sexual harassment against more than one respondent, or by more than one complainant against one or more respondents, or by one party against the other party, where the allegations of sexual harassment arise out of the same facts or circumstances. Where a Title IX formal complaint process involves more than one complainant or more than one respondent, references in this provision to the singular "party," "complainant," or "respondent" include the plural, as applicable.

34 C.F.R. 106.45(b)(3)-(4)

Investigation of a Formal Complaint

When investigating a formal complaint and throughout the Title IX formal complaint process, a district must:

1. Ensure that the burden of proof and the burden of gathering evidence sufficient to reach a determination regarding responsibility rest on the district and not on the parties provided that the district cannot access, consider, disclose, or otherwise use a party's records that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity, and which are made and maintained in connection with the provision of treatment to the party, unless the district obtains that party's voluntary, written consent to do so for a Title IX formal complaint (if a party is not an "eligible student," as defined in 34 C.F.R. 99.3 then the district must obtain the voluntary, written consent of a "parent," as defined in 34 C.F.R. 99.3) [see FL(LEGAL) at Education Records];
2. Provide an equal opportunity for the parties to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence;
3. Not restrict the ability of either party to discuss the allegations under investigation or to gather and present relevant evidence;
4. Provide the parties with the same opportunities to have others present during any Title IX formal complaint proceeding, in-

cluding the opportunity to be accompanied to any related meeting or proceeding by the advisor of their choice, who may be, but is not required to be, an attorney, and not limit the choice or presence of advisor for either the complainant or respondent in any meeting or Title IX formal complaint proceeding; however, the district may establish restrictions regarding the extent to which the advisor may participate in the proceedings, as long as the restrictions apply equally to both parties;

5. Provide, to a party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings, with sufficient time for the party to prepare to participate;

6. Provide both parties an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the district does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation. Prior to completion of the investigative report, the district must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report. The district must make all such evidence subject to the parties' inspection and review available at any hearing to give each party equal opportunity to refer to such evidence during the hearing, including for purposes of cross-examination; and

7. Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to a hearing (if a hearing is required or otherwise provided) or other time of determination regarding responsibility, send to each party and the party's advisor, if any, the investigative report in an electronic format or a hard copy, for their review and written response.

34 C.F.R. 106.45(b)(5)

Hearings

The district's Title IX formal complaint process may, but need not, provide for a hearing. With or without a hearing, after the district has sent the investigative report to the parties pursuant to 34 C.F.R. 106.45(b)(5)(vii) [see Investigation of a Formal Complaint, above] and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to

submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant. *34 C.F.R. 106.45(b)(6)(ii)*

Determination Regarding Responsibility

The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the district must apply the standard of evidence described at Process for Title IX Formal Complaint, above.

The written determination must include:

1. Identification of the allegations potentially constituting sexual harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. Findings of fact supporting the determination;
4. Conclusions regarding the application of the district's code of conduct to the facts;
5. A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the district imposes on the respondent, and whether remedies designed to restore or preserve equal access to the district's education program or activity will be provided by the district to the complainant; and
6. The district's procedures and permissible bases for the complainant and respondent to appeal.

The district must provide the written determination to the parties simultaneously. The determination regarding responsibility becomes final either on the date that the district provides the parties with the written determination of the result of the appeal, if an appeal is

filed, or if an appeal is not filed, the date on which an appeal would no longer be considered timely.

34 C.F.R. 106.45(b)(7)(i)-(ii)

Implementation of Remedies

The Title IX Coordinator is responsible for effective implementation of any remedies. *34 C.F.R. 106.45(b)(7)(iv)*

Appeals

A district must offer both parties an appeal from a determination regarding responsibility, and from a district's dismissal of a formal complaint or any allegations therein, on the following bases:

1. Procedural irregularity that affected the outcome of the matter;
2. New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
3. The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

A district may offer an appeal equally to both parties on additional bases.

As to all appeals, the district must:

1. Notify the other party in writing when an appeal is filed and implement appeal procedures equally for both parties;
2. Ensure that the decision-maker(s) for the appeal is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator;
3. Ensure that the decision-maker(s) for the appeal complies with the standards in the Title IX regulations regarding conflict of interest and bias [see Process for Title IX Formal Complaint, item 3, above];
4. Give both parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome;
5. Issue a written decision describing the result of the appeal and the rationale for the result; and
6. Provide the written decision simultaneously to both parties.

34 C.F.R. 106.45(b)(8)

Informal Resolution

A district may not require as a condition of enrollment or continuing enrollment, or employment or continuing employment, or enjoyment of any other right, waiver of the right to an investigation and adjudication of formal complaints of sexual harassment consistent with Title IX. Similarly, a district may not require the parties to participate in an informal resolution process and may not offer an informal resolution process unless a formal complaint is filed. However, at any time prior to reaching a determination regarding responsibility the district may facilitate an informal resolution process, such as mediation, that does not involve a full investigation and adjudication, provided that the district:

1. Provides to the parties a written notice disclosing:
    a. The allegations;
    b. The requirements of the informal resolution process including the circumstances under which it precludes the parties from resuming a formal complaint arising from the same allegations, provided, however, that at any time prior to agreeing to a resolution, any party has the right to withdraw from the informal resolution process and resume the Title IX formal complaint process with respect to the formal complaint; and
    c. Any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared;
2. Obtains the parties' voluntary, written consent to the informal resolution process; and
3. Does not offer or facilitate an informal resolution process to resolve allegations that an employee sexually harassed a student.

34 C.F.R. 106.45(b)(9)

Recordkeeping

A district must maintain for a period of seven years records of:

1. Each sexual harassment investigation including any determination regarding responsibility, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the district's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution and the result therefrom; and

4. All materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process. A district must make these training materials publicly available on its website or if the district does not maintain a website the district must make these materials available upon request for inspection by members of the public.

For each response required under Title IX Coordinator Response, above, a district must create, and maintain for a period of seven years, records of any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment. In each instance, the district must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the district's education program or activity.

If a district does not provide a complainant with supportive measures, then the district must document the reasons why such a response was not clearly unreasonable in light of the known circumstances. The documentation of certain bases or measures does not limit the district in the future from providing additional explanations or detailing additional measures taken.

34 C.F.R. 106.45(b)(10)

Retaliation Prohibited

No district or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX.

Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or complaint of sex discrimination, or a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX, constitutes retaliation.

Complaints alleging retaliation may be filed according to the Process for Title IX Formal Complaint above.

The exercise of rights protected under the First Amendment does not constitute retaliation prohibited by Title IX.

Charging an individual with a code of conduct violation for making a materially false statement in bad faith in the course of a Title IX formal complaint proceeding does not constitute retaliation prohib-

ited by Title IX, provided, however, that a determination regarding responsibility, alone, is not sufficient to conclude that any party made a materially false statement in bad faith.

34 C.F.R. 106.71(a)-(b)

Confidentiality

The district must keep confidential the identity of any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of sexual harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, and any witness, except as may be permitted by the Family Educational Rights and Privacy Act (FERPA) statute, 20 U.S.C. 1232g, or FERPA regulations, 34 C.F.R. Part 99, or as required by law, or to carry out the purposes of 34 C.F.R. Part 106, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. *34 C.F.R. 106.71(a)*

Note: This policy addresses discrimination, including harassment and retaliation against District students. For provisions regarding discrimination, including harassment and retaliation against 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.

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.

Prohibited conduct also includes sexual harassment as defined by Title IX. [See FFH(LEGAL)]

Statement of Nondiscrimination

The District prohibits discrimination, including harassment, against any student. Discrimination is defined as treating a student or group of students differently from similarly situated students on the basis of race, color, religion, sex, gender, national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity and/or gender expression, or any other basis prohibited by law. Retaliation against anyone exercising their rights under this policy is a violation of District policy and is prohibited.

Harassment

Harassment of a student is defined as physical, verbal, or nonverbal conduct based on the student's race, color, religion, sex, gender, national origin, age, disability, ancestry, marital status, veteran status, political affiliation, sexual orientation, gender identity and/or gender expression, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:

- 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;
- Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- Otherwise adversely affects the student's educational opportunities.

Harassment includes dating violence as defined by law and 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; cyberharassment; 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.

Title IX Sexual Harassment

As required by law, the District shall follow the procedures below at Response to Title IX Sexual Harassment upon a report of sex-based harassment, including sexual harassment, sex-based discrimination, gender-based harassment, and dating violence, when such allegations, if proved, would meet the definition of sexual harassment in an education program or activity and against a person in the United States under Title IX. [See FFH(LEGAL)]

Other 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:

- 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
- The conduct is so severe, persistent, or pervasive that it:
    - 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
    - Creates an intimidating, threatening, hostile, or abusive educational environment.

Romantic or other 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:

- 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;

- Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- 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, contact, or communications, including electronic communication.

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:

- 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;
- Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- 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; cyberharassment; 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:

- 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;
- Has the purpose or effect of substantially or unreasonably interfering with the student's academic performance; or
- 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.

Reporting Procedures

Student Report — Any student who believes that they have experienced prohibited conduct and any person who believes that a 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 direct or indirect 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, gender-based harassment, or dating violence, 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)]

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

Alternative Reporting Procedures

An individual 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.

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

To ensure the District's prompt investigation, reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act.

Notice to Parents

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

When the District receives a report of prohibited conduct that includes dating violence, the appropriate District official shall immediately notify the parent or guardian of the student who has been identified in the report as the alleged victim or perpetrator.

Investigation of Reports Other Than Title IX

The following procedures apply to all allegations of prohibited conduct other than allegations of harassment prohibited by Title IX. [See FFH(LEGAL)] For allegations of sex-based harassment that, if proved, would meet the definition of sexual harassment under Title IX, including sexual harassment, gender-based harassment, and dating violence, see the procedures below at Response to Title IX Sexual Harassment.

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

Upon receipt or notice of a report, the District official shall determine whether the allegations, if proved, 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.

If the District official determines that the allegations, if proved, would not constitute prohibited conduct as defined by this policy, the District official shall refer the complaint for consideration under FFI.

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 report, 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, harassment, and retaliation.

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.

Court Orders — The District and each school shall, to the extent possible, enforce court-ordered protective orders resulting from dating violence and related issues, and, when deemed appropriate, shall implement school-based alternatives to protective orders, which shall include transferring an alleged victim or perpetrator under the safe school choice option or placing the alleged perpetrator in a District alternative educational program. [See FDE]

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 has the right to file a complaint with the United States Department of Education Office for Civil Rights.

Response to Title IX Sexual Harassment — For purposes of the District's response to reports of harassment prohibited by Title IX, definitions can be found in FFH(LEGAL).

General Response — When the District receives notice or an allegation of conduct that, if proved, would meet the definition of sexual harassment under Title IX, the Title IX coordinator shall promptly contact the complainant to:

- Discuss the availability of supportive measures and inform the complainant that they are available, with or without the filing of a formal complaint;

- Consider the complainant's wishes with respect to supportive measures; and
- Explain to the complainant the option and process for filing a formal complaint.

The District's response to sexual harassment shall treat complainants and respondents equitably by offering supportive measures to both parties, as appropriate, and by following the Title IX formal complaint process before imposing disciplinary sanctions or other actions that are not supportive measures against a respondent.

If a formal complaint is not filed or dismissed, the District reserves the right to investigate and respond to prohibited conduct in accordance with Board policies and the Student Code of Conduct. The Title IX coordinator also reserves the right to sign a formal complaint, initiating the Title IX grievance process, if it would be deliberately indifferent not to investigate and respond to the prohibited conduct in accordance with Board policies and the Student Code of Conduct.

Title IX Formal Complaint Process

To distinguish the process described below from the District's general grievance policies [see DGBA, FNG, and GF], this policy refers to the grievance process required by Title IX regulations for responding to formal complaints of sexual harassment as the District's "Title IX formal complaint process."

The Superintendent shall ensure the development of a Title IX formal complaint process that complies with legal requirements. [See FFH(LEGAL)] The formal complaint process shall be posted on the District's website. In compliance with Title IX regulations, the District's Title IX formal complaint process shall address the following basic requirements:

- Equitable treatment of complainants and respondents;
- An objective evaluation of all relevant evidence;
- A requirement that the Title IX coordinator, investigator, decision-maker, or any person designated to facilitate an informal resolution process not have a conflict of interest or bias;
- A presumption that the respondent is not responsible for the alleged sexual harassment until a determination is made at the conclusion of the Title IX formal complaint process;
- Time frames that provide for a reasonably prompt conclusion of the Title IX formal complaint process, including time frames

for appeals and any informal resolution process, and that allow for temporary delays or the limited extension of time frames with good cause and written notice as required by law;

- A description of the possible disciplinary sanctions and remedies that may be implemented following a determination of responsibility for the alleged sexual harassment;
- A statement of the standard of evidence to be used to determine responsibility for all Title IX formal complaints of sexual harassment;
- Procedures and permissible bases for the complainant and respondent to appeal a determination of responsibility or a dismissal of a Title IX formal complaint or any allegations therein;
- A description of the supportive measures available to the complainant and respondent;
- A prohibition on using or seeking information protected under a legally recognized privilege unless the individual holding the privilege has waived the privilege;
- Additional formal complaint procedures in 34 C.F.R. 106.45(b), including written notice of a formal complaint, consolidation of formal complaints, recordkeeping, and investigation procedures; and
- Other local procedures as determined by the Superintendent.

Standard of Evidence

The standard of evidence used to determine responsibility in a Title IX formal complaint of sexual harassment shall be the preponderance of the evidence.

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, files a complaint of harassment or discrimination, serves as a witness, or participates in an investigation. The definition of prohibited retaliation under this policy also includes retaliation against a student who refuses to participate in any manner in an investigation under Title IX. In the absence of a formal Title IX complaint, allegations of retaliation shall be investigated under Investigation of Reports Other Than Title IX, above.

Examples	Examples of retaliation may include threats, intimidation, coercion, 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 or offers false statements in a District investigation regarding discrimination or harassment, including dating violence, shall be subject to appropriate disciplinary action in accordance with law.
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 control schedules, but for no less than the minimum amount of time required by law. [See CPC] [For Title IX recordkeeping and retention provisions, see FFH(LEGAL) and the District's Title IX formal complaint process.]
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.

SEXUAL HARASSMENT PROHIBITIONS

1. To ensure compliance with federal and state regulations and Houston Independent School District (HISD) Board policy, District practice includes the following responsibilities and guidelines for sexual harassment of students. See References (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o), and (r). Employee complaints or claims of sexual harassment are addressed in Reference (p).

GENERAL RESPONSIBILITIES AND GUIDELINES

IMPLEMENTATION

a. All principals, assistant principals, teachers, work location supervisors, department heads, and other school District personnel are responsible for implementing References (a), (j), (k), and (l) throughout the District.

SUPERVISION

b. HISD's Human Resources' Equal Employment Opportunity (EEO) office is responsible to the Superintendent for ensuring that the District adheres to References (a), (j), (k), and (l) and this regulation, including implementation of appropriate monitoring to ensure compliance. In addition, HISD's EEO Office oversees and monitors the prompt and thorough investigation of all sexual harassment complaints lodged by students or on behalf of students.

IMMEDIATE ACTION

c. Students, parents or guardians, HISD employees, or individuals with knowledge of an alleged act of sexual harassment are required to make their complaint(s) immediately following the alleged act. Employees are especially encouraged to immediately report all acts of sexual harassment of students, including sexual harassment of students by students.

SCHOOL RECORD

d. Any HISD employee receiving a complaint of sexual harassment of a student must report it to the school principal or to the appropriate regional superintendent, or a designee.

CHILD ABUSE

e. Acts of sexual harassment that constitute physical, emotional, or sexual abuse of a minor child will be reported to Harris County Department of Family and Protective Services (DFPS) by the principal. See Reference (q).

FALSE ACCUSATIONS

f. Students, parents or guardians, and employees must be aware that intentionally filing false accusations of sexual harassment may result in disciplinary or legal action (for employee~~'~~s, disciplinary actions up to and including termination).

RETALIATION

g. Retaliation against a student~~s~~ who makes a sexual harassment complaint~~s~~ or who assist the District in an in-

vestigation of a sexual harassment complaint is strictly prohibited. Acts of retaliation will result in disciplinary action that may include termination of employees or discipline of students.

PARENT NOTIFICATION OF INTERVIEW

h. Parents or guardians should be notified in advance if their children will be interviewed during an investigation of sexual harassment.

INTIMIDATION OF WITNESS

i. Participants in an investigation will not interfere with the investigation by intimidating any potential witness or by withholding information.

CONFIDENTIALITY

j. To the extent possible, every effort will be made to maintain confidentiality during an investigation.

REPORTING AND INVESTIGATING COMPLAINTS OF STUDENT SEXUAL HARASSMENT BY ANOTHER STUDENT

2. Student misconduct alleged to be sexual harassment by one student toward another student should be reported to a campus teacher, counselor, principal, or other adult staff member. The adult who receives the report of student misconduct will follow the procedures in Reference (s) for reporting, investigating, and responding to student misconduct. Students found to have committed such misconduct will be disciplined according to the levels of student misconduct in Reference (s). Students and parents may follow the steps outlined in Reference (s) if they are not satisfied with the resolution reached at the school level.

REPORTING AND INVESTIGATING COMPLAINTS OF STUDENT SEXUAL HARASSMENT BY AN ADULT

3. A student, parent or guardian, or other individual with knowledge of an alleged act of sexual harassment of a student by an adult is encouraged to report it to a teacher, counselor, nurse, school administrator, principal, or the principal's designee. At any time, including at the time of making the initial complaint, the student, parent or guardian, or other individual with knowledge of the alleged act of sexual harassment may complain directly to the appropriate regional superintendent or a designee, or HISD's EEO Office. Whenever a complaint of sexual harassment of a student by an adult is received, the following steps will be taken:

FILE COMPLAINT FORM

a. Efforts will be taken by the person receiving the complaint to obtain all of the facts from the student and to verify these facts. Such efforts may include requesting a written statement from the student, contacting the student's parents or guardian, and obtaining names of witnesses of the alleged acts of sexual harassment. The individual receiving the complaint will complete the Sexual Harassment Complaint Form and retain a copy in the school's files. See Reference (t). The completed com-

plaint forms should be sent to HISD's EEO Office and the appropriate regional superintendent or a designee. Copies of this form are available from HISD's EEO Office and may be duplicated by the school administration.

CONTACT DFPS

b. DFPS must be contacted by the principal or by his or her designee.

INVESTIGATE

c. A prompt and thorough investigation must be conducted by the school, the appropriate regional superintendent or a designee, or by HISD's EEO Office. The investigation will begin within five school days of receiving the information from the student, parent or guardian, or other individual with knowledge of the alleged act of sexual harassment.

INTERVIEW THE ACCUSED PERSON

d. A thorough investigation includes an interview with the individual who allegedly committed the sexual harassment to inform the individual of the specific allegations and to provide an opportunity for a response.

NOTIFY THE COMPLAINANT OF RESOLUTION

e. Upon completion of the investigation, the student and parents or guardians should be informed of the resolution of the complaint.

NOTIFY THE ACCUSED PERSON OF RESOLUTION

f. Upon completion of the investigation, the individual who allegedly committed the sexual harassment shall be informed of the resolution of the complaint. The individual may be accompanied by a representative of his or her choice to discuss the resolution of the complaint.

COMPLETE DOCUMENTATION

g. Upon completion of the investigation, the Sexual Harassment Response Form, along with documentation of the complaint, steps taken to investigate the complaint and the proposed resolution will be sent by the school administration to HISD's EEO Office and the appropriate regional superintendent or a designee. Copies of this form are available from HISD's EEO Office and may be duplicated by the school administration. See Reference (u).

ENFORCE DISCIPLINARY ACTION

h. Any disciplinary action against an HISD employee will be proposed and implemented in accordance with References (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), and (o).

CONSULTATION

4. This regulation has been through consultation (Administrative: December 6, 2005; Instructional: January 5, 2006; Noninstructional: January 10, 2006).

MAINTENANCE RESPONSIBILITY

5. The executive general manager, Human Resources, is responsible for maintenance of this regulation.

REFERENCES:

(a) Board Policy DBA(LEGAL)

(b) Board Policy DCA(LEGAL)

(c) Board Policy DFAA(LEGAL)

(d) Board Policy DFAB(LEGAL)

(e) Board Policy DFAC(LEGAL)

(f) Board Policy DFBA(LEGAL)

(g) Board Policy DFBB(LEGAL)

(h) Board Policy DFBB(LOCAL)

(i) Board Policy DFCA(LEGAL)

(j) Board Policy DIA(LEGAL)

(k) Board Policy DIA(LOCAL)

(l) Board Policy DK(LOCAL)

(m) Board Policy FFG(LEGAL)

(n) Board Policy FFH(LEGAL)

(o) Board Policy FFH(LOCAL)

(p) DIA2(REGULATION)

(q) FFG(REGULATION)

(r) Education Amendments of 1972, Title IX

(s) The Student Code of Conduct

(t) Form – Sexual Harassment Complaint Form

(u) Form – Sexual Harassment Response Form

Title IX Coordinator

The District designates and authorizes the following person as the Title IX coordinator to be responsible for coordinating the District's efforts to comply with Title IX of the Education Amendments of 1972, as amended, for students:

Name: Danielle Delone and Breanna Turner

Position: Title IX Coordinator

Address: 4400 W. 18th Street, Houston, TX 77092

Email: Title IX coordinator (TitleIXComplaints@houstonisd.org)

Telephone: (713) 556-7333

ADA/Section 504 Coordinator

The District designates and authorizes the following person as the ADA/Section 504 coordinator to be responsible for coordinating the District's 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: Cynthia Teagle

Position: Director, Response to Intervention/Interventions

Address: 4400 W. 18th Street, Houston, TX 77092

Email: ADA/Section 504 coordinator (cteagle@houstonisd.org)

Telephone: (713) 556-7122

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

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

Bullying Prohibited

The District prohibits bullying, including cyberbullying, as defined by state law. Retaliation against anyone involved in the complaint process is a violation of District policy and is prohibited.

[See FFI(LEGAL), the Code of Student Conduct, CQ(LOCAL), CQ5(REGULATION), and CQ(EXHIBIT–B)]

Examples

Bullying of a student could occur by physical contact or through electronic means and may include hazing, threats, taunting, teasing, confinement, assault, demands for money, destruction of property, theft of valued possessions, name calling, rumor spreading, or ostracism.

Retaliation

The District prohibits retaliation by a student or District employee against any person who in good faith makes a report of bullying, serves as a witness, or participates in an investigation.

Examples

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

Minimum Standards

In accordance with law, the Superintendent shall develop administrative procedures to ensure that minimum standards for bullying prevention are implemented.

False Claim

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

Timely Reporting

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

Reporting Procedures

Student Report

To obtain assistance and intervention, any student who believes that he or she has experienced bullying or believes that another student has experienced bullying should immediately report the alleged acts to a teacher, school counselor, principal, or other Dis-

trict employee. The Superintendent shall develop procedures allowing a student to anonymously report an alleged incident of bullying.

Employee Report — Any District employee who suspects or receives notice that a student or group of students has or may have experienced bullying shall immediately notify the principal or designee.

Report Format — A report may be made orally or in writing. The principal or designee shall reduce any oral reports to written form.

Periodic Monitoring — The Superintendent shall periodically monitor the reported counts of bullying incidents, with an awareness that declines in the count may represent not only improvements in the campus culture because bullying declines, but also declines in the campus culture because of a decline in openness to report incidents.

Notice of Report — When an allegation of bullying is reported, the principal or designee shall notify a parent of the alleged victim within 24 hours after the incident is reported. The principal or designee shall also notify a parent of the student alleged to have engaged in the conduct within a reasonable amount of time after the incident is reported.

Prohibited Conduct — The principal or designee shall determine whether the allegations in the report, if proven, would constitute prohibited conduct as defined by policy FFH, including dating violence and harassment or discrimination on the basis of race, color, religion, sex, gender, national origin, or disability. If so, the District shall proceed under policy FFH. If the allegations could constitute both prohibited conduct and bullying, the investigation under FFH shall include a determination on each type of conduct.

Investigation of Report — The principal or designee shall conduct an appropriate investigation based on the allegations in the report. The principal or designee shall promptly take interim action calculated to prevent bullying during the course of an investigation, if appropriate.

Concluding the Investigation — Absent extenuating circumstances, the investigation should be completed within 10 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.

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.

Notice to Parents If an incident of bullying is confirmed, the principal or designee shall notify the parents of the victim and of the student who engaged in bullying within 24 hours.

District Action

Bullying — 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 Code of Student Conduct and may take corrective action reasonably calculated to address the conduct. The District may notify law enforcement in certain circumstances.

Discipline — 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.

The discipline of a student with a disability is subject to applicable state and federal law in addition to the Code of Student Conduct.

Corrective Action — 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.

Transfers — The principal or designee shall refer to FDB for transfer provisions.

Counseling — The principal or designee shall notify the victim, the student who engaged in bullying, and any students who witnessed the bullying of available counseling options.

Improper Conduct — If the investigation reveals improper conduct that did not rise to the level of prohibited conduct or bullying, the District may take action in accordance with the Code of Student Conduct or any other appropriate corrective action.

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

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

Records Retention Retention of records shall be in accordance with CPC(LOCAL).

Access to Policy and Procedures

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

Each student is expected to respect the rights and privileges of other students, teachers, and District staff. All teachers, administrators, and other District personnel are expected to respect the rights and privileges of students. [See DH series]

STUDENT HANDBOOK

The Superintendent or designee shall develop student handbooks with information on curriculum, grading, extracurricular activities, and other such topics that students and parents are likely to need during the school year. In case of conflict between a Board policy or the Student Code of Conduct and provisions of student handbooks, policy and/or the Student Code of Conduct shall prevail.

NO BOARD ACTION

Student handbooks are subject to Board review but shall not be adopted by the Board.

DISTRIBUTION

Student handbooks shall be made available on the District's Web site at the beginning of the school year; hard copies shall be provided upon request. Amendments to the handbook shall be communicated promptly to students and parents.

[For provisions on the Student Code of Conduct, see FO]

DISCIPLINE MANAGEMENT PROGRAM

Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under Education Code 11.252. [See BQ] The program must provide for prevention of and education concerning unwanted physical or verbal aggression and sexual harassment in school, on school grounds, and in school vehicles. *Education Code 37.083(a)*

Note: The Board has adopted an innovation plan[1] that affects application of provisions in this legally referenced policy.

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;
    d. A disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;
    e. A student's status in the conservatorship of the Department of Family and Protective Services; or
    f. A student's status as a student who is homeless.
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]

Education Code 37.001(a)-(b-1), (e)

Law Enforcement Duties

The law enforcement duties of peace officers, school resource officers, and security personnel [see CKE] must be included in the Student Code of Conduct. *Education Code 37.081(d)(2)*

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. *Education Code 37.001(b-1)-(c)*
Notice to Parents	Each school year, a district shall provide parents with notice of and information regarding the Student Code of Conduct. *Education Code 37.001(d)*
Noncustodial Parent	A noncustodial parent may request in writing that, for the remainder of the school year in which the request is received, 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. *Education Code 37.0091*
Copies to Staff	The district shall provide each teacher and administrator with a copy of Education Code Chapter 37, Subchapter A regarding student discipline and with a copy of the related local policy. *Education Code 37.018*
Campus Behavior Coordinator	A person at each campus must be designated to serve as the campus behavior coordinator (CBC). The person may be the campus principal or any other campus administrator selected by the principal. The CBC is primarily responsible for maintaining student discipline and the implementation of Education Code Chapter 37, Subchapter A.
Duties	The specific duties of the CBC may be established by campus or district policy. Unless the policy provides otherwise, duties imposed on a campus principal or other campus administrator by Education Code Chapter 37, Subchapter A must be performed by the CBC and a power granted to a campus principal may be exercised by the CBC.
Notice to Parents	The CBC shall promptly notify a student's parent or guardian if the student is placed into in-school or out-of-school suspension, placed in a DAEP, expelled, or placed in a JJAEP or is taken into custody by a law enforcement officer. A CBC must provide notice by promptly contacting the parent or guardian by telephone or in person; and making a good faith effort

to provide written notice of the disciplinary action to the student, on the day the action is taken, for delivery to the student's parent or guardian.

If a parent or guardian entitled to notice has not been reached by telephone or in person by 5 p.m. of the first business day after the day the disciplinary action is taken, a CBC shall mail written notice of the action to the parent or guardian at the parent's or guardian's last known address.

If a CBC is unable or not available to promptly provide notice, the principal or other designee shall provide the notice.

Education Code 37.0012

Website Requirement

A district shall post on the district's website, for each campus, the email address and dedicated telephone number of a person clearly identified as:

1. The campus behavior coordinator; or
2. If the district has been designated as a district of innovation under Education Code Chapter 12A [see AF] and is exempt from the requirement to designate a campus behavior coordinator under the district's local innovation plan, a campus administrator designated as being responsible for student discipline.

Education Code 26.015

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.]

Alternative Means to Receive Coursework

A district shall provide to a student during the period of the student's suspension under Education Code 37.005, regardless of whether the student is placed in in-school or out-of-school suspension, an alternative means of receiving all coursework provided in the classes in the foundation curriculum under Education Code 28.002(a)(1) that the student misses as a result of the suspension. A district must provide at least one option for receiving the coursework that does not require the use of the internet. *Education Code 37.005(e)*

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)

[For information on seclusion involving students in special education, see FOF.]

Officer or Security Personnel Use of Restraint or Taser

"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.

Definitions

"Taser" means a device manufactured, sold, or distributed by Taser International, Incorporated, that is intended, designed, made, or adapted to incapacitate a person by inflicting an electrical charge through the emission of a projectile or conductive stream. The term, for purposes of this provision, includes a similar device manufactured, sold, or distributed by another person.

Prohibition

A peace officer performing law enforcement duties or school security personnel performing security-related duties on school property or at a school-sponsored or school-related activity may not restrain or use a chemical irritant spray or Taser on a student enrolled in fifth grade or below unless the student poses a serious risk of harm to the student or another person.

Education Code 37.0021(b)(1), (b)(5), (j)

[For information on restraint involving students in special education, see FOF.]

Restraint Reports

A district shall report electronically to the Texas Education Agency (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)*

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*
Aversive Techniques	A district or district employee or volunteer or an independent contractor of a district may not apply an aversive technique, or by authorization, order, or consent, cause an aversive technique to be applied, to a student. "Aversive technique" means a technique or intervention that is intended to reduce the likelihood of a behavior reoccurring by intentionally inflicting on a student significant physical or emotional discomfort or pain. The term includes a technique or intervention that: 1. Is designed to or likely to cause physical pain, other than an intervention or technique permitted under Education Code 37.0011 [see Corporal Punishment, above]; 2. Notwithstanding the above corporal punishment provisions, is designed to or likely to cause physical pain through the use of electric shock or any procedure that involves the use of pressure points or joint locks; 3. Involves the directed release of a noxious, toxic, or otherwise unpleasant spray, mist, or substance near the student's face; 4. Denies adequate sleep, air, food, water, shelter, bedding, physical comfort, supervision, or access to a restroom facility;

5. Ridicules or demeans the student in a manner that adversely affects or endangers the learning or mental health of the student or constitutes verbal abuse;

6. Employs a device, material, or object that simultaneously immobilizes all four extremities, including any procedure that results in such immobilization known as prone or supine floor restraint;

7. Impairs the student's breathing, including any procedure that involves:

    a. Applying pressure to the student's torso or neck; or

    b. Obstructing the student's airway, including placing an object in, on, or over the student's mouth or nose or placing a bag, cover, or mask over the student's face;

8. Restricts the student's circulation;

9. Secures the student to a stationary object while the student is in a sitting or standing position;

10. Inhibits, reduces, or hinders the student's ability to communicate;

11. Involves the use of a chemical restraint;

12. Constitutes a use of timeout that precludes the student from being able to be involved in and progress appropriately in the required curriculum and, if applicable, toward the annual goals included in the student's individualized education program, including isolating the student by the use of physical barriers; or

13. Except as provided below, deprives the student of the use of one or more of the student's senses.

Education Code 37.0023(a)-(b)

An aversive technique that deprives the student of the use of one or more of the student's senses may be used if the technique is executed in a manner that:

1. Does not cause the student discomfort or pain; or

2. Complies with the student's individualized education program or behavior intervention plan.

Nothing in this section may be construed to prohibit a teacher from removing a student from class under Education Code 37.002. [See FOA]

Education Code 37.0023(c)-(d)

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)*

Teacher Documentation

A teacher may document any conduct by a student that does not conform to the Student Code of Conduct and may submit that documentation to the principal. A district may not discipline a teacher on the basis of the submitted documentation. *Education Code 37.002(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.

Out-of-School Suspensions

For each out-of-school suspension under Education Code 37.005, a district shall report:

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 the basis for the suspension;
3. The number of full or partial days the student was suspended; and
4. The number of out-of-school suspensions that were inconsistent with the guidelines included in the Student Code of Conduct under Education Code 37.001(a)(3) [see Student Code of Conduct, item 3, above].

Education Code 37.020

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[1] Innovation Plan: https://www.houstonisd.org

Code of Student Conduct

The District's rules of discipline are maintained in the Board-adopted Code of Student 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 age, race, color, ancestry, national origin, sex, gender, handicap or disability, marital status, religion, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression, or any other basis prohibited by law.

At the beginning of the school year and throughout the school year as necessary, the Code of Student 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[1] and/or as a hard copy to students, parents, teachers, administrators, and others upon request.

Revisions

Revisions to the Code of Student 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 Code of Student 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 Code of Student Conduct. Violations of these standards of behavior that are also violations of the Code of Student 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 Code of Student Conduct.

"Parent" Defined

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

General Discipline Guidelines

These guidelines do not replace or supersede FOA(LEGAL), which allows a teacher to remove a student from the classroom. Additionally, these guidelines extend to CNA4(REGULATION) regarding enforcement of student discipline pertaining to student transportation.

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 Code of Student Conduct adopted by the Board.
3. No student shall be informally sent home. No student prior to third grade shall be suspended, placed into a disciplinary alternative setting, or expelled, except as required by law. Disciplinary actions that remove students from their school setting shall be used as a last resort for other elementary students in third through fifth grades.
4. Before a student under age 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.

All school-based faculty and staff shall be trained annually in methodologies to provide a positive school climate, crisis prevention, and strategies for de-escalating disciplinary challenges.

Additionally, school-based faculty and staff shall be trained periodically on the issues of equity based on age, race, color, ancestry, national origin, gender, handicap or disability, marital status, religion, veteran status, political affiliation, sexual orientation, gender identity, and/or gender expression as applied to the population served on that campus. Annually, all school principals shall publicly share disaggregated disciplinary data and the plans for improving school climate/reducing student misbehavior and rectifying inequities.

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 Code of Student Conduct.

Physical Restraint

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

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:

- Protect a person, including the person using physical restraint, from physical injury.
- Obtain possession of a weapon or other dangerous object.
- Protect property from serious damage.
- 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.

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 Code of Student 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)]

[1] District Code of Student Conduct: https://www.houstonisd.org/codeofconduct

Authorized Fees

A board may require payment of:

1. A fee for materials used in any program in which the resultant product in excess of minimum requirements becomes, at the student's option, the personal property of the student, if the fee does not exceed the cost of materials.
2. Membership dues in student organizations or clubs and admission fees or charges for attending extracurricular activities, if membership or attendance is voluntary.
3. A security deposit for the return of materials, supplies, or equipment.
4. A fee for personal physical education and athletic equipment and apparel, although any student may provide his or her own equipment or apparel if it meets reasonable requirements and standards relating to health and safety established by the board.
5. A fee for items of personal use or products that a student may purchase at the student's option, such as student publications, class rings, annuals, and graduation announcements.
6. A fee specifically permitted by any other statute.
7. A fee for an authorized, voluntary student health and accident benefit plan.
8. A reasonable fee, not to exceed the actual annual maintenance cost, for the use of musical instruments and uniforms owned or rented by a district.
9. A fee for items of personal apparel that become the property of the student and that are used in extracurricular activities.
10. A parking fee [see CLC] or a fee for identification cards.
11. A fee for a driver training course, not to exceed the actual district cost per student in the programs for the current school year.
12. A fee for a course offered for credit that requires the use of facilities not available on the school premises or the employment of an educator who is not part of the school's regular staff, if participation in the course is at the student's option. The board may not charge a fee for a course requested by parents according to Education Code 28.003 [see EHA].

13. A fee for a course offered during summer school, except that the board may charge a fee for a course required for graduation only if the course is also offered without a fee during the regular school term.

14. A reasonable fee for transportation of a student who lives within two miles of the school the student attends to and from that school, except that the board may not charge a fee for transportation for which the district receives funds under Education Code 48.151(d).

15. A reasonable fee, not to exceed $50, for costs associated with an educational program offered outside of regular school hours through which a student who was absent from class receives instruction voluntarily for the purpose of making up the missed instruction and meeting the level of attendance required under Education Code 25.092. [See FEC] The district must provide a written form to be signed by the student's legal guardian stating that this fee would not create a financial hardship or discourage the student from attending the program. The district may only assess the fee if the student returns the signed form.

16. If the district does not receive any funds under Education Code 48.151 and does not participate in a county transportation system for which an allotment is provided under Education Code 48.151(i), a reasonable fee for the transportation of a student to and from the school the student attends.

Education Code 11.158(a), (d), (h)

TXVSN

A district may charge a fee for enrollment in an electronic course provided through the Texas virtual school network (TXVSN) in accordance with Education Code 30A.155. *Education Code 30A.155* [See EHDE]

Prohibited Fees

A board may not charge fees for:

1. Instructional materials, workbooks, laboratory supplies, or other supplies necessary for participation in any instructional course, except as authorized under the Education Code.

2. Field trips required as part of a basic educational program or course.

3. Any specific form of dress necessary for any required educational program or diplomas.

4. Instructional costs for necessary school personnel employed in any course or educational program required for graduation.

5. Library materials required to be used for any educational course or program, other than fines assessed for lost, damaged, or overdue materials.
6. Admission to any activity the student is required to attend as a prerequisite to graduation.
7. Admission to or examination in any required educational course or program.
8. Lockers.

Personal Supplies

Students may be required to furnish personal or consumable items, including pencils, paper, pens, erasers, notebooks, and school uniforms, except that students who are educationally disadvantaged may be required to furnish school uniforms only as provided by Education Code 11.162. [See FNCA]

School Store

A district may operate a school store where students may purchase school supplies and materials.

Waiver of Fees

A district shall adopt reasonable procedures for waiving a deposit or fee if a student or the student's parent or guardian is unable to pay it. This policy shall be posted in a central location in each school facility, in the school policy manual, and in the student handbook.

Postsecondary Instructional Programs

A board may charge reasonable fees for goods and services provided in connection with any postsecondary instructional program, including career and technology, adult, veterans, or continuing education, community service, evening school, and high school equivalency programs.

Education Code 11.158(b)–(c), (e)–(g)

WAIVER OF FEES

Upon receipt by the District of reliable proof that a student and his or her parent or guardian are unable to pay a fee or deposit required by the school, such fee or deposit shall be waived. Such student and his or her parent or guardian must present evidence of their inability to pay to the appropriate principal who shall determine eligibility for a fee waiver.

Note: The following legal provisions address the notification requirements and right of access to students when DFPS investigates reports of abuse and neglect at school. For additional legal provisions addressing reporting child abuse and neglect and investigations generally, see FFG.

Child Protective Investigations

A Texas Department of Family and Protective Services (DFPS) investigation of a report of child abuse or neglect under Family Code Chapter 261 may include an interview and examination of the subject child, which may be conducted at any reasonable time and place, including the child's school. A school official may not deny the request of an investigator, investigating a report of suspected child abuse or neglect, to interview, at school, a student who is an alleged victim. A school official may not condition granting the request on a requirement that school personnel, such as a counselor, attend the interview. *Family Code 261.302(a), (b); Atty. Gen. Op. DM-476 (1998)*

A person that has confidential locating or identifying information regarding a family that is the subject of an investigation under Family Code Chapter 261 shall release that information to DFPS on request. The release of information to DFPS 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)*

Special Investigations

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 Chapter 261 and the rules adopted thereunder.

The Special Investigations program (SI) of the Child Protective Investigations division (CPI) of DFPS investigates allegations of abuse or neglect of a child by school personnel or volunteers in a school setting.

Family Code 261.406(a); 40 TAC 707.597-.625

Definitions

"School personnel and volunteers" means persons who have access to children in a school setting and are providing services to or caring for the children. School personnel include but are not limited to school employees, contractors, school volunteers, school bus drivers, school cafeteria staff, school resource officers and contracted police officers, and school custodians.

"School setting" means the physical location of a child's school or of an event sponsored or approved by the child's school, or any

other location where the child is in the care, custody, or control of school personnel in their official capacity, including transportation services. This does not include:

1. School settings involving only children in facilities regulated by the Texas Health and Human Services Commission (HHSC) when HHSC contracts with the local district to provide education services; or

2. School settings that are a part of child care operations regulated by the Child Care Licensing division of HHSC.

40 TAC 707.605(a)(6)-(7)

Notice to School Personnel

Prior to conducting an investigation of school personnel or volunteers, SI must 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 SI plans to visit the school campus to begin the investigation.

SI must also orally notify the superintendent about the investigation. If the superintendent is the alleged perpetrator, SI must instead orally notify the president of the school board.

SI must request that the school personnel notified of the investigation not alert the alleged perpetrator or others regarding the report until SI has had an opportunity to interview the alleged perpetrator.

Family Code 261.105(d); 40 TAC 707.615

No Interference with Investigation

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 on School Premises

Interviews and examinations in a school investigation may take place on or off the school premises, as deemed appropriate by SI, pursuant to all applicable standards. SI will notify appropriate school personnel prior to conducting an interview or visual inspection on school premises.

Presence of School Personnel

SI may request that school personnel or volunteers not be present during the interview or visual inspection 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(a); 40 TAC 707.619(a)

Report of Findings

After the completion of an investigation, SI must provide a report of the investigation, redacted to remove the identity of the reporter, to the Texas Education Agency (Director of Education Investigations) for an investigation concerning an employee of a public school. On request, SI must also provide a redacted copy of the report to the following:

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

SI is not required to provide notice to a school official if it administratively closes a report of abuse or neglect prior to notifying school officials that DFPS received a report of abuse or neglect in the school setting.

Family Code 261.406(b); 40 TAC 707.623

Prohibited Law Enforcement Citations

For this provision, a "school offense" means an offense committed by a child enrolled in a public school that is a Class C misdemeanor other than a traffic offense and that is committed on property under the control and jurisdiction of a district. "Child" means a person who is a student and at least 10 years of age and younger than 18 years of age.

A peace officer, law enforcement officer, or school resource officer may not issue a citation to a child who is alleged to have committed a school offense. Education Code Chapter 37, Subchapter E-1 (Criminal Procedure) does not prohibit a child from being taken into custody under Family Code 52.01 (described below).

Education Code 37.141, .143

Students Taken into Custody

For the following provisions, "child" means a person who is:

1. Ten years of age or older and under 17 years of age, or
2. Seventeen years of age or older and under 18 years of age who is alleged or found to have engaged in delinquent con-

duct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age.

Family Code 51.02(2)

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 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

[For information regarding when a child may be taken into custody without a court order, see Family Code 262.007, .008, .104, .110.]

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 (DFPS) or another lawful authority requests to question or interview an allegedly victimized student at school as part of a child abuse or neglect investigation of the subject student, the following guidelines shall apply:

1. The principal shall verify and record the identity of the DFPS representative or other lawful authority before the interview with the student.
2. The principal shall verify that the student is the subject of the abuse or neglect investigation.
3. The principal may request that a school official be present during the interview. However, a school official shall not deny access to the student or prohibit the interview if the request for a school official to attend the interview is denied.
4. 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 request to question or interview a student at school for any purpose other than a child abuse or neglect investigation of the subject child, 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. The principal ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student, which includes attempted notification via telephone or email within 24 hours. If the interviewer raises what the principal considers to be a valid objection to the notification, the parent shall not be notified.
3. The principal or a designee ordinarily shall be present during the questioning or interview. If the interviewer raises what the principal considers to be a valid objection to a third party's presence, the interview shall be conducted without that person's presence.

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 their 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 parent 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 parent at that time, the principal shall not notify the parent.

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

Effective Date

This policy shall be effective as of the adoption date, December 10, 2021.