



# **Employee Handbook**

**2016-2017**

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## Introduction

The purpose of this handbook is to provide information that will help with questions and pave the way for a successful year. Not all district policies and procedures are included. Those that are have been summarized. Suggestions for additions and improvements to this handbook are welcome and may be sent to the Office of Human Resources.

This handbook is neither a contract nor a substitute for the official district policy manual. Nor is it intended to alter the at-will status of noncontract employees in any way. Rather, it is a guide to and a brief explanation of district policies and procedures related to employment. District policies and procedures can change at any time; these changes shall supersede any handbook provisions that are not compatible with the change. For more information, employees may refer to the policy codes that are associated with handbook topics, confer with their supervisor, or call the appropriate district office during normal working hours. Policy manuals are located in the central administration office, each school office, or they may be accessed from the district website at [www.mcisd.net](http://www.mcisd.net). They are available for employee review during normal working hours.

Modifications to the handbook will be posted on the electronic version of the employee handbook contained on the district website, [www.mcisd.net](http://www.mcisd.net). Any changes will be highlighted for your convenience. Please refer to the website for the district's most current version of MCISD Employee Handbook.

### **NONDISCRIMINATION STATEMENT**

It is the policy of Mission C.I.S.D. not to discriminate on the basis of sex, age, handicap, religion, race, color, or national origin in its educational programs.

Es póliza del Distrito Escolar de Mission el no discriminar por razones con base en sexo, edad, religión, raza, color, origen nacional, ni por discapacidad dentro de sus programas educacionales.

**ACKNOWLEDGEMENT FORM**  
**2016-2017**

Name \_\_\_\_\_ ID# \_\_\_\_\_  
(PLEASE PRINT LEGAL NAME)

Campus/Department \_\_\_\_\_

I hereby acknowledge that I understand and know where to locate the Mission CISD Employee Handbook.  
I understand I have the option of receiving the handbook in electronic format or hard copy.

- I understand that I may download a complete copy via the web address at [www.mcisd.net](http://www.mcisd.net).
- I understand that I may request a copy by e-mail from my campus Principal/Department Supervisor
- I understand that a hard copy is located at each Campus Principal's/Department Supervisor's Office and Campus Library

***I agree to read the handbook and abide by the standards, policies, and procedures defined or referenced in this document; including the dress code regulation.***

The information in this handbook is subject to change. I understand that changes in the district policies may supersede, modify, or eliminate the information summarized in this booklet. As the district provides updated policy information, I accept responsibility for reading and abiding by the changes.

I understand that no modifications to contractual relationships or alterations of at-will relationships are intended by this handbook.

I understand that I have an obligation to inform the Payroll Office of any changes in personal information, such as official name changes, phone numbers, address, etc. **I also accept responsibility for contacting my immediate supervisor within two calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication for any felony, any offense involving moral turpitude, and any other offense as outlined in Board Policy DH(LOCAL): Employee Standards of Conduct.**

**I authorize Mission CISD to review and consider the results of my educator certification examinations pursuant to Texas Education Code § 21.048(c-1) as needed for the duration of my employment. The results of these examinations will be reviewed to obtain information relevant to my qualifications for continued employment with the District.**

I understand that I shall contact my immediate supervisor or the Office of Human Resources if I have any questions, concerns, or need further explanation.

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

**PLEASE COMPLETE AND SIGN THIS FORM AND RETURN THE ORIGINAL TO YOUR IMMEDIATE SUPERVISOR, WHO WILL FORWARD IT TO THE MISSION C.I.S.D. HUMAN RESOURCE OFFICE.**

*Revised 13-14 DG*

# Mission CISD School Zones

The Board of Trustees has defined and approved the following zone boundaries for the elementary, junior high and high schools in the Mission Consolidated Independent School District (all areas bounded by roads shall be interpreted as the middle of the road with the exception of Linares Street in the Palm Lake Estates subdivision). Attendance zones for the junior high schools will be based upon the elementary school a student is zoned to attend.

## **Alton Elementary School (107)**

From the intersection of Conway Avenue and 5 3/4 mile line, east on 5 3/4 mile line to 1/4 mile east of Bryan Road; south to 4 1/2 mile line; west on 4 1/2 mile line to Conway Avenue; north on Conway Avenue to 5 3/4 mile line.

## **Bryan Elementary School (101)**

From the intersection of Conway Avenue and Griffin Parkway (FM495), east on Griffin Parkway to Stewart Road; south on an extension of Stewart Road to the Rio Grande River; west along the Rio Grande River to an extension of Bryan Road; north on an extension of Bryan Road to Business Highway 83; west on Business Highway 83 to Conway Avenue; north on Conway Avenue to Griffin Parkway.

Exception #1: Students who live along The Woods Drive in The Woods in Cimarron Subdivision must attend Sharyland ISD schools.

## **Cantu Elementary School (108)**

From the intersection of Los Ebanos Road and 7 Mile Road, east on 7 Mile Road to Trosper Road; south on Trosper Road to 6 Mile Road; east on 6 Mile Road to Conway Avenue; south on Conway Avenue to 4 1/4 mile line; west on 4 1/4 mile line to Los Ebanos Road; north on Los Ebanos Road to 7 Mile Road.

## **Castro Elementary School (102)**

From the intersection of Conway Avenue and Business Highway 83, east on Business Highway 83 to Bryan Road; south on an extension of Bryan Road to the Rio Grande River; west along the Rio Grande River to an extension of Conway Avenue; north on an extension of Conway Avenue to Business Highway 83.

## **Cavazos Elementary School (114)**

From the intersection of Inspiration Road and 8 Mile Road, east on 8 Mile Road to Los Ebanos Road; south on Los Ebanos Road to 3 Mile Road; west on 3 Mile Road to Inspiration Road; north on Inspiration Road to 8 Mile Road.

## **Escobar/Rios Elementary School (116)**

From the intersection of the Mission Lateral (1 1/2 mile line) and Inspiration Road, east along the Mission Lateral to Los Ebanos Road; north on Los Ebanos Road to 3 Mile Road; east on 3 Mile Road to Conway Avenue; south on Conway Avenue to the Edinburg Main Canal; west along the Edinburg Main Canal to Los Ebanos Road; south on Los Ebanos Road to Griffin Parkway; west on Griffin Parkway to Inspiration Road; north on Inspiration Road to the Mission Lateral (1 1/2 mile line).

## **Leal Elementary School (109)**

From the intersection of Inspiration Road and Expressway 83, east on Expressway 83 to Conway Avenue; south on an extension of Conway Avenue to the Rio Grande River; west along the Rio Grande River to an extension of Inspiration Road; north on an extension of Inspiration Road to Expressway 83.

## **Marcell Elementary School (104)**

From the intersection of Inspiration Road and Barnes Street, east on Barnes Street to Adams Street; north on Adams Street to an extension of W. 18<sup>th</sup> Street; east on W. 18<sup>th</sup> Street to the canal; northwest along the canal to Rankin Street; east on Rankin Street to Holland Avenue; north on Holland Avenue to W. 20<sup>th</sup> Street; east on W. 20<sup>th</sup> Street to Conway Avenue; south on Conway Avenue to Business Highway 83; west on Business Highway 83 to Inspiration Road; north on Inspiration Road to Barnes Street.

**Midkiff Elementary School (115)**

From the intersection of Conway Avenue and 4 1/2 mile line, east on 4 1/2 mile line to 1/4 mile east of Bryan Road; north to 5 3/4 mile line; east on 5 3/4 mile line to Stewart Road; south on Stewart Road to 2 Mile Road; west on 2 Mile Road to 1/4 mile west of Mayberry Road; north 1/4 mile to 2 1/4 mile line; west on 2 1/4 mile line to Conway Avenue; north on Conway Avenue to 4 1/2 mile line.

**Mims Elementary School (110)**

From the intersection of Conway Avenue and 2 1/4 mile line, east on 2 1/4 mile line 1/4 mile; south 1/4 mile to 2 Mile Road; east on 2 Mile Road to Stewart; south on Stewart to Griffin Parkway (FM 495); west on Griffin Parkway to Conway Avenue; north on Conway Avenue to 2 1/4 mile line.

**O'Grady Elementary School (111)**

From the intersection of Inspiration Road and Griffin Parkway, east on Griffin Parkway to Los Ebanos Road; north on Los Ebanos Road to the Edinburg Main Canal; east along the Edinburg Main Canal to Conway Avenue; south on Conway Avenue to W. 20<sup>th</sup> Street; west on W. 20<sup>th</sup> Street to Holland Avenue; south on Holland Avenue to Rankin Street; West on Rankin Street to the canal; southeast along the canal to an extension of W. 18<sup>th</sup> Street; west on an extension of W. 18<sup>th</sup> Street to Adams Street; south on Adams Street to Barnes Street; west on Barnes Street to Inspiration Road; north on Inspiration Road to Griffin Parkway.

**Pearson Elementary School (105)**

From the intersection of Inspiration Road and Business Highway 83, east on Business Highway 83 to Conway Avenue; south on Conway Avenue to Expressway 83; west on Expressway 83 to Inspiration Road.

**Salinas Elementary School (113)**

From the intersection of Inspiration Road and 10 Mile Road (Monte Cristo Road), east on 10 Mile Road to Trosper Road; south 1/4 mile; east to Conway Avenue at 9 3/4 mile line; continue east from Conway Avenue on 9 3/4 mile line 1/4 mile; south to 8 1/2 mile line; east 1 1/4 miles; south to 8 Mile Road; east on 8 Mile Road to Stewart Road; south on Stewart Road to 5 3/4 mile line; west on 5 3/4 mile line to Conway Avenue; north on Conway Avenue to 6 Mile Road; west on 6 Mile Road to Trosper Road; north on Trosper Road to 7 Mile Road; west on 7 Mile Road to Los Ebanos Road; north on Los Ebanos Road to 8 Mile Road; west on 8 Mile Road to Inspiration Road; north on Inspiration Road to 10 Mile Road.

**Waitz Elementary School (112)**

From the intersection of Inspiration Road and 3 Mile Road, east on 3 Mile Road to Los Ebanos Road; north on Los Ebanos Road to 4 1/4 mile line; east on 4 1/4 mile line to Conway Avenue; south on Conway Avenue to 3 Mile Road; west on 3 Mile Road to Los Ebanos Road; south on Los Ebanos Road to the Mission Lateral (1 1/2 mile line); west along the Mission Lateral (1 1/2 mile line) to Inspiration Road; north on Inspiration Road to 3 Mile Road.

**Alton Memorial Junior High School (043)**

Students who are zoned (see above elementary school zones) to attend Cantu Elementary School, Cavazos Elementary School, Escobar/Rios Elementary School and Waitz Elementary School will attend Alton Memorial Junior High School.

Exception #1: From the intersection of 1 1/4 mile line at Inspiration Road, east on 1 1/4 mile line to Los Ebanos Road; south on Los Ebanos Road to Griffin Parkway; west on Griffin Parkway to Inspiration Road; north on Inspiration Road to 1 1/4 mile line. Students living in this area may attend K. White Jr. High School.

Exception #2: From the intersection of the Mission Lateral (1 1/2 mile line) and Los Ebanos Road, east along the Mission Lateral to Conway Avenue; south on Conway Avenue to the Edinburg Main Canal; west along the Edinburg Main Canal to Los Ebanos Road; north on Los Ebanos Road to the Mission Lateral. Students living in this area may attend K. White Jr. High School.

**K. White Junior High School (042)**

Students who are zoned (see above elementary school zones) to attend Leal Elementary School, Marcell Elementary School, O'Grady Elementary School and Pearson Elementary School will attend K. White Junior High School.

Exception #1: From the intersection of 1 ¼ mile line at Inspiration Road, east on 1 ¼ mile line to Los Ebanos Road; south on Los Ebanos Road to Griffin Parkway; west on Griffin Parkway to Inspiration Road; north on Inspiration Road to 1 ¼ mile line. Students living in this area may attend K. White Jr. High School.

Exception #2: From the intersection of Mission Lateral (1 ½ mile line) and Los Ebanos Road, east along the Mission Lateral to Conway Avenue; south on Conway Avenue to the Edinburg Main Canal; west along the Edinburg Main Canal to Los Ebanos Road; north on Los Ebanos Road to the Mission Lateral. Students living in this area may attend K. White Jr. High School.

**Mission Junior High School (041)**

Students who are zoned (see above elementary school zones) to attend Bryan Elementary School, Castro Elementary School and Mims Elementary School will attend Mission Junior High School.

**R. Cantu Junior High School (044)**

Students who are zoned (see above elementary school zones) to attend Alton Elementary School, Midkiff Elementary School and Salinas Elementary School will attend R. Cantu Middle School.

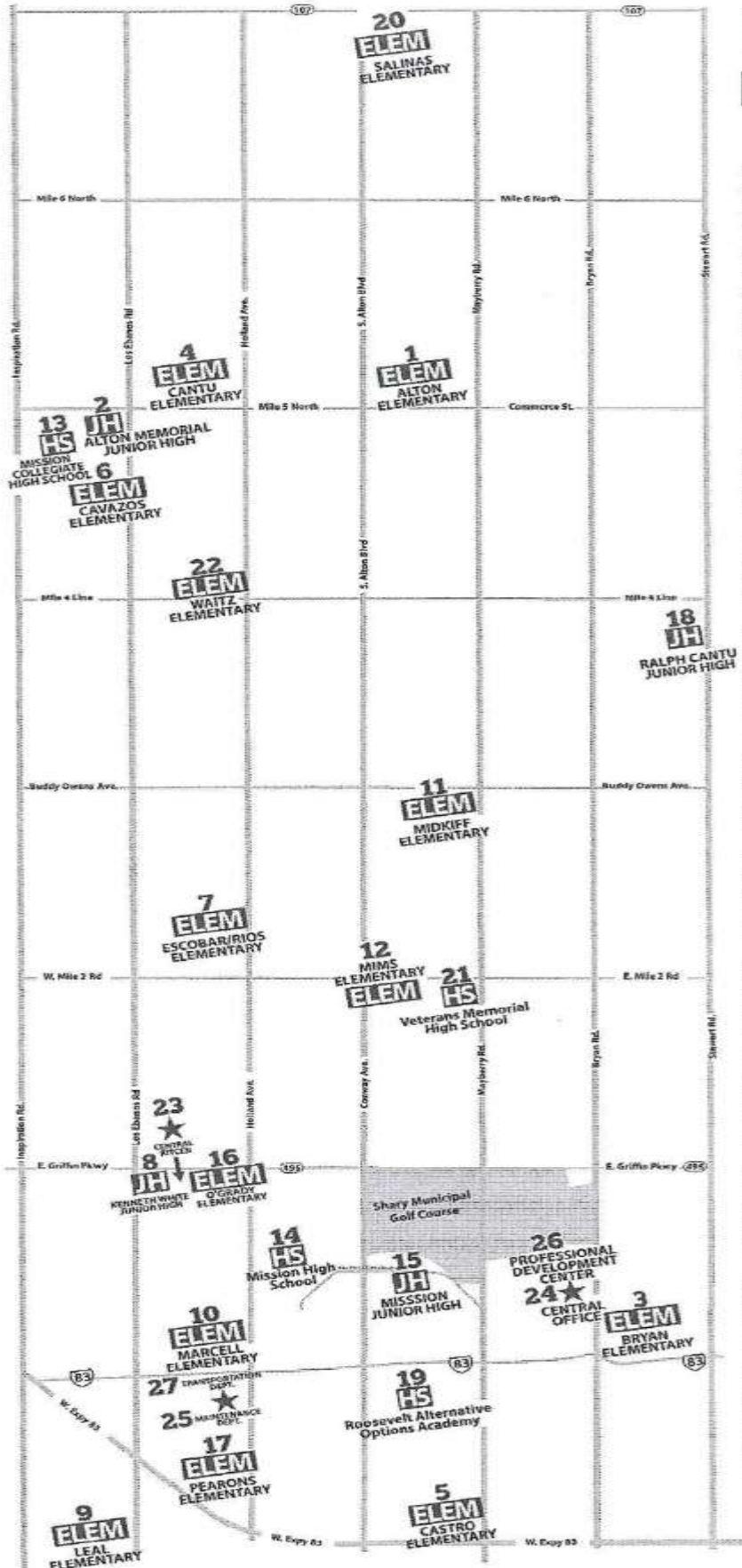
**Mission High School (001)**

From the intersection of Inspiration Road and 10 mile line (Monte Cristo Road), east on 10 Mile Road to Trosper Road; south on Trosper Road 1/4 mile; east to Conway Avenue; south on an extension of Conway Avenue to the Rio Grande River; west along the Rio Grande River to an extension of Inspiration Road; north on an extension of Inspiration Road to 10 Mile Road.

**Veterans Memorial High School (002)**

From the intersection of Conway Avenue and 9 3/4 mile line, east on 9 3/4 mile line 1/4 mile; south to 8 1/2 mile line; east on 8 1/2 mile line 1 1/4 miles; south to 8 mile line; east on 8 Mile Road to Stewart Road; south on an extension of Stewart Road to the Rio Grande River; west along the Rio Grande River to an extension of Conway Avenue; north on Conway Avenue to 9 3/4 mile line.

# MISSION CISD DISTRICT MAP



**1. Alton Elementary School**  
205 N. Chicago  
Alton, TX 78573  
(956) 323-7600

**2. Alton Memorial Junior High School**  
521 S. Los Ebanos Blvd.  
Alton, TX 78573  
(956) 323-5000

**3. Bryan Elementary School**  
1300 Elm Drive  
Mission, TX 78572  
(956) 323-4800

**4. Cantu Elementary School**  
920 W. Main Avenue  
Alton, TX 78573  
(956) 323-7400

**5. Castro Elementary School**  
200 S. Mayberry  
Mission, TX 78572  
(956) 323-6800

**6. Cavazos Elementary School**  
803 S. Los Ebanos Blvd.  
Alton, TX 78573  
(956) 323-7200

**7. Escobar/Rios Elementary School**  
3505 N. Trospen Road  
Mission, TX 78574  
(956) 323-8400

**8. Kenneth White Jr. High School**  
1101 W. Griffin Parkway  
Mission, TX 78572  
(956) 323-3600

**9. Leal Elementary School**  
318 S. Los Ebanos Road  
Mission, TX 78572  
(956) 323-4600

**10. Marcell Elementary School**  
1101 N. Holland  
Mission, TX 78572  
(956) 323-6400

**11. Midkiff Elementary School**  
4201 N. Mayberry  
Palmhurst, TX 78573  
(956) 323-7000

**12. Mims Elementary School**  
200 E. Two Mile Road  
Mission, TX 78574  
(956) 323-4400

**13. Mission Collegiate High School**  
605 S. Los Ebanos Road  
Alton, TX 78573  
Orlando Farias, Principal  
(956) 323-8600

**14. Mission High School**  
1802 Cleo Dawson  
Mission, TX 78572  
MHS: (956) 323-5700

**15. Mission Junior High School**  
415 E. 14th St.  
Mission, TX 78572  
(956) 323-3300

**16. O'Grady Elementary School**  
810 W. Griffin Parkway  
Mission, TX 78572  
(956) 323-4200

**17. Pearson Elementary School**  
315 Holland  
Mission, TX 78572  
(956) 323-4040

**18. Rafael Cantu Junior High School**  
5101 N. Stewart Road  
Palmhurst, TX 78573  
(956) 323-7800

**19. Roosevelt Alternative School**  
Options Academy  
407 E. 3rd St.  
Mission, TX 78572  
(956) 323-3900  
(956) 323-3960

**20. Salinas Elementary School**  
10820 N. Conway  
Alton, TX 78573  
(956) 323-6200

**21. Veterans Memorial High School**  
700 E. 2 Mile Rd.  
Mission, TX 78574  
(956) 323-3000

**22. Waitz Elementary School**  
842 W. St. Francis  
Alton, TX 78573  
(956) 323-6600

**23. Child Nutrition-Central Kitchen**  
1201 W. Griffin Parkway,  
323-3800

**24. Central Office**  
1201 Bryce Dr., 323-5500

**25. Maintenance Department**  
520 Holland, 323-8960

**26. Professional Development Center**  
1103 Pamela, 323-5300

**27. Transportation Department/Warehouse**  
723 Holland, 323-8930/323-8900

MISSION CONSOLIDATED  
INDEPENDENT SCHOOL DISTRICT

**DISTRICT MISSION**

Mission CISD will ensure a quality and equitable education for our community of learners by providing the necessary academic, social, and technological knowledge and skills to become successful lifelong learners and productive citizens.

**DISTRICT GOALS**

- |          |  |
|----------|--|
| GOAL 1.0 | Mission CISD students demonstrate academic success through a curriculum that is well-balanced, appropriate and relevant to the real world. |
| GOAL 2.0 | Parents and the entire school community understand the mission of our district and are actively involved in the education of our students. |
| GOAL 3.0 | Mission CISD has a plan that addresses district growth and development.  |
| GOAL 4.0 | A process is in place that assures qualified and highly effective personnel will be recruited, developed, and retained.                    |
| GOAL 5.0 | School campuses will maintain a safe and disciplined environment conducive to student learning.  |
| GOAL 6.0 | Technology will be used to increase the effectiveness of student learning.   |
| GOAL 7.0 | Pursue options to equitably distribute resources to ensure a quality education for all students while ensuring fiscal responsibility.      |

## **Board of Trustees**

*Policies BA, BB, BD, and BE Series*

Texas law grants the board of trustees the power to govern and oversee the management of the district's schools. The board is the policy-making body within the district and has overall responsibility for curriculum, school taxes, annual budget, employment of the superintendent and other professional staff, facilities, and expansions. The board has complete and final control over school matters within limits established by State and Federal laws and regulations.

The board of trustees is elected by the citizens of the district to represent the community's commitment to a strong educational program for the district's children. Board Members are elected at-large and serve four-year terms. Board Members serve without compensation, must be qualified voters, and must reside in the district.

### **2016-2017 Board Members**

President	Patricia O'Caña-Olivarez
Vice President	Roy Vela
Secretary	Petra B. Ramirez
Member	Charlie Garcia III
Member	Minnie R. Rodgers
Member	Sonia M. Treviño
Member	Jerry Zamora

Trustees usually meet at the central administration boardroom at 6:30 p.m. on the second Wednesday of each month. In the event that large attendance is anticipated, the board may meet at the various campuses. Special meetings may be called when necessary. A written notice of regular and special meetings will be posted at the Administrative Building at least 72 hours before the scheduled meeting time. The written notice will show the date, time, place, and subjects of each meeting. In emergencies AND THE District website ([www.mcsd.net](http://www.mcsd.net)), a meeting may be held with two hours notice.

All meetings are open to the public. In certain circumstances, Texas law permits the board to go into a closed session from which the public and others are excluded. Closed session may occur for such things as discussing prospective gifts or donations, real-property acquisition, certain personnel matters including employee complaints, security matters, student discipline, or to consult with attorneys regarding pending litigation.

### **2016-2017 MISSION CISD ADMINISTRATION**

Superintendent	Ricardo Lopez
Assistant Superintendent	Ricardo Rivera
Assistant Superintendent	Rumalda Ruiz
Assistant Superintendent	Mario Solis
Assistant Superintendent	Criselda Valdez

# Mission Consolidated Independent School District

1201 Bryce Drive • Mission, TX 78572 • PH: 956-323-5500 • Website: [www.mcisd.net](http://www.mcisd.net)

## Academic Calendar 2016 - 2017

Board Approved  
March 10, 2016

Students First • Innovation • Collaborative Ownership • Diversity • Continuous Learning

JULY 2016						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

AUGUST 2016						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

SEPTEMBER 2016						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

OCTOBER 2016						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

NOVEMBER 2016						
S	M	T	W	T	F	S
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13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30			

DECEMBER 2016						
S	M	T	W	T	F	S
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11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

### REPORTING PERIODS

1<sup>st</sup> Six Weeks: 29 days  
August 22 – September 30

2<sup>nd</sup> Six Weeks: 24 days  
October 4 – November 4

3<sup>rd</sup> Six Weeks: 27 days  
November 8 – December 21

4<sup>th</sup> Six Weeks: 29 days  
January 9 – February 17

5<sup>th</sup> Six Weeks: 31 days  
February 21 – April 12

6<sup>th</sup> Six Weeks: 31 days  
April 18 – May 30

### HOLIDAYS

Labor Day: September 5

Fall Break: November 21 – 25

Winter Break: Dec. 22 – Jan. 5

Spring Break: March 13 – 17

Easter: April 14 & 17

### Bad Weather Makeup Days

February 6 & March 20

### EARLY RELEASE

December 21 (Staff & Students)

May 30 (Students)

### OTHER DATES

Students' First Day: August 22

Students' Last Day: May 30

### STATE TESTING DATES

July 11 – 15 – STAAR/TAKS

October 17 – 20 – TAKS

December 5 – 9 – STAAR EOC

March 6 – 9 – TAKS

March 28 – 31 – STAAR / EOC

May 1 – 5 – STAAR / EOC

May 8 – 12 – STAAR

June 19 – 23 – TAKS/STAAR/EOC

	Staff Development
	Work Day
	Holiday
	Testing Date
	Early Release

JANUARY 2017						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

FEBRUARY 2017						
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26	27	28				

MARCH 2017						
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19	20	21	22	23	24	25
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APRIL 2017						
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23	24	25	26	27	28	29
30						

MAY 2017						
S	M	T	W	T	F	S
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7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

JUNE 2017						
S	M	T	W	T	F	S
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4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

**Our Vision:** Mission CISD will prepare and inspire all students to be equipped to excel in the college and career of their choice, dominate 21st century skills in leadership, knowledge, language, and technology to compete in a global economy and serve as successful citizens in their community.

**Declaración de la Visión:** Mission CISD preparará e inspirará a todos los estudiantes a estar preparados para sobresalir en la universidad y la carrera de su elección, dominar habilidades del siglo 21 en liderazgo, conocimiento, lenguaje y tecnología para competir en una economía global y servir como ciudadanos exitosos en su comunidad.

## Helpful Contacts

From time to time, employees have questions or concerns. If those questions or concerns cannot be answered by supervisors or at the campus or department level, the employee is encouraged to contact the appropriate department as listed below.

Accounting	323-5547
Athletic Office & Ticket Sales	323-5683
Business & Finance	323-5515
Child Nutrition Program	323-3800
Curriculum & Instruction –Secondary	323-5513
Curriculum & Instruction –Elementary	323-5507
Fixed Assets/Warehouse	323-8900
Library/Media Services	323-5560
Maintenance & Operations	323-8960
Office Of Human Resources	323-5641
Parental Involvement	323-5559
Payroll	323-5522
Public Information	323-5530
Records	323-5578
Special Education	323-5570
Superintendent	323-5505
Technology Center	323-5300
Transportation	323-8930

**Mission Consolidated Independent School District**  
**Administration Office, 1201 Bryce Drive, Mission, Texas 78572**  
**Phone: 956-323-5500/Fax: 956-323-5523**

<b>Mission Schools</b>	<b>Principal/Secretary</b>	<b>Address</b>
Alton Elementary Phone: 956-323-7600 Fax: 956-323-7617	Adan Ramirez Norma Garza	205 N. Chicago (5 Miles N. Conway, 1/4 East)
Bryan Elementary Phone: 956-323-4800 Fax: 956-323-4819	Linda Sanchez Cynthia Calvillo	1300 Elm Dr.
Cantu Elementary Phone: 956-323-7400 West Fax: 956-323-7415	Enrique Alvarez Maria Reyes	920 W. Main Ave. (5 Miles N. Conway, 3/4 Mile)
Castro Elementary Phone: 956-323-6800 Fax: 956-323-6818	Myra Garza Elizabeth Farias	200 S. Mayberry
Cavazos Elementary Phone: 956-323-7200 Fax: 956-323-7225	Vacancy Priscilla Garcia	803 S. Los Ebanos Rd.
Escobar/Rios Elementary Phone: 956-323-8400 Fax: 956-323-8480	Blanca Lopez Sulema Zepeda	3505 N. Trosper Rd
Leal Elementary Phone: 956-323-4600 Fax: 956-323-4615	Trinidad Peña Maricela Nuñez	318 S. Los Ebanos Rd. (1 Mile S. Los Ebanos Rd.)
Marcell Elementary Phone: 956-323-6400 Fax: 956-323-6419	Marissa Saenz Dolores Cavazos	1101 N. Holland
Midkiff Elementary Phone: 956-323-7000 Fax: 956-323-7025	Dora Villalobos Rosalinda Lozano	4201 N. Mayberry
Mims Elementary Phone: 956-323-4400 Fax: 956-323-4418	Yvonne Zamora Javier Ruiz	200 E. Two Mile Rd.
O'Grady Elementary Phone: 956-323-4200 Fax: 956-323-4220	Angelica Garcia Dora Borrego	810 W. Griffin Pkwy.
Pearson Elementary Phone: 956-323-4000 Fax: 956-323-4015	Melissa Davis Dulce Juarez	315 Holland
Salinas Elementary Phone: 956-323-6200 Fax: 956-323-6219	Martina Garcia Maria Rosales	10820 N. Conway (6 3/4 Miles N. Conway)

Waitz Elementary  
Phone: 956-323-6600  
Fax: 956-323-6618

Rubicela Rodriguez  
Melissa Cantu

842 W. St. Francis  
(4 Miles N. Holland)

Alton Memorial Jr. High  
Phone: 956-323-5000  
Fax: 956-323-5045

Sylvia Garcia  
Juanita Cuellar

521 S. Los Ebanos Blvd

K. White Junior High School  
Phone: 956-323-3600  
Fax: 956-323-3631

Brenda Betancourt  
Zonia Salinas

1101 W. Griffin Pkwy.

Mission Junior High School  
Phone: 956-323-3300  
Fax: 956-323-3338

Ada Castillo  
Cynthia Havelka

415 E. 14th Street

R. Cantu Jr. High School  
Phone: 956-323-7800  
Fax: 956-323-7880

Ana Lisa Flores  
Bertha Requenez

5101 N. Stewart Rd.

Mission High School  
Phone: 956-323-5700  
Fax: 956-323-5890

Edilberto Flores  
Maria Cristina Gonzalez

1802 W. Cleo Dawson

Veterans Memorial High School  
Phone: 956-323-3000  
Fax: 956-323-3280

Fidel Garza  
Anna Gonzales

700 E. Two Mile Rd.

Early College High School  
Phone: 956-323-6120  
Fax: 956-323-5781

Orlando Farias  
Marissa Femat

605 S. Los Ebanos Rd.

Options Academy  
Phone: 956-323-3960  
Fax: 956-323-3925

Maria De Lourdes Aleman  
Gloria Martinez

407 E. 3rd St.

Roosevelt Alternative School  
Phone: 956-323-3900  
Fax: 956-323-3925

Eduardo Alaniz  
Maria L. Ramirez

407 E. 3rd St.

# Employment

## Equal Employment Opportunity

*Policies DAA, DIA*

The Mission Consolidated Independent School District does not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, disability, military status, genetic information, or on any other basis prohibited by law. Additionally, the district does not discriminate against an employee or applicant who acts to oppose such discrimination or participates in the investigation of a complaint related to a discriminatory employment practice. Employment decisions will be made on the basis of each applicant's job qualifications, experience, and abilities.

Employees with questions or concerns relating to discrimination on any of the basis listed above should contact the District's Title IX Coordinators, Deborah Garza or Lazaro Ramirez at 323-5641.

## Job Vacancy Announcements

*Policy DC*

Announcements of job vacancies by position and location are distributed on a regular basis and posted on the District's website [www.mcisd.net](http://www.mcisd.net), and advertised on Time Warner Cable Channel 135.17. Professional positions are also advertised at times in THE MONITOR.

## Employment after retirement

*Policy DC*

Detailed information about employment after retirement is available in the TRS Publication *Employment After Retirement*. Employees can contact TRS for additional information by calling 800-223-8778 or 512-542-6400. Information is also available on the TRS website ([www.trs.texas.gov](http://www.trs.texas.gov)).

## Contract and Noncontract Employment

*Policies DC series*

State law requires the District to employ each classroom teacher, principal, librarian, nurse or counselor under probationary, term, or continuing contracts. Employees in all other positions are employed at will or by a contract that is not subject to the procedures for non-renewal or termination under Chapter 21 of the Texas Education Code. The paragraphs that follow provide a general description of the employment arrangements used by the District.

### **Probationary Contracts.**

Nurses and full-time professional employees new to the district and employed in positions requiring SBEC certification must receive a probationary contract during their first year of employment. Former employees who are hired after at least a two-year lapse in district employment also may be employed by probationary contract. Probationary contracts are one-year contracts. The probationary period for those who have been employed in public schools for at least five of the eight years preceding employment with the district may not exceed one school year. For those with less experience, the probationary period will be three school years (i.e., three one-year contracts), with an optional fourth school year if the board determines it is unclear whether a term contract should be given.

**Term Contracts.** Full-time professionals employed in positions requiring certification and nurses will be employed by a term contract after they have successfully completed the probationary period. The terms and conditions of employment are detailed in the contract and employment policies. All employees will receive a copy of their contract and upon request, a copy of employment policies.

**Noncertified Professional and Administrative Employees.** Employees in professional and administrative positions that do not require SBEC certification (such as non-instructional administrators) are employed by an employment agreement that is not subject to the provisions for non-renewal or termination under the Texas Education Code.

**Paraprofessional and Auxiliary Employees.** All paraprofessional and auxiliary employees, regardless of certification, are employed at-will and not by contract. Employment is not for any specified term and may be terminated at any time by either the employee or the District.

## Certification and Licenses

*Policies DBA, DF*

Professional employees whose positions require SBEC certification or professional license are responsible for taking actions to ensure their credentials do not lapse. Employees must submit documentation that they have passed the required certification exam and/or obtained or renewed their credentials to Human Resources in a timely manner.

A certified employee's contract may be voided without due process and employment terminated if the individual does not hold a valid certificate or fails to fulfill the requirements necessary to renew or extend a temporary certificate, emergency certificate, probationary certificate, or permit. A contract may also be voided if SBEC suspends or revokes certification because of an individual's failure to comply with criminal history background checks. Contact Human Resources if you have any questions regarding certification or licensure requirements.

## Searches and alcohol and drug testing

*Policy DHE*

Noninvestigatory searches in the workplace, including accessing an employee's desk, file cabinets, or work area to obtain information needed for usual business purposes may occur when an employee is unavailable. Therefore, employees are hereby notified that they have no legitimate expectation of privacy in those places. In addition, the district reserves the right to conduct searches when there is reasonable cause to believe a search will uncover evidence of work-related misconduct. Such an investigatory search may include drug and alcohol testing if the suspected violation relates to drug or alcohol use. The district may search the employee, the employee's personal items, work areas, lockers, including district-owned computers, and private vehicles parked on district premises or worksites or used in district business.

**Employees required to have a commercial driver's license.** The purpose of alcohol and drug testing is to ensure safety and prevent accidents and injuries resulting from the misuse of alcohol and drugs by drivers of commercial motor vehicles. Any employee who is required to have a commercial driver's license (CDL) is subject to drug and alcohol testing. This includes all drivers who operate a motor vehicle designed to transport 16 or more people, counting the driver; drivers of large vehicles; or drivers of vehicles used in the transportation of hazardous materials. Teachers, coaches, or other employees who primarily perform duties other than driving are subject to testing requirements if their duties include driving.

Drug testing will be conducted before an individual assumes driving responsibilities. Alcohol and drug tests will be conducted when reasonable suspicion exists, at random, when an employee returns to duty after engaging in prohibited conduct, and as a follow-up measure. Testing may be conducted following accidents. Return-to-duty and follow-up testing will be conducted when an employee who has violated the prohibited alcohol conduct standards or tested positive for alcohol or drugs is allowed to return to duty.

All employees required to have a CDL or who otherwise are subject to alcohol and drug testing will receive a copy of the district's policy, the testing requirements, and detailed information on alcohol and drug abuse and the availability of assistance programs. Employees with questions or concerns relating to alcohol and drug policies and related educational material should contact the Human Resource Office at 323-5641.

## Health Safety Training

*Policy DBA, DMA*

Certain employees who are involved in physical activities for students must maintain and submit to the district proof of current certification or training in first aid, cardiopulmonary resuscitation (CPR), the use of an automated external defibrillator (AED), concussion, and extracurricular athletic activity safety training by Athletic Director. Certification or documentation of training must be issued by the American Red Cross or training, the American Heart Association, University Interscholastic League, or another organization that provides equivalent training and certification. Employees subject to this requirement must submit their certification or documentation to the Director for Athletics. Protocol for Automated External Defibrillators (AED). (see page 56).

## Reassignments and Transfers

*Policy DK*

### Reassignments

Campus personnel are subject to reassignment on the campus by the principal. All personnel are subject to assignment and reassignment by the superintendent or designee when the superintendent or designee determines that the assignment or reassignment is in the best interest of the district. Reassignment is a transfer to another position, department, or facility that does not necessitate a change in the employment contract. Reassignments to another campus must be approved by the principal at the receiving campus. When reassignments are due to enrollment shifts or program changes, the superintendent has final placement authority. Extracurricular or supplemental duty assignments may be reassigned at any time. Employees who object to a reassignment may follow the district process for employee complaints as outlined in this handbook and District policy DGBA (LOCAL).

## Transfers

Employees with the required qualifications for a position may request a transfer to another campus or department. An Employee Transfer Request Form (*sample on page 19*) must be completed and submitted to the Office of Human Resources. The primary purpose of the completed transfer form is to inform all parties (i.e. administrator and Human Resources) of their interest in a vacant position. The administrator will consider all applicants (both intra-district transfers as well as out-of-district applicants) for the vacant position. The administrator will follow standard administrative procedures in interviewing and recommending applicants. Employees requesting a transfer to another campus before the school year begins must submit their request by June 15. Lateral requests for transfer after June 15 will only be considered relevant to unique student circumstances. All transfer requests will be coordinated by the Office of Human Resources and must be approved by the receiving supervisor. The transfer form must have the superintendent's (or designee) signature for final approval.

NOTE: A transfer request does not automatically generate a reassignment or placement of an individual within the district to a vacant position.

**MISSION CONSOLIDATED INDEPENDENT SCHOOL DISTRICT  
EMPLOYEE TRANSFER REQUEST FORM**

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

ID #: \_\_\_\_\_ Phone #: (Home) \_\_\_\_\_ (Other) \_\_\_\_\_

Present Campus and/or Department: \_\_\_\_\_

Present Work Assignment: \_\_\_\_\_

Areas of Certification: \_\_\_\_\_  
-----

Requested Campus/Department: \_\_\_\_\_

Requested Assignment: \_\_\_\_\_

Reason for Transfer Request: \_\_\_\_\_  
-----

**Please Note:**

1. The Employee Transfer Request Form is an employee application form for an existing vacancy which must be submitted **along with Resume** to the Human Resources Department by the employee requesting the transfer and not submitted directly to the campus(es) requested.
2. The Employee Transfer Request Form **will only** be accepted for positions vacant at the time the transfer is submitted. **Employee must be Highly Qualified and have full certification as applicable.**
3. Professional courtesy dictates that the employee's present Principal/Director be notified of an employee's intent to request a transfer. Consequently, **Transfer Requests will only be accepted once the current Principal/Director acknowledges receipt of notification.**
4. The Employee Transfer Request form may be submitted at any time during the year that a vacancy exists or a new position is established. Employees requesting **a transfer for the next school year** will need the approval of only the receiving Principal/Director if the transfer is accepted for employment by the receiving campus by June 15<sup>th</sup>. After that date, or for transfers during the school year, both the present and receiving Principal/Director must agree to the transfer before approval is granted.
5. The Employee Transfer Request Form will ONLY BE ACTIVE until the position applied for is filled.
6. **Upon the approval of an Employee Transfer, the Office of Human Resources staff will notify all parties.**

Signature of Employee making request \_\_\_\_\_ Date \_\_\_\_\_

Acknowledgement of Notification by  
Current Principal/Director \_\_\_\_\_ Date \_\_\_\_\_

Signature of receiving Principal/Director \_\_\_\_\_ Date \_\_\_\_\_

Signature of Releasing Principal/Director \_\_\_\_\_ Date \_\_\_\_\_  
(As required – SEE NOTE #4 above)

Signature of Human Resources Designee \_\_\_\_\_ Date \_\_\_\_\_

Signature of Superintendent \_\_\_\_\_ Date \_\_\_\_\_  
-----

**Return Transfer Form to:**

Mission C.I.S.D. Office of Human Resources  
1201 Bryce Drive  
Mission, Texas 78572  
956-323-8169 (Fax) 956-323-5641 (Telephone)

4/18/13cc

## Workload and Work Schedules

*Policies DEA, DL*

**Professional Employees.** Professional employees and academic administrators are exempt from compensatory time and overtime pay and are employed on a 10-, 11-, or 12-month basis, according to the work schedules set by the District. A school calendar is adopted each year designating the work schedule for teachers and all school holidays. Notice of work schedules including required days of service and scheduled holidays will be distributed each school year.

Classroom teachers will have planning periods for instructional preparation including conferences. The schedule of planning periods is set at the campus level but must provide at least 450 minutes within each two-week period in blocks not less than 45 minutes within the instructional day. Teachers and librarians are entitled to a duty-free lunch period of at least 30 minutes. The District may require teachers to supervise students during lunch one day a week when no other personnel are available.

**Paraprofessional and Auxiliary Employees.** Support employees are employed at-will and receive notification of the required duty days, holidays, and hours of work for their position on an annual basis. Paraprofessional and auxiliary employees must be compensated for overtime are not exempt from overtime and are not authorized to work in excess of their assigned schedule without prior approval from their supervisor. Paraprofessionals and auxiliary staff are required to use the District's time clock on a daily basis.

## Breaks for Expression of Breast Milk

*Policies DEA, DEAB, DG*

The district supports the practice of expressing breast milk and makes reasonable accommodations for the needs of employees who express breast milk. 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 will be provided.

A reasonable amount of break time will be provided when the employee has a need to express milk. For nonexempt employees, these breaks are unpaid and are not counted as hours worked. Employees should meet with their supervisor to discuss their needs and arrange break times.

## Notification of parents regarding qualifications

*Policies DK, DBA*

In schools receiving Title I funds, the district is required by the Every Student Succeeds Act (ESSA) to notify parents at the beginning of each school year that they may request information regarding the professional qualifications of their child's teacher.

Texas law also requires that parents be notified if their child is assigned for more than 30 consecutive instructional days to a teacher who does not hold an appropriate teaching certificate. This notice is not required if parental notification under ESSA is sent. Inappropriately certified or uncertified teachers includes individuals on an emergency permit (including individuals waiting to take a certification exam) or individuals who do not hold any certificate or permit. Information relating to teacher certification will be made available to the public upon request. Employees who have questions about their certification status can call the Human Resources Office at 323-5641.

## Outside employment and tutoring

*Policy DBD*

Employees are required to disclose in writing to their immediate supervisor any outside employment that may create a potential conflict of interest with their assigned duties and responsibilities or the best interest of the district. Supervisors will consider outside employment on a case-by-case basis and determine whether it should be prohibited because of conflict of interest.

## Performance Evaluation

*Policies DN series*

Evaluation of an employee's job performance is a continuous process that focuses on improvement. Performance evaluation is based on an employee's assigned job duties and other job-related criteria. All employees will participate in the evaluation process with their assigned supervisor at least annually. Written evaluations will be completed on forms approved by the District. Reports, correspondence, and memoranda can also be used to document performance information. All employees will receive a copy of their written evaluation, participate in performance conference with their supervisor, and have the opportunity to respond to the evaluation.

<b>LESS THAN ANNUAL EVALUATIONS ELIGIBILITY</b>	<p>District teachers shall be appraised annually, except teachers who are eligible for less frequent evaluations in accordance with the law and all of the following local criteria. The teacher shall</p> <ol style="list-style-type: none"> <li>1. Be employed by Mission CISD during the last 3 years;</li> <li>2. Not be a new teacher to the campus;</li> <li>3. Be employed on a term contract;</li> <li>4. Be fully certified by SBEC;</li> <li>5. Be teaching in area of certification;</li> <li>6. Receive at least a Proficient Rating in every Domain with no identified domain criterion below expectations and/or unsatisfactory for the previous appraisal; and</li> <li>7. Not be supervised by a new campus principal.</li> </ol>
<b>FREQUENCY</b>	<p>Eligible teachers shall be appraised every other year upon request of a waiver.</p> <p>A teacher meeting the above local criteria and receiving an Exceeds Expectation Rating in every Domain with no identified Domain criterion below expectations and/or unsatisfactory for the previous appraisal qualifies for two consecutive waivers, but must apply each year.</p>
<b>WAIVER</b>	<p>An eligible teacher applying for a TTESS evaluation waiver must submit a Teacher Annual Evaluation Waiver Request Form during each school year that eligibility is met. <i>(See page 30).</i></p>
<b>EXCEPTION</b>	<p>During any school year when a complete Texas Teacher Evaluation Support System (TTESS) evaluation is not scheduled for an eligible teacher, either the teacher or the principal may require that an appraisal be conducted by providing written notice to the other party.</p>
<b>ALTERNATIVE ANNUAL REVIEW PROCESS</b>	<p>In the years that a TTESS evaluation is not scheduled for an eligible teacher, the alternative annual review process, developed in collaboration with the District and campus-level committees, shall consist of:</p> <ol style="list-style-type: none"> <li>1. The Teacher Self-Report I, II and III; and</li> <li>2. A written document to be presented to the teacher, signed by teacher and supervisor, and maintained in the teacher's personnel file.</li> </ol> <p>The principal/supervisor will continue to conduct walkthroughs and informal observations.</p>
<b>TTESS</b>	<p>The annual appraisal of District teachers not eligible for less-than-annual evaluations shall be in accordance with the Texas Teacher Evaluation Support System (TTESS).</p> <p>The District shall establish an appraisal calendar each year.</p>
<b>SCHEDULE LIMITATIONS</b>	<p>In addition to those days on which observations are prohibited by law [see DNA(LEGAL)], the District shall not schedule observations on the last instructional day before and the first instructional day after a school holiday, days scheduled for end-of-semester or end-of-year examinations, or days on which the teacher is scheduled to administer state-mandated assessments or other standardized tests.</p>

## Employee Involvement

*Policies BQA, BQB*

At both the campus and District levels, Mission CISD offers opportunities for involvement in matters that affect employees and influence the instructional effectiveness of the District. As part of the District's planning and decision-making process, employees may either be asked or elected to serve on District-or campus-level advisory committees. Plans and detailed information about the shared decision-making process are available in each campus office or from the Office of Human Resources.

## Staff Development

*Policy DMA*

Staff development activities are organized to meet the needs of employees and the District. Staff development is predominantly campus-based, related to achieving campus performance objectives, addressed in the campus improvement plan and is developed and approved by District-and campus-level advisory committees. Staff development for non-instructional personnel is designed to meet specific licensing requirements (e.g. bus drivers) and continued employee skill development.

Individuals holding renewable SBEC certificates are responsible for obtaining the required training hours and maintaining appropriate documentation.

## Employee Accountability

Employee shall satisfactorily submit or account for all grades, reports, school equipment, or other required items at the end of the contract term. Employee agrees that the last salary payment under this contract is conditioned upon receipt from Employee of all such items, within the time specified

by the District. Employee further agrees that the District may withhold from the salary payment(s) the value of any school equipment, other than textbooks or instructional technology assigned to students, that is lost or damaged, as well as any other fees, charges, or overpayments owed to the District.

## **Employee Dress Code**

*Policy DH*

Employees are expected to dress in a manner that sets a good example for the students and does not detract from the educational environment at the Mission CISD. Employees' clothing and grooming habits will present a neat, clean, and professional appearance. Clothing will be job appropriate, tasteful, and coordinated. (See pages 23-25 for employee dress code regulation).



*Dr. Ricardo López, Superintendent of Schools*  
Mission Consolidated Independent School District  
• 1201 Bryce Drive • Mission, Texas 78572-4399  
Telephone: Office: 956-323-5505 • Fax: 956-323-8174

---

TO: All Mission C.I.S.D. Staff  
FROM: Dr. Ricardo López  
Superintendent of Schools  
DATE: July 27, 2016  
SUBJECT: Employee Dress Code Regulations

A handwritten signature in blue ink, appearing to be "R. López", is written next to the "FROM:" field.

Employees are expected to dress in a manner that sets a good example for the students and does not detract from the educational environment at Mission C.I.S.D. Employees' clothing and grooming habits will present a neat, clean, and professional appearance. Clothing will be job appropriate, tasteful, and coordinated. Additionally, it will be of the appropriate size, fit, and length. The decision of the principal or organizational manager will determine the appropriateness of dress and appearance, and shall be in accordance with any additional standards approved by the Superintendent. A good rule of thumb is "if in doubt, do not wear it". The following minimum standards shall apply:

1. Employees are expected to dress in a professional, non-casual manner for all school days and staff development days.
2. All clothing will contribute to the professional appearance of the employee. Clothing will fit properly, be cleaned and pressed, and be in good repair.
3. Appropriate undergarments must be worn. Undergarments should not be visible.
4. **The length of dresses and skirts shall be no shorter than a line drawn immediately above the knee, or approximately 1.5 inches above the knee.**
5. **Jeans may be worn with a Mission C.I.S.D. school or District spirit shirt on spirit day each Friday or on days designated in advance by the principal. Jeans with holes will not be allowed.**
6. "Cropped pants," slacks cropped just above the ankle, are appropriate. "**Capri pants,**" pants that expose the calf, are not appropriate for school/office wear. "Fun wear" (beach attire, shorts, laid back wear) clothing is also not appropriate.
7. Sleeveless shirts are not allowed for male staff. Female staff members may wear sleeveless tops/blouses, if the garments fit closely under the arms.
8. No tank tops are allowed.

9. Spandex materials do not present a professional appearance and are not appropriate for school. Suggestive, tight, form-fitting clothing is not appropriate for any staff member.
10. No leggings or shorts will be allowed.
11. Halter tops, spaghetti straps or any shirts/blouses that expose cleavage or bare midriff are not permitted. See-through or mesh apparel is allowed if worn with a sleeveless (no less than 2" wide straps) top/blouse underneath.
12. Garments/shoes deemed necessary by a physician are acceptable, provided the guidelines are met.
13. No warm-up suits shall be allowed, except for coaching staff when performing athletic duties.
14. Sandals shall be allowed. However, specific District departments may require special footwear/uniforms for safety purposes. In addition, "flip-flops" and sandals with the strap between the toes shall not be allowed.
15. No stiletto or wedge style shoes over 4 inches in height are allowed.
16. No clog-type clogs will be allowed.
17. Hair must be clean, neatly combed and out of the eyes and face. Male employees' hair length shall be no longer than the top of the shirt collar. Mohawks, ducktails or rattails/ ponytails will not be allowed on male employees. Mustaches, beard, and sideburns must be neatly trimmed (no Manchu-style mustaches). Hair on both females and males that is styled in a manner that is extreme, outlandish, distracting or draws attention to the individual is not allowed. Hair coloring, including highlights and extensions, on both male and female employees is limited only to natural hair colors (human hair color that is produced in nature). Hair colors, including highlights, that are not acceptable, include, but are not limited to: purple, blue, green, pink, orange, fluorescent red, yellow, neon yellow. Any hair color that is determined by the Principal or Supervisor not to be a natural hair color is not acceptable.
18. Men and women may wear dress button-front or polo-type shirts.
19. Docker-style pants or dress slacks are acceptable and must be worn with a belt.
20. Males should wear shirts with shirt tails tucked in. Ties and jackets are encouraged.
21. Male employees or male substitute employees shall not be allowed to wear earrings (clip-on or pierced) or jewelry that requires body piercing.
22. Female employees or female substitute employees may wear earrings, but shall not be allowed to wear any other jewelry that requires body piercing.
23. Tattoos, except make-up tattoos such as eye liner, eye shadow, and lip liner, are not allowed to be visible. Tattoos should be covered (makeup, Band-Aid, etc.).

Exemplary conduct, personal appearance, and appropriate attire are the rule, not the exception, for the staff of Mission C.I.S.D. Please keep in mind the image you project, to both students and our community, is greatly enhanced by your clothing selections. Therefore, please remember that if it is not allowed for the student, it is not allowed for the staff.

## DRESS CODE IMPLEMENTATION PROCESS

1. The Principal at each campus and the Department Supervisor at each Department will be responsible to review dress code policy with all staff members before the end of the school year to ensure the staff is aware of the policy for the following school year.
2. A Power Point Presentation will be created by the Human Resources Department illustrating with pictures what is allowable and what is not allowable.
3. The Principal at each campus and the Department Supervisor at each Department will review the Dress Code Policy and Dress Code Administrative Regulations with all staff members at the beginning of the school year. All employees must sign in to attend this training.
4. The Dress Code Policy and Dress Code Administrative Regulations will be included in the Employee Handbook. By signing the employee handbook acknowledgement form the employee is stating that he has read the Handbook and will abide by the standards, policies and procedures defined or referenced in the handbook including the dress code regulations.
5. If the Principal determines that an employee has violated the Dress Code, the Principal will follow this process:
  - 1<sup>st</sup> Violation – Written warning – The Principal will send the employee home to change. No absence leave will be charged to employee if employee returns to work within a two-hour period.
  - 2<sup>nd</sup> Violation – Written warning – The Principal will send the employee home to change. Personal leave will be charged to employee according to the time it takes to return to work.
  - 3<sup>rd</sup> Violation – Official written reprimand will be placed in file, and the employee will be recommended for Non-Renewal at the end of the School Year.\* The Principal will send the employee home to change. Personal leave will be charged to employee according to the time it takes to return to work.
6. In order to seek a solution at the lowest possible administrative level, an employee may appeal after the third violation to the District Dress Code Committee.
7. The District Dress Code Committee will be made up by the following members assigned by the Superintendent: Assistant Superintendent for Human Resources, One High School Principal, One JHS Principal, one Elementary Principal, one Central Office staff member, one Elementary teacher and one Secondary teacher.
8. The District Dress Code Committee must schedule a meeting to consider the appeal within seven work days of the date it was submitted to the H.R. Department.
9. The employee will present his/her appeal to the District Dress Code Committee. The Committee will make a recommendation to the administrator or supervisor and inform the employee of their decision.
10. If the employee does not agree with the recommendation, the employee may file a grievance.

\* Number 5 was revised after consultation with Mr. David Hansen, MCISD's Legal Counsel.

## Compensation and Benefits

### Salaries, Wages, and Supplements

*Policy DEA, DEAA, DEAB*

Employees are paid in accordance with administrative guidelines and an established pay structure. The District's pay plans are reviewed by the administration each year and adjusted as needed. All District positions are classified as exempt or nonexempt according to federal law. Professional employees and academic administrators are generally classified as exempt and are paid monthly salaries. They are not entitled to overtime compensation. Other employees are generally classified as non-exempt and are paid an hourly wage or salary and receive compensatory time for each overtime hour worked beyond 40 in a workweek. (See Overtime 27-28).

Salary and wage schedules are reviewed on an annual basis and adjusted according to the budgeted amounts approved by the board. Classroom teachers, full-time librarians, full-time nurses and full-time counselors will be paid no less than the minimum state salary schedule. Contract employees who perform extracurricular or supplemental duties may be paid a supplement in addition to their salary according to the District's extra-duty pay schedule.

All employees will receive a written notice of their pay by the first pay period of the school year. Employees should contact the Office of Human Resources at 323-5641 for more information about the District's pay schedules or their own pay.

### Paychecks

All employees are paid by electronic payroll deposit. Paychecks are electronically deposited into an account at a bank of the employee's choice. An employee's pay is available on the pay date and is not released earlier for any reason. Payroll statements and other information are available through the **web for employee**.

An employee's payroll statement contains detailed information including deductions, withholding information, and the amount of leave accumulated in addition to but not limited to the following:

- One of two withholding status options will appear - married or single
- Number exemptions claimed for withholding tax purposes
- Hours reported on current payroll (hourly employees only)
- Hourly rate of pay (hourly employees only)
- Earnings and Deductions may include:
  - Standard Gross – gross salary paid to employee
  - Non-tax Allow - travel allowance
  - Supplemental Pay - earnings for overtime, work performed in a capacity other than normal duty
  - Annuities - employee authorized deduction for tax deferred individual retirement plan
  - Withholding Tax - mandatory deduction for Medicare for employees hired after March 31, 1986
- Calendar year-to-date amount of insurance premiums selected by the employee that are not included in Cafeteria 125 Plan
- Calendar year-to-date wages subject to federal withholding tax
- Calendar year-to-date wages which are subject to Medicare deduction of employees hired after March 31, 1986
- Calendar year-to-date amount elected to reduce taxable income through Section 125 Cafeteria Plan
- Deduction elected by the employee are listed in this column and may include:
  - TRS Deposit - mandatory deduction for all full-time employees for the Teacher Retirement System of Texas (TRS) (6.4% of gross salary)
  - TRS Insurance - mandatory deduction for TRS members for retirement hospital insurance (65% of gross salary)
  - Health & Dental Insurance - plus other optional insurances
  - Employer's Contribution - the amount the District contributes toward the employee's health insurance
  - Security 1<sup>st</sup> Federal Credit Union - employee authorized deduction deposited directly to Federal Credit Union
  - United Way - employee authorized deduction for Mission United Way campaign
  - Professional Dues - employee authorized deduction for professional organization dues
- Deductions elected as part of the Section 125 Flexible Fringe Benefit Plan (Cafeteria Plan) are shown

- The schedule of pay dates for the 2016-2017 school year follows:

<u>PAY PERIOD</u>	<u>PAY DATE</u>	<u>DAY</u>
<u>August 01-August 31, 2016</u>	<u>September 23, 2016</u>	<u>Friday</u>
<u>September 01-September 30, 2016</u>	<u>October 24, 2016</u>	<u>Monday</u>
<u>October 01-October 31, 2016</u>	<u>November 17, 2016</u>	<u>Thursday</u>
<u>November 01-November 30, 2016</u>	<u>December 16, 2016</u>	<u>Friday</u>
<u>December 01-December 31, 2016</u>	<u>January 20, 2017</u>	<u>Friday</u>
<u>January 01-January 31, 2017</u>	<u>February 22, 2017</u>	<u>Wednesday</u>
<u>February 01-February 28, 2017</u>	<u>March 24, 2017</u>	<u>Friday</u>
<u>March 01-March 31, 2017</u>	<u>April 25, 2017</u>	<u>Tuesday</u>
<u>April 01-April 30, 2017</u>	<u>May 25, 2017</u>	<u>Thursday</u>
<u>May 01-May 31, 2017</u>	<u>June 21, 2017</u>	<u>Wednesday</u>
<u>June 01-June 30, 2017</u>	<u>July 25, 2017</u>	<u>Tuesday</u>
<u>July 01-July 31, 2017</u>	<u>August 25, 2017</u>	<u>Friday</u>

## Automatic Payroll Deposit

The District mandate employees automatic payroll deposit. Employees can have their paychecks electronically deposited into an account at any bank or credit union. You may directly deposit into multiple accounts at various banking institutions. A notification period of one month is necessary to activate this service. Contact the Payroll Office at 323-5521 for more information about the automatic payroll deposit service.

## Payroll Deductions

*Policy CFEA*

Automatic payroll deductions for the Texas Teacher Retirement System of Texas (TRS) and federal income tax are required for all full-time employees. Medicare tax deductions are required for all employees hired in the district after March 31, 1986. Temporary and part-time employees who are not eligible for TRS membership must contribute to a retirement plan as required by federal law.

Other payroll deductions employees may elect are employee's share of premiums for health, dental, life insurances, and annuities. Employees may also request payroll deduction for payment of membership dues to professional organizations and United Way. Salary deductions are automatically made for unauthorized or unpaid leave.

## Overtime / Compensatory Time

*Policy DEA, DEAB (LOCAL)*

The District compensates overtime or compensatory time for nonexempt employees in accordance with federal wage and hour laws. All employees are classified as exempt or nonexempt for purposes of overtime compensation. Professional and academic administrator employees are ineligible for overtime compensation or compensatory time. Only nonexempt employees (hourly employees and some paraprofessional employees) are entitled to overtime compensation. Nonexempt employees are not authorized to work beyond their normal work schedule without advance approval from their supervisor (*Use Compensatory Time/Over-time approval form, page 31*).

Overtime is legally defined as all hours worked in excess of 40 hours in a work week and is not measured by the day or by the employee's regular work schedule. Employees who must work beyond their normal schedule but less than 40 hours per week will be compensated in straight-time pay or equivalent time off in the same work week. Employees must work more than 40 total hours in a week to earn overtime compensation.

For the purpose of calculating overtime, a workweek begins at 12:01 a.m. Monday and ends at 12:00 midnight on Sunday. Employees may be compensated for overtime with compensatory time off or direct pay at time-and-a-half rates. The following applies to all nonexempt employees:

- Compensatory time earned by nonexempt employees may not accumulate beyond a maximum of 60 hours.
- Compensatory time earned must be used according to a schedule that is mutually agreeable to the employee and supervisor. Compensatory time must be used by the end of employee's fiscal year.

- Weekly timesheets will be maintained by the time clock system for all nonexempt employees for the purpose of wage and salary administration.
- All hourly personnel required by their supervisor to perform duties during a holiday will be compensated at time and a half. (Administrative Procedure)
- Secretarial/Clerical Staff and non-instructional paraprofessionals may use COMP time to take a day off with prior approval from the immediate supervisor. In order to get the 8 hours credit for the time and a half requirement, you will need to have worked an additional 5 1/4 hours over the required 40-hour week. COMP time will need to be posted on the payroll report and also on the absence report. You also have the option of taking any unused vacation days from the 2016-2017 year. Board Policy states that Personal Leave shall not be allowed on the day before or after a school holiday, inservice days, or the first week of school.

## **Falsification or Tampering**

- Any attempt to tamper with the timekeeping hardware or software will be considered a serious offense, subject to disciplinary action up to and including termination.
- Punching in for an absent employee (a.k.a. "buddy punching") will also be considered a serious offense, with both employees subject to disciplinary action up to and including termination.
- No employee should be in possession of another employee's badge at any time.
- No employee should be in possession of another employee's password for the Mission CISD Timekeeping System at any time.
- Anyone interfering with other employees' use of time clocks shall be subject to disciplinary action.

## **Travel Expense Reimbursement**

*Policy DEE*

Before any travel expenses are incurred by an employee, the employee's supervisor and/or Superintendent must give approval. For approved travel, employees will be reimbursed for mileage and other travel expenditures according to the current rate schedule established by the district. Employees must submit receipts to be reimbursed for expenses other than mileage.

**MISSION CONSOLIDATED INDEPENDENT SCHOOL DISTRICT  
LENGTH OF WORKDAY  
2016-2017**

The Administrative Staff, as per Board Policy DK(LOCAL), will set the length of the instructional workday for staff. The District considers the instructional workday for its staff to be as follows:

(A)	Administrators, Principals, Assistant Principals, Instructional Supervisors, Counselors	Minimum of eight hours plus additional time as necessary to complete the job requirements.
(B)	Librarians, Elementary	7:30-4:00 plus additional time as necessary
	Librarians, Secondary	7:45-4:45 plus additional time as necessary
(C)	Teachers and RNs, Elementary	7:40-3:30 plus additional time as necessary
	Teachers and RNs, Secondary	7:45-4:15 plus additional time as necessary
(D)	Any Other Certified Personnel	8 hours plus additional time as necessary
(E)	Paraprofessionals (Instructional Aides, Library Clerks, Home/School Liaisons Secretaries, Computer Technicians, LVNs, Secretaries, Clerical Support)	8 hours

**Employee Groups A, B, C and D are not entitled to additional compensation for hours worked outside of the workday or calendar school year except for TEACHERS for approved scheduled AFTERSCHOOL and/or SATURDAY TUTORIALS or AFTERSCHOOL GRANT PROGRAMS.**

**Employee Group E must be compensated for all hours worked outside of the scheduled workday and/or calendar school year. This group requires PRIOR approval by Central Office Administration for employment beyond a 40-hour week.**

**Mission Consolidated Independent School District  
TEACHER ANNUAL EVALUATION WAIVER REQUEST FORM**

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

Campus: \_\_\_\_\_

Grade Level/Assignment: \_\_\_\_\_

Last PDAS Appraisal School Year: \_\_\_\_\_

I am requesting to waive my annual appraisal for the \_\_\_\_\_ School Year based upon the fact that I meet all of the following criteria.

(Please check all related criteria that are applicable to you.)

1. \_\_\_\_\_ Appraised under the PDAS Appraisal System during the last school year
2. \_\_\_\_\_ Employed as a Teacher with Mission CISD during the last 3 years
3. \_\_\_\_\_ Not a new teacher to campus of which I am requesting a waiver
4. \_\_\_\_\_ Currently employed under a Term Contract
5. \_\_\_\_\_ Fully certified by SBEC (not on teaching permit excluding a permit required due to a district mandated assignment)
6. \_\_\_\_\_ Teaching in area of certification
7. a. \_\_\_\_\_ Received at least a Proficient Evaluation Rating with no identified domain criterion below expectations and/or unsatisfactory during the previous appraisal (Qualifies for a 1 year waiver)  
OR  
b. \_\_\_\_\_ Received an Exceeds Expectation Rating in each Domain with no identified domain criterion below expectations and/or unsatisfactory during the previous appraisal (Qualifies for a 2 year waiver, but must apply each year)
8. \_\_\_\_\_ Not being supervised by a New Campus Principal

***I understand that during any school year when a complete appraisal under the Professional Development and Appraisal System (PDAS) is not scheduled, either the teacher or the principal MAY require that an appraisal be conducted by providing written notice to the other party.***

***I understand that the principal/supervisor will continue to conduct walkthroughs and informal observations.***

***I understand that an alternative annual review process, which will produce a written document, will be presented to me, signed by my supervisor and me, and maintained in my personnel file.***

\_\_\_\_\_  
**Employee's Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Principal's Signature**

**Approved    Denied**

\_\_\_\_\_  
**Date**

**Reason for Denial** \_\_\_\_\_

Waiver application deadline: (same date as teacher self-report due date)

Mission Consolidated Independent School District  
Compensation Time/Over-Time Approval Form

DATE: \_\_\_\_\_

TO: Rimalda Ruiz, Assistant Superintendent for Finance

FROM: \_\_\_\_\_  
(Principal, Director, Coordinator, Supervisor)

SUBJECT: Request for Approval of Compensatory Time/Over-Time

(Check one: Comp Time or Overtime Pay)

This is a request to approve ☐ Comp ☐ Overtime Pay Time hours for pay period of \_\_\_\_\_

If overtime pay, the budget account to be coded is: \_\_\_\_\_

The reason for the request/duties performed: (Use only one form per event/duty)  
\_\_\_\_\_ Date worked: \_\_\_\_\_

Comp time hours will be at the rate of one and one-half hours per hour worked over 40 hours per week.

Name	Title	Employee ID	Comp Time Balance	Date Comp Time Will be Exhausted

\*\*\*\*\*

(Central Office Use Only)

Asst. Supt. for Finance Signature \_\_\_\_\_

Date \_\_\_\_\_

(Approved) \_\_\_\_\_

(Denied) \_\_\_\_\_

NOTE: This form must be completed and attached to timesheet.

REVISED 07/2016  
BY: FINANCE

## **Health, Dental, and Life Insurance**

*Policy CRD*

Mission CISD pays premium for the high deductible health plan employees. Group insurance coverage is available to all TRS eligible employees. The District's contribution to employee insurance premiums is determined annually by the board of trustees. The insurance plan year begins October 1 and ends September 30. New employees must complete enrollment forms within the first 30 days of employment. Current employees can make changes in their insurance coverage (newborn, marriage, divorce, death) providing this is a qualifying event and the Risk Management Office is notified within 30 days of said qualifying event. Employees should contact Risk Management Department at 323-5545, for more information.

No employee is required to carry these insurance plans. Compensation will not be given in lieu of insurance. Premiums for added insurance will be paid through a payroll deduction.

## **Supplemental Insurance Benefits**

*Policy CRD*

At their own expense, employees may enroll in supplemental insurance programs for additional life insurance, and to supplement insurance benefits in cases of long term, catastrophic illness or disability. Premiums for these programs can be paid by payroll deduction. Employees should contact Risk Management Department at 323-5545 for more information.

## **Cafeteria Plan Benefits (Section 125)**

Employees may be eligible to participate in the Cafeteria Plan (Section 125) and, under IRS regulations, must either accept or reject this benefit. This plan enables eligible employees to pay certain insurance premiums on a pre-tax basis (i.e., health, dental and cancer). A third-party administrator handles employee claims made on these accounts.

New employees must accept or reject this benefit at the time they are hired. All employees must accept or reject this benefit on an annual basis and during the specified time period.

## **Workers' Compensation Insurance**

*Policy CRE*

The District, in accordance with state law, provides workers' compensation benefits to employees who suffer a work-related illness or are injured on-the-job. Benefits help pay for medical treatment and make up for part of the income lost while recovering. Specific benefits are prescribed by law depending on the circumstances of each case. All work-related accidents or injuries should be reported immediately to the Risk Management Office at 323-5545. Employees who are unable to work due to a work-related injury will be notified of their rights and responsibilities under the Texas Labor Code. (See *Worker's Compensation benefits*, page 36 for information)

## **Payment for Unused Sick and Personal Leave**

*Policy DEC*

Effective with the beginning of the 2003-2004 school year, an employee who has worked for the District for a minimum of ten consecutive years immediately prior to retirement from the District and meets the membership requirements for the Teacher Retirement System shall be entitled to: a one-time payment of \$60.00 a day for professional employees or \$30.00 a day for paraprofessional employees with a limit of 100 days for any unused state and local personal and sick leave earned. Sick leave shall be pro-rated for employees who worked less than a full year but more than one-half year. Payment to professional employees shall be limited to a maximum of \$6,000.00; payment to paraprofessional and auxiliary personnel shall be limited to a maximum of \$3,000.00.

## **Unemployment Compensation Insurance**

*Policy CRF*

Employees who have been laid off or terminated through no fault of their own may be eligible for unemployment compensation benefits. Employees are not eligible to collect unemployment benefits during regularly scheduled breaks in the school year or the summer months if they have employment contracts or reasonable assurance of returning to service. Employees with questions about unemployment benefits should contact the Human Resource Office at 323-5641.

## Teacher Retirement

All personnel employed on a regular basis for at least four and one-half month are members of the Teacher Retirement System of Texas (TRS). Substitutes not receiving TRS services retirement benefits who work at least 90 days a year are also eligible for TRS membership and to purchase a year of creditable service. TRS provides members with an annual statement of their account showing all deposits and the total account balance for the year ending August 31, as well as an estimate of their retirement benefits.

Employees who plan to retire under TRS should notify the Office of Human Resources as soon as possible. Information on the application procedures for TRS benefits is available with the Payroll Office at Central Administration. Additional inquiries should be addressed to: Teacher Retirement System of Texas, 1000 Red River Street, Austin, TX 78701-2698, or call 800-223-8778 or 512-542-6400. TRS information is also available on the Web ([www.trs.texas.gov](http://www.trs.texas.gov)).

## Tuition-Free Attendance

*Policy DEB*

Children of nonresident employees may attend District schools tuition-free.

## Leaves and Absences

*Policy DEC, DECA, DECB*

The District offers employees paid and unpaid leaves of absence in times of personal need. This handbook describes the basic types of leave available and restrictions on leaves of absence. Employees who have personal needs that will require long leaves of absence should call the Payroll Department at 323-5527 for information about leave options, continuation of benefits, and communicating with the district.

The District maintains the District cost of health insurance benefits for employees on leave authorized under the Family and Medical Leave Act. Employees are responsible for any health care premiums above the District's share. Arrangements need to be made through the payroll department. Otherwise, the district does not make benefit contributions for employees who are on unpaid leave. Employees who terminate employment with the District may elect to continue with health benefits at their own expense according to COBRA guidelines.

Employees must follow District and department or campus procedures to report or request any leave of absence and complete the appropriate leave request form. Employees are responsible for creating their own absence into AESOP. Any employee who is absent more than five days because of a personal or family illness must submit medical certification from a qualified health care provider confirming the specific dates of the illness, the reason for the illness, and in the case of personal illness, the employee's fitness to return to work.

## Personal Leave

State law entitles all employees to five days of paid personal leave per year. Personal leave is earned at a rate of one-half workday for each 18 workdays of employment. A day of earned personal leave is equivalent to an assigned workday. State personal leave accumulates without limit, is transferable to other Texas school districts, and generally transfers to education service centers. There are two types of personal leave: nondiscretionary and discretionary.

**Nondiscretionary.** Leave taken for personal or family illness, family emergency, a death in the family, or active military service is considered nondiscretionary leave. This type of leave allows very little, if any, advance planning and may be granted to employees in the same manner as sick leave subject to limitations.

**Discretionary.** Leave that is taken at an employee's discretion that can be scheduled in advance is considered discretionary leave. An employee wishing to take discretionary personal leave must submit a notice of the request in advance of the anticipated absence to his or her principal or supervisor. Discretionary personal leave will be granted on a first-come, first-served basis. The effect of the employee's absence on the educational program or department operations, as well as the availability of substitutes, will be considered by the principal or supervisor.

- Consideration to the effect of the employee's absence on the educational program may affect approval for request.
- Discretionary leave may not last more than five consecutive workdays.
- Discretionary leave may **not** be taken on the following key days: before and after a holiday, in-services, and first week of school, and last week of school?

## State Sick Leave

Previously accumulated state sick leave is available for use and may be transferred to other school districts in Texas. Sick leave can be used only in 5-day increments except when coordinated with family and medical leave taken on an intermittent or reduced-schedule basis or when coordinated with workers' compensation benefits.

If an employee uses more sick leave than he or she has earned, the cost of the daily rate will be deducted from the employee's next paycheck(s). Sick leave shall be pro-rated for employees who worked less than a full year but more than one-half year.

Sick leave may be used for the following reasons:

- Employee illness
- Illness in the employee's immediate family
- Family emergency (i.e., natural disasters or life-threatening situations)
- Death in the immediate family
- Active military service

All absences shall be recorded and documented for all employees. Sick leave used is recorded in half days and whole days only. All regularly employed personnel shall earn state personal/sick leave at the rate of one-half a workday for each 18 workdays of employment, up to the statutory maximum of five workdays per year.

## Local Leave

*Policy DEC (LOCAL)*

Employees shall earn additional local sick leave concurrently with state sick leave. Local sick leave is accrued in the same manner as state leave. Local sick leave shall accumulate to a maximum of 100 equivalent workdays and shall be taken with no pay loss. Two days of your local sick leave may be taken for personal business use.

## Extended Sick Leave

After all state personal and sick leave, and all local sick leave have been exhausted, an employee may request as many as five days of extended sick leave to be used only for the employee's personal illness or disability accompanied by a physician's excuse or receipt. The daily rate of pay for substitute shall be deducted for each day of extended sick leave taken by professional employees, or one-fourth the daily rate of pay for a substitute for each day of extended sick leave taken by paraprofessionals and auxiliary employees whether or not a substitute is employed.

## Family and Medical Leave Act (FMLA)—General Provisions

The following text is from the federal notice, *Employee Rights and Responsibilities Under the Family and Medical Leave Act*. Specific information that the district has adopted to implement the FMLA follows this general notice.

**Basic Leave Entitlement.** The FMLA requires covered employers to provide up to 12 weeks of unpaid, job-protected leave to eligible employees for the following reasons:

- For incapacity due to pregnancy, prenatal medical care or child birth;
- To care for the employee's child after birth, or placement for adoption or foster care;
- To care for the employee's spouse, son or daughter, or parent, who has a serious health condition; or
- For a serious health condition that makes the employee unable to perform the employee's job.

**Military Family Leave Entitlements.** Eligible employees with a spouse, son, daughter, or parent on active military duty and deployed to a foreign country may use their 12-week leave entitlement to address certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.

The FMLA also includes a special leave entitlement that permits eligible employees to take up to 26 weeks of leave to care for a covered servicemember during a single 12-month period. A covered servicemember is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties for which the servicemember is undergoing medical treatment, recuperation, or therapy; or is in outpatient status; or is on the temporary disability retired list. It also includes a family member who is a veteran with an illness or injury that occurs in the line of duty while on active duty and manifests itself before or after the servicemember became a veteran. The veteran must have been on active duty during the five years preceding the need for treatment, recuperation, or therapy.

**Benefits and Protections.** During FMLA, the employer must maintain the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. Upon return from FMLA, most employees must be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms.

Use of FMLA cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

**Eligibility Requirements.** Employees are eligible if they have worked for a covered employer for at least one year, for 1,250 hours over the previous 12 months, and if at least 50 employees are employed by the employer within 75 miles.

**Definition of Serious Health Condition.** A serious health condition is an illness, injury, impairment, or physical or mental condition that involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job, or prevents the qualified family member from participating in school or other daily activities.

Subject to certain conditions, the continuing treatment requirement may be met by a period of incapacity of more than 3 consecutive calendar days combined with at least two visits to a health care provider or one visit and a regimen of continuing treatment, or incapacity due to pregnancy, or incapacity due to a chronic condition. Other conditions may meet the definition of continuing treatment.

**Use of Leave.** An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently or on a reduced leave schedule when medically necessary. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. Leave due to qualifying exigencies may also be taken on an intermittent basis.

**Substitution of Paid Leave for Unpaid Leave.** Employees may choose or employers may require use of accrued paid leave while taking FMLA. In order to use paid leave for FMLA, employees must comply with the district's normal paid leave policies.

**Employee Responsibilities.** Employees must provide 30 days advance notice of the need to take FMLA-when the need is foreseeable. When 30 days notice is not possible, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures.

Employees must provide sufficient information for the employer to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care provider, or circumstances supporting the need for military family leave. Employees also must inform the employer if the requested leave is for a reason for which FMLA was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

**Employer Responsibilities.** Covered employers must inform employees requesting leave whether they are eligible under the FMLA. If they are eligible, the notice must specify any additional information required as well as the employees' rights and responsibilities. If they are not eligible, the employer must provide a reason for the ineligibility.

Covered employers must inform employees if leave will be designated as FMLA and the amount of leave counted against the employee's leave entitlement. If the employer determines that the leave is not FMLA, the employer must notify the employee.

**Unlawful Acts by Employers.** The FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right protected under the FMLA; discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA.

**Enforcement.** An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit against an employer.

The FMLA does not affect any Federal or State law prohibiting discrimination or supersede any state or local law or collective bargaining agreement which provides greater family or medical leave rights.

## Local Family and Medical Leave Provisions

Eligible employees can take up to 12 weeks of unpaid leave.

**Use of Paid Leave.** FMLA runs concurrently with accrued sick and personal leave, temporary disability leave, compensatory time, assault leave, and absences due to a work-related illness or injury. The district will designate the leave as FMLA, if applicable, and notify the employee that accumulated leave will run concurrently.

**Combined Leave for Spouses.** Spouses who are employed by the district are limited to a combined total of 12 weeks of FMLA to care for a parent with a serious health condition; or for the birth, adoption, or foster placement of a child. Military caregiver leave for spouses is limited to a combined total of 26 weeks.

**Intermittent Leave.** When medically necessary or in the case of a qualifying exigency an employee may take leave intermittently or on a reduced schedule. The district does not permit the use of intermittent or reduced-schedule leave for the care of a newborn child or for adoption or placement of a child with the employee.

**District Contact.** Employees that require FMLA or have questions should contact payroll for details on eligibility, requirements, and limitations.

## Temporary Disability Leave

**Certified Employees.** Any full-time employee whose position requires certification from the State Board for Educator Certification (SBEC) is eligible for temporary disability leave. The purpose of temporary disability leave is to provide job protection to full-time educators who cannot work for an extended period of time because of a mental or physical disability of a temporary nature. Temporary disability leave must be taken as a continuous block of time. It may not be taken intermittently or on a reduced schedule. Pregnancy and conditions related to pregnancy are treated the same as any other temporary disability.

Employees must request approval for temporary disability leave. An employee's notification of need for extended absence due to the employee's own medical condition shall be accepted as a request for temporary disability leave. The request must be accompanied by a physician's statement confirming the employee's inability to work and estimating a probable date of return. If disability leave is approved, the length of leave is no longer than 180 calendar days. If disability leave is not approved, the employee must return to work or be subject to termination procedures.

If an employee is placed on temporary disability leave involuntarily, he or she has the right to request a hearing before the board of trustees. The employee may protest the action and present additional evidence of fitness to work.

When an employee is ready to return to work, payroll should be notified at least 30 days in advance. The return-to-work notice must be accompanied by a physician's statement confirming that the employee is able to resume regular duties. Professional employees returning from leave will be reinstated to the school to which they were previously assigned as soon as an appropriate position is available. If a position is not available before the end of the school year, professional employees will be reinstated at the beginning of the following school year.

## Workers' Compensation Benefits

An employee absent from duty because of a job-related illness or injury may be eligible for workers' compensation weekly income benefits if the absence exceeds seven calendar days.

An employee receiving workers' compensation wage benefits for a job-related illness shall be assigned to Family and Medical leave, if applicable.

The Board has adopted the offset option provided by law [see CRE(LEGAL)] whereby an employee absent because of a job-related illness or injury may choose to: 1) receive workers' compensation wage benefits only; or 2) use paid leave 3) use available paid leave in proportional amounts to supplement workers' compensation wage benefits, up to the regular pre-injury weekly wage.

The employee shall indicate if he or she chooses to use available paid leave in this circumstance and, if so, may choose to discontinue use at any time.

Effective May 15, 2002, Texas Workers' Compensation Commission Rule 128.7 provides for termination of workers' compensation benefits to any school employee injured on or after December 1, 2001, who usually does not work during the summer months.

## Assault Leave

Assault leave provides extended job income and benefits protection to an employee who is injured as the result of a physical assault suffered during the performance of his or her job. An injury is treated as an assault if the person causing the injury could be prosecuted for assault or could not be prosecuted only because that person's age or mental capacity renders the person non-responsible for purposes of criminal liability.

An employee who is physically assaulted at work may take all the leave time medically necessary (up to two years) to recover from the physical injuries he or she sustained. At the request of an employee, the district will immediately assign the employee to assault leave. Days of leave granted under the assault leave provision will not be deducted from accrued personal leave and must be coordinated with worker's compensation benefits. Upon investigation the district may change the assault leave status and charge leave used against the employee's accrued paid leave. The employee's pay will be deducted if accrued paid leave is not available.

## **Bereavement Leave**

### *Policy DEC (LOCAL)*

Use of state leave and/or local sick leave for death in the immediate family shall not exceed five workdays per occurrence, subject to the approval of the District.

## **Jury Duty**

Employees shall be granted leave for jury duty without loss of pay or accumulated leave. A copy of the jury duty summon shall be attached to the Absence from Duty Form. If the jury duty is for one-half day, the employee shall report for duty for the other one-half day. The employee shall be required to present documentation of service and shall be allowed to retain any compensation for this service. If more than one day is served, attendance verification is required.

## **Other Court Appearances**

Employees will be granted paid leave to comply with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. Other absences for court appearances related to an employee's personal business must be taken as personal leave or leave without pay (if no personal leave is available). Employees may be required to submit documentation of their need for leave for court appearances.

## **Military Leave**

**Paid leave for military service.** Any employee who is a member of the Texas National Guard, Texas State Guard, or reserve component of the United States Armed Forces will be granted a paid leave of absence without loss of any accumulated leave for authorized training or duty orders. Paid military leave will not exceed 15 days each federal fiscal year (October 1-September 30). In addition, an employee is entitled to use available state and local personal or sick leave during a time of active military service.

**Reemployment after military leave.** Employees who leave the District to enter into the United States uniformed services or who are ordered to active state military duty (Texas National Guard or Texas State Guard) may return to employment if they are honorably discharged. Employees who wish to return to the District will be reemployed in the position they would have held if employment had not been interrupted or reassigned to an equivalent or similar position provided they can be qualified to perform the required duties. To be eligible for reemployment, employees must provide notice of their obligation or intent to perform military service, provide evidence of honorable discharge or release, and submit an application for reemployment to the Office of Human Resources. In most cases, the length of military service cannot exceed five years, and the employee must apply for re-employment within the period of time specified in law.

Employees who perform service in the uniformed services may elect to continue their health plan coverage at their own cost for a period not to exceed 24 months. Employees should contact Payroll Office at 323-5521 or 323-5522 for details on eligibility, requirements, and limitations.

## **Sick Leave**

The District sick leave pool shall be established by voluntary donations from District staff of local sick leave days for the purpose of assisting a fellow full-time employee who has a catastrophic illness or disability and has exhausted all paid leave. The plan can also be established for an employee who has an immediate family member with a catastrophic illness or disability.

## **Professional Meetings**

District employees may be permitted to attend meetings of professional organizations during a work day, with pay, if a direct school-related purpose will be accomplished. Such release time shall not be granted if the meetings are primarily to pursue the business of the organization. Atty. Gen. Op. MW-89 (1979) Personal business leave may be requested to attend organizational business meetings.

## Employee Relations and Communications

### Employee Recognition and Appreciation

Continuous efforts are made throughout the year to recognize employees who make an extra effort to contribute to the success of the District. Employees are recognized at board meetings, in the District newsletter, and through special events and activities. Recognition and appreciation activities also include teacher of the year, luncheons, staff member of the year, service awards, etc.

### District Communications

Throughout the year, the Public Relations Office publishes a number of newsletters, brochures, calendars, fliers, news releases and other materials as needed. Many of these publications and other information are made available to employees and the general public through the Internet as well as their printed forms. These publications offer employees and the community information pertaining to school activities, issues and achievements. They include but are not limited to the following:

**Mission CISD e-Messenger-** This is the district's external newsletter designed to reach a broad audience in the community. It is emailed weekly. Anyone can subscribe by using the link in the lower right portion of the district webpage.

**Board Highlights-** Board Highlights is an electronic publication and audio podcast made available to everyone in the district. Employees with district e-mail addresses are sent links to the latest publication upon its posting to the district Website. Board Highlights is designed to provide a brief summary of actions taken by the Board of Trustees at regular and special meetings. Printed copies of this publication are also made available for employees who do not have easy access to a computer.

**District Brochure-** This annual publication contains general information about Mission CISD. It is made available to the general public through many outlets including: each campus, central office, Mission Chamber of Commerce, Mission Economic Development Authority, etc.

**Calendars-** Traditionally, the Public Relations Department provides printed calendars. One is a folding pocket sized calendar. The other is a larger planning calendar that includes more information including: holidays, observances, phone numbers. Calendar information is also available through the district's Webpage.

**Social Media-** The Public Relations Department utilizes two Social Media tools. Currently, the district can be "followed" through Twitter at, [www.twitter.com/missioncisd](http://www.twitter.com/missioncisd). The district also has a fan page on Facebook, [www.facebook.com/missioncisd](http://www.facebook.com/missioncisd). Users can select to be notified of updates through phone text messages. The district also has a YouTube Channel.

In addition to the above publications, the Public Relations Office also provides printed informational pieces as needed to help communicate important information to parents and/or the community as needed. The Public Relations Department also maintains a Webpage that is accessible through the district Website. Information included on the Public Relations Site includes: news releases, Board Highlights. Time Warner Cable channel 135.17 is another source of district information for the community. District news and information is also regularly used in The Progress-Times, The Monitor, the Town Crier, El Mañana, and El Periodico.

### Working with the Media

*Policy GBBA*

The Public Relations Office is the district contact for the news media. Any information requested by the news media should be directed to the Superintendent or the Director of Public Relations and Marketing, Craig Verley at 323-5530. This includes statements concerning current issues and requests for school information, including enrollment reports and school funding figures. Employees who would like a news item to be given to the media should forward the information to the Public Relations Office. It is then distributed to the appropriate media outlets which may include: several local newspapers, six local television news operations, two local news radio outlets, and several out of town newspapers with area reporters.

## Complaints and Grievances

### *Policy DGBA*

In an effort to hear and resolve employee concerns or complaints in a timely manner and at the lowest administrative level possible, the board has adopted an orderly grievance process. Employees are encouraged to discuss their concerns or complaints with their supervisors or an appropriate administrator at any time.

The formal grievance process provides all employees with an opportunity to be heard up to the highest level of management if they are dissatisfied with an administrative response. Once all administrative grievance procedures are exhausted, employees can bring grievances to the board of trustees. For ease of reference, the district's policy concerning the process of bringing complaints and grievances— (See DGBA (LOCAL) pages 131-143)

## Employee Conduct and Welfare

### Standards of Conduct

#### *Policy DH*

All employees are expected to work together in a cooperative spirit to serve the best interests of the district and to be courteous to students, one another, and the public. Employees are expected to observe the following standards of conduct:

- Recognize and respect the rights and property of students, parents, other employees and members of the community.
- Maintain confidentiality in all matters relating to students and coworkers.
- Report to work according to the assigned schedule.
- Notify their immediate supervisor in advance or as early as possible in the event that they must be absent or late. Unauthorized absences, chronic absenteeism, tardiness, and failure to follow procedures for reporting an absence may be cause for disciplinary action.
- Know and comply with department and district procedures and policies.
- Express concerns, complaints, or criticism through appropriate channels.
- Observe all safety rules and regulations and report injuries or unsafe conditions to a supervisor immediately.
- Use district time, funds, and property for authorized district business activities only.

All district employees should perform their duties in accordance with state and federal law, district policies and procedures, and ethical standards. Violation of policies, regulations, or guidelines may result in disciplinary action, including termination. Alleged incidents of certain misconduct by educators, including having a criminal record, must be reported to SBEC not later than the seventh day the superintendent first learns of the incident.

The Code of Ethics and Standard Practices for Texas Educational Employees, adopted by the State Board for Educator Certification, which all district employees must adhere to, is reprinted below:

### **CODE OF ETHICS AND STANDARD PRACTICES FOR TEXAS EDUCATORS**

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

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

**Standard 1.1.** The educator shall not knowingly engage in deceptive practices regarding official policies of the school district or educational institution.

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

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

- Standard 1.4.** The educator shall not use institutional or professional privileges for personal or partisan advantage.
- Standard 1.5.** The educator shall neither accept nor offer gratuities, gifts, or favors that impair professional judgment or to obtain special advantage. This standard shall not restrict the acceptance of gifts or tokens offered and accepted openly from students, parents, or other persons or organizations in recognition or appreciation of service.
- Standard 1.6.** The educator shall not falsify records, or direct or coerce others to do so.
- Standard 1.7.** The educator shall comply with state regulations, written local school board policies, and other applicable state and federal laws.
- Standard 1.8.** The educator shall apply for, accept, offer, or assign a position or a responsibility on the basis of professional qualifications.

## **2. Ethical Conduct Toward Professional Colleagues.**

- Standard 2.1.** The educator shall not reveal confidential health or personnel information concerning colleagues unless disclosure serves lawful professional purposes or is required by law.
- Standard 2.2.** The educator shall not harm others by knowingly making false statements about a colleague or the school system.
- Standard 2.3.** The educator shall adhere to written local school board policies and state and federal laws regarding the hiring, evaluation, and dismissal of personnel.
- Standard 2.4.** The educator shall not interfere with a colleague's exercise of political, professional, or citizenship rights and responsibilities.
- Standard 2.5.** The educator shall not discriminate against or coerce a colleague on the basis of race, color, religion, national origin, age, sex, disability, or family status.
- Standard 2.6.** The educator shall not use coercive means or promise of special treatment in order to influence professional decisions or colleagues.
- Standard 2.7.** The educator shall not retaliate against any individual who has filed a complaint with the SBEC under this chapter.

## **3. Ethical Conduct Toward Students.**

- Standard 3.1.** The educator shall not reveal confidential information concerning students unless disclosure serves lawful professional purposes or is required by law.
- Standard 3.2.** The educator shall not knowingly treat a student in a manner that adversely affects the student's learning, physical health, mental health, or safety.
- Standard 3.3.** The educator shall not deliberately or knowingly misrepresent facts regarding a student.

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

**Standard 3.5.** The educator shall not engage in physical mistreatment of a student.

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

**Standard 3.7.** The educator shall not furnish alcohol or illegal/unauthorized drugs to any student or knowingly allow any student to consume alcohol or illegal/unauthorized drugs in the presence of the educator.

## **Discrimination, Harassment, and Retaliation**

*Policies DH, DIA*

Employees shall not engage in prohibited harassment, including sexual harassment, of other employees, unpaid interns, student teachers, or students. While acting in the course of their employment, employees shall not engage in prohibited harassment of other persons, including board members, vendors, contractors, volunteers, or parents. A substantiated charge of harassment will result in disciplinary action.

Individuals who believe they have been discriminated or retaliated against or harassed are encouraged to promptly report such incidents to the campus principal, supervisor, or appropriate district official. If the campus principal, supervisor, or district official is the subject of a complaint, the complaint should be made directly to the superintendent. A complaint against the superintendent may be made directly to the board.

The district's policy that includes definitions and procedures for reporting and investigating discrimination, harassment, and retaliation (*See pages 146-152, 163-168*)

## **Harassment of Students**

*Policies DH, DHB, FFG, FFH*

Sexual and other harassment of students by employees are forms of discrimination and are prohibited by law. Romantic or inappropriate social relationships between students and district employees are prohibited. Employees who suspect a student may have experienced prohibited harassment are obligated to report their concerns to the campus principal or other appropriate district official. All allegations of prohibited harassment or abuse of a student will be reported to the student's parents and promptly investigated. An employee who knows of or suspects child abuse must also report his or her knowledge or suspicion to the appropriate authorities, as required by law. (*See Reporting suspected child abuse, page 55 for additional information.*)

The district's policy that includes definitions and procedures for reporting and investigating harassment of students (*See pages 108-111, 144-147, 175-182, 183-189, 191-202*)

Any person who has cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report as required by law. Any professional who has cause to believe that a child has been or may be abused or neglected shall make a report as required by law. The report must be made within 48 hours after the professional first suspects abuse or neglect. A professional may NOT delegate to or rely on another person to make the report. Employees with questions or concerns relating to the alleged sexual harassment of a student may contact the Title IX Coordinators Deborah Garza or Lazaro Ramirez at 323-5641.

## **Alcohol and Drug-Abuse Prevention**

*Policies DH, DI*

Mission CISD is committed to maintaining an alcohol and drug-free environment and will not tolerate the use of alcohol and illegal drugs in the workplace and at school-related or school-sanctioned activities on or off school property. Employees who use or are under the influence of alcohol or illegal drugs as defined by the Texas Controlled Substances Act during working hours may be dismissed. The District's policy regarding employee drug use follows:

## Dietary supplements

*Policies DH, FFAC*

District employees are prohibited by state law from knowingly selling, marketing, or distributing a dietary supplement that contains performance-enhancing compounds to a student with whom the employee has contact as part of his or her school district duties. In addition, employees may not knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a performance-enhancing dietary supplement to any student.

## Reporting Suspected Child Abuse

*Policies DG, DH, DHB, FFG, GRA*

All employees are required by state law to report any suspected child abuse or neglect to a law enforcement agency, Child Protective Services, or appropriate state agency (e.g.: state agency operating, licensing, certifying, or registering a facility) within 48 hours of the event that led to the suspicion. Abuse is defined by Texas Family Code and also includes any sexual conduct involving an educator and a student or minor. Reports to Child Protective Services can be made to the Texas Abuse Hotline (800)-252-5400, or on the web at <https://www.txabusehotline.org>. State law specifies that an employee may not delegate to or rely on another person to make the report.

Under state law, any person reporting or assisting in the investigation of reported child abuse or neglect is immune from liability unless the report is made in bad faith or with malicious intent. In addition, the district is prohibited from retaliating against an employee who, in good faith, reports child abuse or neglect or who participates in an investigation regarding an allegation of child abuse or neglect.

An employee's failure to report suspected child abuse may result in prosecution as a Class A misdemeanor. In addition, a certified employee's failure to report suspected child abuse may result in disciplinary procedures by SBEC for a violation of the Code of Ethics and Standard Practices for Texas Educators.

Employees who suspect that a student has been or may be abused or neglected should also report their concerns to the campus principal. This includes students with disabilities who are no longer minors. Employees are not required to report their concern to the principal before making a report to the appropriate agencies. In addition, employees must cooperate with child abuse and neglect investigators. Reporting the concern to the principal or nurse does not relieve the employee of the requirement to report to the appropriate state agency. Interference with a child abuse investigation by denying an interviewer's request to interview a student at school or requiring the presence of a parent or school administrator against the desires of the duly authorized investigator is prohibited. *Refer to page 55 to obtain a copy of the Alleged Child Abuse or Neglect Reporting Form to assist in documenting notification.*

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

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.

State law specifically prohibits school officials from:

- Denying and 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.

## Child Sexual Abuse

The district has established a plan for addressing child sexual abuse, which may be accessed at [www.mcisd.net](http://www.mcisd.net). As an employee, it is important for you to be aware of warning signs that could indicate a child may have been or is being sexually abused. Sexual abuse in the Texas Family Code is defined as any sexual conduct harmful to a child's mental, emotional, or physical welfare as well as a failure to make a reasonable effort to prevent sexual conduct with a child. 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).

Employees are required to follow the procedures described above in *Reporting Suspected Child Abuse*.

## Reporting Crime

### *Policy DG*

The Texas Whistleblower Act protects district employees who make good faith reports of violations of law by the district to an appropriate law enforcement authority. The district is prohibited from suspending, terminating the employment of, or taking other adverse personnel action against, an employee who makes a report under the Act. State law also provides employees with the right to report a crime witnessed at the school to any peace officer with authority to investigate the crime.

## Fraud and Financial Impropriety

### *Policy CAA*

All employees should act with integrity and diligence in duties involving the district's financial resources. The district prohibits fraud and financial impropriety, as defined below. Fraud and financial impropriety includes the following:

- Forgery or unauthorized alteration of any document or account belonging to the district
- Forgery or unauthorized alteration of a check, bank draft, or any other financial document
- Misappropriation of funds, securities, supplies, or other district assets, including employee time
- Impropriety in the handling of money or reporting of district financial transactions
- Profiteering as a result of insider knowledge of district information or activities
- Unauthorized disclosure of confidential or propriety information to outside parties
- Unauthorized disclosure of investment activities engaged in or contemplated by the district
- Accepting or seeking anything of material value from contractors, vendors, or other person providing services or materials to the district, except as otherwise permitted by law or district policy
- Destroying, removing, or inappropriately using records, furniture, fixtures, or equipment
- Failing to provide financial records required by federal, state or local entities
- Failure to disclose conflicts of interest as required by law or district policy
- Any other dishonest act regarding the finances of the district
- Failure to comply with requirements imposed by law, the awarding agency, or a pass-through entity for state and federal awards

## Conflict of Interest

### *Policy DBD*

Employees are required to disclose to their supervisor any situation that creates a potential conflict of interest with proper discharge of assigned duties and responsibilities or creates a potential conflict of interest with the best interests of the district. This includes the following:

- A personal financial interest
- A business interest
- Any other obligation or relationship
- Nonschool employment

## Gifts and Favors

### *Policy DBD*

Employees may not accept gifts or favors that could influence, or be construed to influence, the employee's discharge of assigned duties. The acceptance of a gift, favor, or service by an administrator or teacher that might reasonably tend to influence the selection of textbooks, may result in prosecution of a Class B misdemeanor offense. This does not include staff development, teacher training, or instructional materials, such as maps or worksheets, that convey information to students or contribute to the learning process.

## Associations and Political Activities

### *Policy DGA*

The District will not directly or indirectly discourage employees from participating in political affairs or require any employee to join any group, club, committee, organization, or association. Employees may join or refuse to join any professional association or organization.

An individual's employment will not be affected by membership or a decision not to be a member of any employee organization that exists for the purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work. Use of district resources, including work time, for political purposes is prohibited.

## **Safety**

### *Policy CK*

The District has developed and promotes a comprehensive program to ensure the safety of its employees, students, and visitors. The safety program includes guidelines and procedures for responding to emergencies and activities to help reduce the frequency of accidents and injuries. To prevent or minimize injuries to employees, coworkers, and students, and to protect and conserve district equipment, employees must comply with the following requirement:

- Observe all safety rules.
- Keep work areas clean and orderly at all times.
- Immediately report all accidents to their supervisor.
- Operate only equipment or machines for which they have training and authorization.

Employees with questions or concerns relating to safety programs and issues can contact Risk Management Department at 323-5545. (See pages 60-62 for *School Safety Procedures*)

## **Tobacco Products and E-Cigarette Use**

### *Policies DH, FNCD, GKA*

State law prohibits smoking, using tobacco products, or e-cigarettes on all district-owned property and at school-related or school-sanctioned activities, on or off school property. This includes all buildings, playground areas, parking facilities, and facilities used for athletics and other activities. Drivers of district-owned vehicles are prohibited from smoking, using tobacco products, or e-cigarettes while inside the vehicle. Notices stating that smoking is prohibited by law and punishable by a fine are displayed in prominent places in all school buildings.

## **Criminal history background checks**

### *Policy DBAA*

Employees may be subject to a review of their criminal history record information at any time during employment. National criminal history checks based on an individual's fingerprints, photo, and other identification will be conducted on certain employees and entered into the Texas Department of Public Safety (DPS) Clearinghouse. This database provides the district and SBEC with access to an employee's current national criminal history and updates to the employee's subsequent criminal history.

## **Employee arrests and convictions**

### *Policy DH*

An employee must notify his or her principal or immediate supervisor within two calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of any felony, any offense involving moral turpitude, and any of the other offenses listed below:

- Crimes involving school property or funds
- Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator
- Crimes that occur wholly or in part of school property or at a school-sponsored activity
- Crimes involving moral turpitude

Moral turpitude includes the following:

- Dishonesty
- Fraud
- Deceit
- Theft
- Misrepresentation
- Deliberate violence
- Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor
- Drug or alcohol-related offenses
- Acts constituting abuse or neglect under the Texas Family Code

## Possession of Firearms and Weapons

*Policies FNCG, GKA*

Employees, visitors, and students are prohibited from bringing firearms, knives, clubs, or other prohibited weapons onto school premises (i.e. building or portion of a building) or any grounds or building where a school-sponsored activity takes place. To ensure the safety of all persons, employees who observe or suspect a violation of the District's weapons policy must report it to their supervisors or call Mr. Jesse Trevino, Coordinator for Student Services at 323-5578, immediately.

## Visitors in the Workplace

*Policy GKA*

**ALL VISITORS** must enter any District facility through the main entrance and sign in or report to the building's main office. Authorized visitors will receive directions or be escorted to their destination. Employees who observe an unauthorized individual on the District premises should immediately direct him or her to the building office or contact the administrator in charge.

## Employee ID Badges

Each full-time employee shall be provided an ID badge indicating their name, title and campus/department following the employment process. The ID badge must be worn at all times while on MCISD premises. The use of the ID badge by any other person is prohibited. ID badges must be surrendered to the immediate supervisor upon termination of employment.

## District – Issued Uniforms & Safety Equipment

Certain staff are provided district-issued uniforms. These employees shall be required to wear the uniform while on duty. Personal use of district-issued uniforms may result a tax liability accruing to the employee; therefore, employees are prohibited from wearing district-issued uniforms when off duty except for commuting to and from work. Uniforms shall include work shirts, pants, shoes, glasses, and/or any other item/protective item of clothing, or logged clothing sponsored by the District.

## Copyrighted Materials

*Policy EFE*

Employees are expected to comply with the provisions of federal copyright laws relating to the unauthorized use, reproduction, distribution, performance, or display of copyrighted materials (i.e., printed material, videos, computer data and programs, etc.). Rented video tapes are to be used in the classroom for educational purposes only. Duplication or backup of computer programs and data must be made within the provisions of the purchase agreement.

## Computer Use and Data Management

*Policy CQ*

The district's electronic communications systems, including its network access to the Internet, is primarily for administrative and instructional purposes only.

Limited personal use of the system is permitted if the use:

- Imposes no tangible cost to the district
- Does not unduly burden the district's computer or network resources
- Has no adverse effect on job performance or on a student's academic performance

Electronic mail transmissions and other use of the electronic communications systems are not confidential and can be monitored at any time to ensure appropriate use.

Employees who are authorized to use the systems are required to abide by the provisions of the District's communications systems policy and administrative procedures. Failure to do so can result in suspension or termination of privileges and may lead to disciplinary action. Employees with questions about computer use and data management can contact Mr. Noe Peña, Administrator for Technology Systems at 323-5300.

# Personal Use of Electronic Media

## Policy DH

Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), wikis, electronic forums (chat rooms), video-sharing websites (e.g., YouTube), editorial comments posted on the Internet, and social network sites (e.g., Facebook, Twitter, LinkedIn, Instagram). Electronic media also includes all forms of telecommunication such as landlines, cell phones, and web-based applications.

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 electronic media as they are for any other public conduct. If an employee's use of electronic 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. 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.

An employee who uses electronic media for personal purposes shall observe the following:

- The employee may not set up or update the employee's personal social network page(s) using the district's computers, network, or equipment.
- The employee shall limit use of personal electronic communication devices to send or receive calls, text messages, pictures, and videos to breaks, meal times, and before and after scheduled work hours, unless there is an emergency or the use is authorized by a supervisor to conduct district business.
- The employee shall not use the district's logo or other copyrighted material of the district without express, written consent.
- An employee may not share or post, in any format, information, videos, or pictures obtained while on duty or on district business unless the employee first obtains written approval from the employee's immediate supervisor. Employees should be cognizant that they have access to information and images that, if transmitted to the public, could violate privacy concerns.
- The employee continues to be subject to applicable state and federal laws, local policies, administrative regulations, and the Texas Educators' Code of Ethics, 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:
  - Confidentiality of student records. [See Policy FL]
  - Confidentiality of health or personnel information concerning colleagues, unless disclosure serves lawful professional purposes or is required by law. [See Policy DH (EXHIBIT)]
  - Confidentiality of district records, including educator evaluations and private e-mail addresses. [See Policy GBA]
  - Copyright law [See Policy CY]
  - Prohibition against harming others by knowingly making false statements about a colleague or the school system. [See Policy DH (EXHIBIT)]

See *Use of Electronic Media with Students*, below, for regulations on employee communication with students through electronic media.

# Use of Electronic Media with Students

## Policy DH

A certified or licensed employee, or any other employee designated in writing by the superintendent or a campus principal, may communicate through electronic media with students who are currently enrolled in the district. The employee must comply with the provisions outlined below. All other employees are prohibited from communicating with students who are enrolled in the district through electronic media.

An employee is not subject to these provisions to the extent the employee has a social or family relationship with a student. For example, an employee may have a relationship with a niece or nephew, a student who is the child of an adult friend, a student who is a friend of the employee's child, or a member or participant in the same civic, social, recreational, or religious organization. An employee who claims an exception based on a social relationship shall provide written consent from the student's parent. The written consent shall include an acknowledgement by the parent that:

- The employee has provided the parent with a copy of this protocol
- The employee and the student have a social relationship outside of school;
- The parent understands that the employee's communications with the student are excepted from district regulation; and

- The parent is solely responsible for monitoring electronic communications between the employee and the student.

The following definitions apply for the use of electronic media with students:

- *Electronic media* includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), Web logs (blogs), wikis, electronic forums (chat rooms), video-sharing websites (e.g., YouTube), editorial comments posted on the Internet, and social network sites (e.g., Facebook, Twitter, LinkedIn, Instagram). *Electronic media* also includes all forms of telecommunication such as landlines, cell phones, and web-based applications.
- *Communicate* means to convey information and includes a one-way communication as well as a dialogue between two or more people. A public communication by an employee that is not targeted at students (e.g., a posting on the employee's personal social network page or a blog) is not a *communication*; however, the employee may be subject to district regulations on personal electronic communications. See *Personal Use of Electronic Media*, above. Unsolicited contact from a student through electronic means is not a *communication*.
- *Certified or licensed employee* means a person employed in a position requiring SBEC certification or a professional license, and whose job duties may require the employee to communicate electronically with students. The term includes classroom teachers, counselors, principals, librarians, paraprofessionals, nurses, educational diagnosticians, licensed therapists, and athletic trainers.

An employee who uses electronic media to communicate with students shall observe the following:

- The employee may use any form of electronic media **except** text messaging. Only a teacher, trainer, or other employee who has an extracurricular duty may use text messaging, and then only to communicate with students who participate in the extracurricular activity over which the employee has responsibility. An employee who communicates with a student using text messaging shall comply with the following protocol:
  - The employee shall include at least one of the student's parents or guardians as a recipient on each text message to the student so that the student and parent receive the same message;
  - The employee shall include his or her immediate supervisor as a recipient on each text message to the student so that the student and supervisor receive the same message; or
  - For each text message addressed to one or more students, the employee shall send a copy of the text message to the employee's district e-mail address.
- The employee shall 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).
- The employee is prohibited from knowingly communicating with students through a personal social network page; the employee must create a separate social network page ("professional page") for the purpose of communicating with students. The employee must enable administration and parents to access the employee's professional page.
- The employee shall not communicate directly with any student between the hours of 9:00 p.m. and 7:00 a.m. An employee may, however, make public posts to a social network site, blog, or similar application at any time.
- 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 Texas Educators' Code of Ethics including:
  - Compliance with the Public Information Act and the Family Educational Rights and Privacy Act (FERPA), including retention and confidentiality of student records. [See Policies CPC and FL]
  - Copyright law [Policy CY]
  - Prohibitions against soliciting or engaging in sexual conduct or a romantic relationship with a student. [See Policy DHB]
- Upon request from administration, an employee will provide the phone number(s), social network site(s), or other information regarding the method(s) of electronic media the employee uses to communicate with one or more currently-enrolled students.
- Upon written request from a parent or student, the employee shall discontinue communicating with the student through e-mail, text messaging, instant messaging, or any other form of one-to-one communication.

An employee may request an exception from one or more of the limitations above by submitting a written request to his or her immediate supervisor.

## Asbestos Management Plan

*Policy CKA*

The District is committed to providing a safe environment for employees. An accredited management planner has developed an asbestos management plan for each school. A copy of the district's management plan is kept in the business office and is available for inspection during normal business hours.

## Pest Control Treatment

*Policies DI, CLB*

Employees are prohibited from applying any pesticide or herbicide without appropriate training and prior approval of the integrated pest management (IPM) coordinator. Any application of pesticide or herbicide must be done in a manner prescribed by law and the district's integrated pest management program.

Notices of planned pest control treatment will be posted in a school building or other school facility 48 hours before the treatment begins. Notices are generally located at a central bulletin board. Pest control information sheets are available from campus principals or facility managers upon request.

## Work-Related Injuries

Employees who experience a work-related injury or illness must report the incident to their supervisor or principal immediately. An accident report form should be completed and filed with the Risk Management Office at 323-5545. Accident report forms are available from building principals, supervisors, district website and the Risk Management Office.

## General Procedures

### Bad Weather Closing

The District may close schools for a full day or part of a day because of bad weather or emergency conditions. When such conditions exist, the superintendent will make the official decision concerning the closing of the District's facilities. When it becomes necessary to open late or to release students early, the following radio and television stations will be notified by school officials: (*See pages 60-62 for School Safety Procedures*)

KGBT-TV (Channel 4)	KGBT (AM 1530)	KQXX
KRGV-TV (Channel 5)	KIWW (FM 96.5)	KIRT
KNVO-TV (Channel 48)	KKPS (FM 99.5)	KTEX
Cable Channel 135.17		KBFM

The District also uses an automated notification system which can send messages to employees and parents via phone calls, email and text messages. Official district social media accounts will also be used.

## Emergencies

*Policies CKC, CKD*

All employees should be familiar with the safety procedures for responding to a medical emergency and the evacuation diagrams posted in their work areas. Emergency drills will be conducted to familiarize employees and students with safety evacuation procedures. Each campus is equipped with an automatic external defibrillator. Fire extinguishers are located throughout all District buildings. Employees should know the location of other devices and procedures for their use. (*See pages 60-62 for School Safety Procedures*)

## Purchasing Procedures

*Policy CH*

All requests for purchases must be submitted using the online requisition system with the appropriate approvals. No purchases, charges, or commitments to buy goods or services for the District can be made without an Official District Purchase Order. The District will not reimburse employees or assume responsibility for purchases made without authorization. Employees are not permitted to purchase supplies or equipment for personal use through the District's business office. Contact Roosevelt Rios, Purchasing Coordinator at 323-5524 for additional information on purchasing procedures.

## Name and Address Changes

It is important that employment records be kept up to date. Employees should notify the Payroll Office if there are any changes or corrections to their name, home address, contact telephone number, marital status, emergency contact, or beneficiary. Forms to process a change in personal information can be obtained from the Payroll office.

## **Personnel records**

*Policy GBA*

Most district records, including personnel records, are public information and must be released upon request. A limited amount of personal information may be withheld. Employees may choose to have the following personal information withheld:

- Address
- Phone number
- Social Security number
- Information that reveals whether they have family members

The choice to not allow public access to this information may be done at any time by submitting a written request to Human Resources. New or terminating employees have 14 days after hire or termination to submit a request. Otherwise, personal information will be released to the public.

## **Building use**

*Policies DGA, GKD*

Designated District facilities shall be available for use by nonprofit community service and education groups. Requests for use shall be directed to the Superintendent or designee. Requests shall be denied if the time and place of requested use would interfere with instruction or other scheduled school activities. Approval shall not be granted for any purpose that would damage school property, to groups that are known to have damaged other rented property, or to any commercial group for profit. Fees for use shall be assessed in accordance with the fee schedule approved by the Board.

# Termination of Employment

## Resignations

*Policy DFE*

**Contract Employees.** Contract employees may resign their position without penalty at the end of any school year if written notice is received 45 days before the first day of instruction of the following school year. A written notice of resignation should be submitted to the Superintendent and a copy sent to the Human Resources Office. (See page 59 for *Notice of Separation from Employment Form*). Contract employees may resign at any other time only with the approval of the Superintendent. Resignation without the consent of the Superintendent may result in disciplinary action by the State Board for Educator Certification (SBEC).

The superintendent will notify the State Board for Educator Certification when an employee resigns and reasonable evidence exists to indicate that the employee has engaged in any of the acts listed in the Report to the State Board for Educator Certification.

**Non-contract Employees.** Non-contract employees may resign their positions at any time. A written notice of resignation should be submitted to employee's supervisor at least two weeks prior to the effective date (See page 59 *Notice of Separation from Employment Form*). Employees must include the reasons for leaving in the letter of resignation.

## Dismissal or Nonrenewal of Contract Employees

*Policies DFAA, DFAB, DFBA, DFBB, DFCA, DFD, DFF*

Employees on probationary or term contracts can be dismissed during the school year according to the procedures outlined in District policies. Employees on probationary or term contracts can be non-renewed at the end of the contract term. Contract employees dismissed during the school year, suspended without pay, or subject to a reduction in force are entitled to receive notice of the recommended action, an explanation of the charges against them, and an opportunity for a hearing. The timelines and procedures to be followed when a suspension, termination, or non-renewal occurs will be provided when a written notice is given to an employee. Advance notification requirements do not apply when a contract employee is dismissed for failing to obtain or maintain appropriate certification or whose certification is revoked for misconduct. Information on the timelines and procedures can be found in the DF series policies that are provided to employees or are available online on the District website ([www.mcsd.net](http://www.mcsd.net)).

## Dismissal of Noncontract Employees

*Policy DCD*

Non-contract employees are employed at will and may be dismissed without notice, a description of the reasons for dismissal, or a hearing. It is unlawful for the district to dismiss any employee for reasons of race, color, religion, gender, national origin, age, disability, military status, genetic information any other basis protected by law, or in retaliation for the exercise of certain protected legal rights. Non-contract employees who are dismissed have the right to grieve the termination. To present a grievance, the employee must follow the District process outlined in this handbook (See *Complaints and grievances*, pages 39, 131-143 of this manual [DGBA(LOCAL)]).

## Exit Interviews and Procedures

*Policy DC*

Exit interviews will be scheduled for all employees leaving the district. Information on the continuation of benefits, release of information, and procedures for requesting references will be provided at this time. Separating employees are asked to provide the District with a forwarding address and phone number and complete the Exit Interview Form (See page 57 & 58) that provides the District with feedback on their employment experience.

All District keys, books, property, and equipment must be returned upon separation from employment to their immediate supervisor. Last payroll check will be held until all keys, property, books and equipment are returned.

## Reports to Texas Education Agency

*Policy DF, DHB*

The dismissal of a certified employee must be reported to the Division of Investigations at TEA whenever the termination is based on evidence that the employee was involved in any of the following:

- Any form of sexual or physical abuse of a minor or any other unlawful conduct with a student or a minor
- Soliciting or engaging in sexual contact or a romantic relationship with a student or minor
- The possession, transfer, sale, or distribution of a controlled substance
- The illegal transfer, appropriation, or expenditure of district or school property or funds
- An attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit for the purpose of promotion or additional compensation
- Committing a criminal offense or any part of a criminal offense on district property or at a school-sponsored event

The superintendent is also required to notify TEA when a certified employee resigns and there is evidence the educator engaged in the conduct listed above.

The reporting requirements above are in addition to the superintendent's ongoing duty to notify TEA when a certified employee has a reported criminal history. "Reported criminal history" means any formal criminal justice system charges and dispositions including arrests, detentions, indictments, criminal information, convictions, deferred adjudications, and probations in any state or federal jurisdiction that is obtained by a means other than the Fingerprint-based Applicant Clearinghouse of Texas (FACT).

## Reports Concerning Court-Ordered Withholding

The district is required to report the termination of employees that are under court order or writ of withholding for child support or spousal maintenance to the court and the individual receiving the support (Texas Family Code §§8.210, 158.211). Notice of the following must be sent to the court and support recipient:

- Termination of employment not later than the seventh day after the date of termination
- Employee's last known address
- Name and address of the employee's new employer, if known

## STUDENT ISSUES

### Equal education opportunities

*Policies FB, FFH*

The Mission CISD does not discriminate on the basis of race, color, religion, national origin, gender, or disability in providing education services, activities, and programs, including vocational programs, in accordance with Title VI of the Civil Rights Act of 1964, as amended; Title IX of the Educational Amendments of 1972; and Section 504 of the Rehabilitation Act of 1973, as amended.

Questions or concerns about discrimination students based on any of the reasons listed above should be directed to the Superintendent or the district's Title IX Coordinators.

### Student Records

*Policy FL*

Student records are confidential and are protected from unauthorized inspection or use. Employees should take precautions to maintain the confidentiality of all student records. The following people are the only people who have general access to a student's records:

- Parents: Married, separated, or divorced unless parental rights have been legally terminated and the school has been given a copy of the court order terminating parental rights
- The student (if 18 or older or emancipated by the court)
- School officials with legitimate educational interests

The student handbook provides parents and students with detailed information on student records. Parents or students who want to review student records should be directed to the campus principal for assistance.

### Parent and Student Complaints

*Policy FNG*

In an effort to hear and resolve parent and student complaints in a timely manner and at the lowest administrative level possible, the board has adopted orderly processes for handling complaints on different issues. Any campus office or the superintendent's office can provide parents and students with information on filing a complaint.

Parents are encouraged to discuss problems or complaints with the teachers or the appropriate administrator at any time. Parents and students with complaints that cannot be resolved should be directed to the campus principal. The formal complaint process provides parents and students with an opportunity to be heard up to the highest level of management if they are dissatisfied with a principal's response. Once all administrative complaint procedures are exhausted, parents and students can bring complaints to the board of trustees.

## **Administering Medication to Students**

*Policy FFAC*

Only designated employees can administer medication to students. A student who must take any over the counter or prescribed medication during the school day must bring a written request from his or her parent and the medicine, in its original, properly labeled container. Contact the principal or school nurse for more information on procedures that must be followed when administering medication to students.

## **Psychotropic Drugs**

*Policy FFAC*

A psychotropic drug is a substance used in the diagnosis, treatment, or prevention of a disease or as a component of a medication. It is intended to have an altering effect on perception, emotion, or behavior and is commonly described as a mood or behavior-altering substance.

District employees are prohibited by state law from doing the following:

- Recommending that a student use a psychotropic drug
- Suggesting a particular diagnosis
- Excluding from class or school-related activity a student whose parent refuses to consent to a psychiatric evaluation or to authorized the administration of a psychotropic drug to a student

## **Student Conduct and Discipline**

*Policies in the FN series and FO series*

Students are expected to follow the classroom rules, campus rules, and rules listed in the Student Code of Conduct and Student Handbook. Teachers and administrators are responsible for taking disciplinary action based on a range of discipline management strategies that have been adopted by the district. Other employees that have concerns about a particular student's conduct should contact the classroom teacher or campus principal.

Teachers must file a written report with the principal or another appropriate administrator when they have knowledge that a student has violated the Student Code of Conduct.

## **Student Attendance**

*Policy FEB*

Teachers and staff should be familiar with the district's policies and procedures for attendance accounting. These procedures require students to have parental consent before they are allowed to leave campus. When absent from school, the student, upon returning to school must bring a note signed by the parent that describes the reason for the absence. These requirements are addressed in campus training and in the student handbook. Contact the campus principal for additional information.

## **Hazing**

*Policy FNCC*

Students must have prior approval from the principal or designee for any type of "initiation rites" of a school club or organization. While most initiation rites are permissible, engaging in or permitting "hazing" is a criminal offense. Any teacher, administrator, or employee who observes a student engaged in any form of hazing, who has reason to know or suspect that a student intends to engage in hazing, or has engaged in hazing must report that fact or suspicion to the designated campus administrator.

## **Bullying**

*Policy FFI*

All employees are required to report student complaints of bullying to the campus principal or designee.

## **Procedures for Reporting Allegations of Bullying**

The district prohibits bullying on school property, at school-sponsored or school-related activities, or in any vehicle operated by the district. Bullying may be verbal or written expression or expression through electronic means, or physical conduct. Bullying is not tolerated by the district and any student or parent of a student who believes that the student or another student has experienced bullying or that a student has engaged in bullying is encouraged to immediately report the incident to a teacher, counselor, principal, or other district professional employee. Retaliation against anyone involved in the complaint process is a violation of district policy and is prohibited.

Students or parents may report an alleged incident of bullying, orally or in writing, to a teacher, counselor, principal or other district employee. Students or parents may contact the district to obtain a report form that may be used to submit the complaint. This form will be available at the front office of all district schools, the central administrative office building and online through the district website. The online forms will be found under departments-student services-forms.

Please note that after submission of the complaint to the district employee, the district may assign the complaint to a campus administrator to follow up on the submitted complaint and any other important matters pertaining to the complaint. We encourage you to communicate with your designated campus administrator during this time.

More information about the district's bullying policy can be found at [http://pol.tasb.org/Policy/Download/639?filename=FFI\(LOCAL\).pdf](http://pol.tasb.org/Policy/Download/639?filename=FFI(LOCAL).pdf) or the campus administration office.

## **APPENDIX I**

### *Mission Consolidated Independent School District Sexual Harassment Policies Student Welfare: Child Abuse And Neglect Policies Employee Standards of Conduct Policies*

The following is a recommended list of employment policies, including (legal) and (Local) policies and exhibits, to be distributed:

- DAA Legal – Equal employment opportunity p.63-70
- DBAA Legal – Criminal history and credit reports p.71
- DBD Legal, DBD Local– Conflict of Interest p.72-77
- DEA Legal, DEA Local – Salaries and wages p.78-86
- DEAA Legal – Stipends and incentives p.86-90
- DEAB Legal – Compensation and Benefits Salaries and Wages p.91-95
- DEC Legal, DEC Local – Leaves and Absences p.96-107
- DF Legal – Termination of Employment p.108-111
- DFAC Legal – Return to probationary status p.112
- DFD Legal, DFD Local – Hearings before hearing examiner p.113-118
- DFE Legal, DFE Local – Termination of Employment p.119-121
- DFF Legal – Reduction in Force p.122-123
- DG Legal – Employee Rights and Privileges p.124-129
- DGB Legal – Employee Rights and Privileges p.130
- DGBA Legal, DGBA Local – MCISD Employee Welfare: Freedom from Harassment (Employee Complaints & Grievances) p.131-143
- DH Local – MCISD Employee Standards of Conduct p.144-147
- DH Exhibit – MCISD Employees Standards of Conduct p.148-150
- DHE Legal, DHE Local – Searches and Drug/Alcohol Testing p.151-157
- DI Legal, DI Local – Employee welfare p.158-160
- DI Exhibit – MCISD Employee Standards of Conduct (Drug Free Workplace Requirements) p.161
- DIA Legal, DIA Local – MCISD Employee Welfare: Freedom from Harassment (Discrimination, Harassment, and Retaliation) p.162-167
- DK Legal, DK Local – Assignments and schedules p.168-174
- FFG Legal, FFG Exhibit – MCISD Student Welfare: Child Abuse & neglect p.175-182
- FFH Legal, FFH Local, FNG Legal, FNG Local – MCISD Student Welfare: Freedom from Harassment and retaliation p.183-189, 191-202
- FNC Legal, FNC Local – MCISD Employee Welfare: Freedom from Harassment (Student Rights & Responsibilities) p.190
- FNG Legal, FNG Local – MCISD Student Welfare: Freedom from Harassment p.191-202
- GRA Legal, GRA Local – MCISD Student Welfare: Child Abuse & neglect p.203-206

### **DOCUMENTS:**

ALLEGED CHILD ABUSE OR NEGLECT REPORTING FORM p.55  
PROTOCOL FOR AUTOMATED EXTERNAL DEFRIBILLATORS (AED) p.56  
EXIT INTERVIEW FORM p.57-58  
NOTICE OF SEPARATION FROM WORK FORM p.59  
MCISD SCHOOL SAFETY PROCEDURES p.60-62

# CONFIDENTIAL

## MISSION CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

### ALLEGED CHILD ABUSE OR NEGLECT REPORTING FORM (Form A)

Deliver to the Assistant Superintendent for Human Resources and Student Services located at the Administration Offices, 1201 Bryce Drive OR fax to 323-5567 within 2 days of contacting CPS. .

~~~~~  
Texas Department of Family and Protective Services (CPS)

Telephone Number: 1-800-252-5400

Website: <https://www.txabusehotline.org>

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

Name of intake worker: \_\_\_\_\_

Report Number: \_\_\_\_\_

### Other required information:

Student's Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ School (full name) \_\_\_\_\_

Home Phone: \_\_\_\_\_ Alternate Phone: \_\_\_\_\_

Name of Parent or Guardian: \_\_\_\_\_

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

Describe basis for suspicion of child abuse; describe injuries, if any, and how injuries were allegedly sustained: \_\_\_\_\_  
\_\_\_\_\_

Please list others who were notified: \_\_\_\_\_  
\_\_\_\_\_

Name of Reporting Person: \_\_\_\_\_

### ~~~~~ To be filled out by the Mission CISD Investigator:

#### Initial Agency Disposition:

☐ \_\_\_\_\_ is investigating  
(Agency name)

☐ \_\_\_\_\_ will NOT be investigating  
(Agency name) Attach documentation

#### Final Agency Disposition:

☐ Criminal Charges Filed

☐ Criminal Charges Not Filed

☐ Citation Issued

☐ Unknown at time of report

# **Protocol for Automated External Defibrillators (AED)**

## *Purpose:*

Medtronic AED is used to assist in the care of sudden cardiac arrest victims

## **Location of AED's:**

### ***Primary unit at every campus will be located:***

1 AED mounted on wall directly outside nurse office or hall directly outside nurse office.

### ***In addition to the unit just outside of the nurses office, Secondary campuses also have additional units located in the following areas:***

MHS– Outside trainer's office

MHS– Field House

VMHS – Outside trainer's office

VMHS – Field House

MCCHS – Outside Nurse's office

MJH– Next to fire extinguisher in lobby of field house

KWJH – Gym – North East wall

AMJH - Gym – North East wall

RCJH - Gym - Southwest wall (next to fire extinguisher)

### ***Roosevelt Alternative & Options Academy:***

1 AED mounted on wall in main office of Roosevelt.

### ***Central office:***

1 AED mounted on wall outside Information Systems Department

### ***Maintenance Building:***

1 AED located on wall next to employee time clock

### ***Central Kitchen:***

1 AED located on wall next to employee time clock

### ***Transportation/Warehouse:***

1 AED located on wall next to employee time clock in the Transportation building.

## *Training Requirements:*

Any employee expected to provide emergency care to a patient of cardiac arrest will be trained in CPR and AED use by American Heart Association (AHA) or American Red Cross. All employees required to have CPR & AED Certification are to have their cards verified and kept on file by each respective campus nurse yearly.

**Health Services Department offers CPR and AED Certification classes throughout the school year.**

**Up-dated 07/22/15**

# MISSION CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

## EXIT INTERVIEW FORM

Name \_\_\_\_\_ Department/campus \_\_\_\_\_  
Social Security # \_\_\_\_\_ Dates employed \_\_\_\_\_  
Position \_\_\_\_\_ Effective date of release \_\_\_\_\_  
Forwarding Address \_\_\_\_\_  
Phone \_\_\_\_\_

### Check appropriate type of release:

- |                                      |                                              |                                             |
|--------------------------------------|----------------------------------------------|---------------------------------------------|
| <input type="checkbox"/> Dismissal   | <input type="checkbox"/> Non renewal         | <input type="checkbox"/> Reduction in force |
| <input type="checkbox"/> Resignation | <input type="checkbox"/> Extended disability | <input type="checkbox"/> Retirement         |
| _____ with notice                    | <input type="checkbox"/> Other: _____        |                                             |
| _____ without notice                 |                                              |                                             |

### Check all reasons for leaving *(to be completed for all voluntary resignations):*

- |                                               |                                                         |                                              |
|-----------------------------------------------|---------------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> Moving from district | <input type="checkbox"/> Family circumstances           | <input type="checkbox"/> Took a new position |
| <input type="checkbox"/> Returning to school  | <input type="checkbox"/> Dissatisfied with type of work |                                              |
| <input type="checkbox"/> Other: _____         |                                                         |                                              |

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### Payroll/Human Resources Checkout procedures *(where applicable, review and discuss the following items):*

- |                                                                                                                                                                                                                    |                                               |                                            |                                                |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|--------------------------------------------|------------------------------------------------|
| <input type="checkbox"/> Health insurance                                                                                                                                                                          | <input type="checkbox"/> Group life insurance | <input type="checkbox"/> District property | <input type="checkbox"/> Notification to court |
| <input type="checkbox"/> COBRA _____ decline _____ accept                                                                                                                                                          | _____ Keys _____ Equipment                    | and recipient of child                     |                                                |
| <input type="checkbox"/> Unemployment insurance                                                                                                                                                                    | _____ Books _____ Other                       | or spousal support                         |                                                |
| <input type="checkbox"/> Disability insurance                                                                                                                                                                      | Disposition of final check: _____             |                                            |                                                |
| <input type="checkbox"/> If termination is due to medical reasons, do you wish to file for<br>Federal Family and Medical Leave Act (FMLA) if you qualify? <input type="checkbox"/> Yes <input type="checkbox"/> No |                                               |                                            |                                                |
| <input type="checkbox"/> Authorization for release of employment information                                                                                                                                       |                                               |                                            |                                                |

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Interviewed by \_\_\_\_\_ Date \_\_\_\_\_

# EXIT INTERVIEW FORM

## Employee questionnaire *(to be completed by the employee):*

| Please rate your experience with the district | Excellent | Good | Fair | Poor | Comments |
|-----------------------------------------------|-----------|------|------|------|----------|
| Working relationship with your supervisor     |           |      |      |      |          |
| Cooperation within department                 |           |      |      |      |          |
| Cooperation with other departments            |           |      |      |      |          |
| Adequacy of orientation and training          |           |      |      |      |          |
| Workload                                      |           |      |      |      |          |
| Physical working conditions                   |           |      |      |      |          |
| Availability of materials and equipment       |           |      |      |      |          |
| Evaluation procedures                         |           |      |      |      |          |
| Recognition on the job                        |           |      |      |      |          |
| Employee benefits                             |           |      |      |      |          |
| Communication within the district             |           |      |      |      |          |
| Central administration support                |           |      |      |      |          |
| Community support for district                |           |      |      |      |          |
| Overall experience                            |           |      |      |      |          |
| Additional comments:                          |           |      |      |      |          |

What did you like about your experience as a district employee?

---

---

What did you dislike about your experience as a district employee?

---

---

Do you have any comments or suggestions to improve the district?

---

---

Would you recommend the district to other as a place to work?

☐ Yes      ☐ Yes, with reservations      ☐ No

Why? 

---

Employee signature 

---

 Date 

---

TO BE PLACED IN EMPLOYEE'S PERSONNEL FILE



# Mission Consolidated Independent School District

## Human Resources Department

1201 Bryce Drive, Mission, TX (956) 323-5641; Fax (956) 323-8169

### HR OFFICE USE ONLY:

School Year: \_\_\_\_\_

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

Reason Code: \_\_\_\_\_

SS# \_\_\_\_\_

Position: \_\_\_\_\_

DL# \_\_\_\_\_

## NOTICE OF SEPARATION FROM EMPLOYMENT

Please return this form to your campus principal or director prior to the date you are requesting separation from employment. Note: No faxes will be accepted, only original forms will be processed. To avoid delay in the processing of this request, all items must be completed. See Policy DC (Local) for more information on contracted employees requesting resignation.

|                |                   |
|----------------|-------------------|
| Employee Name  | Employee ID#      |
| Position Title | Campus/Department |
|                | Date of Request   |

|                                               |                                        |
|-----------------------------------------------|----------------------------------------|
| Forwarding Address (Street, City, State, Zip) | Eff. Date of Forwarding Address<br>/ / |
|-----------------------------------------------|----------------------------------------|

Effective Date of Resignation/Retirement \_\_\_\_/\_\_\_\_/\_\_\_\_

Check one: ☐ Resignation ☐ Retirement ☐ Termination ☐ Lapse in Service

I am presently on leave, and now wish to resign: \_\_\_\_ Yes \_\_\_\_ No

State reason for separation from employment: (During contract term documentation is required for justification)

|  |
|--|
|  |
|  |
|  |

I presently have child(ren) attending MCISD: \_\_\_\_ Yes \_\_\_\_ No

If yes, please indicate the names of the child(ren) and campus. –See Policy DEB (Local)

Name of Child(ren) Campus

|  |
|--|
|  |
|  |

### Employee Insurance Benefits

Separating employees are required to report to the Payroll Department on or before their last day of employment. Under certain circumstances employees may continue insurance benefits even after separation from employment.

I have read and understand the information stated above.

|                      |      |                              |      |
|----------------------|------|------------------------------|------|
| Employee's Signature | Date | Principal/Director Signature | Date |
|                      |      |                              |      |

Return to: Human Resources Department  
1201 Bryce Drive  
Mission, TX 78572

### THE BOTTOM PORTION OF THIS FORM IS FOR OFFICE USE ONLY

|                         |      |
|-------------------------|------|
| Administrative Approval | Date |
|                         |      |

|       |  |    |  |     |  |             |  |              |  |               |  |
|-------|--|----|--|-----|--|-------------|--|--------------|--|---------------|--|
| AESOP |  | FC |  | PMS |  | Emp. Maint. |  | Demographics |  | Days/<br>Fund |  |
|-------|--|----|--|-----|--|-------------|--|--------------|--|---------------|--|

# MISSION CISD SCHOOL SAFETY PROCEDURES

## Teachers/Staff



### FIRE/EVACUATION:

- Help students to calmly exit the building.
- Take rosters, check for any suspicious items as you exit.
- Make sure door is closed and, if possible, unlocked.
- Assemble at assigned evacuation location and initiate accountability.



### SHELTER-IN-PLACE:

- Close doors and windows.
- Turn off all fans and other ventilation.
- If chemical odor or effects seep into room, tape door gaps, place paper or towels along door sill.
- Wait for further direction.



### LOCKDOWN:

- Move students into nearest securable rooms or safe areas. If outside or unable to get into secure area, run from threat.
- Lock doors, close blinds, cover windows.
- Be prepared to run or fight.
- Once in a safe area do not leave until properly authorized to do so.



### SEVERE WEATHER:

- At first sign of bad weather or lightning come indoors.
- Seat students on the floor in the designated safe area.
- Demonstrate protective posture so they are ready to duck when told to do so.

# MISSION CISD SCHOOL SAFETY PROCEDURES

## Office/Library/Aides



### FIRE/EVACUATION:

- Close doors to your work area.
- If you have a radio or cell phone, take it with you.
- Help people exit the building.
- Assemble at the assigned evacuation point or report to command post for assignment.



### SHELTER-IN-PLACE:

- Close doors and windows in your work area. Turn off all fans and other ventilation in your assigned areas.
- Go to designated secure area.
- If chemical odor or effects seep into room, then tape door gaps, place paper or towels along door sill.
- Wait for further direction.



### LOCKDOWN:

- Help move students into nearest securable or safe area. If outside or unable to get into secure area, run from threat.
- Lock doors and, if time permits, cover windows or close blinds.
- Be prepared to run or fight.
- Once in a safe area do not leave until properly authorized to do so.



### SEVERE WEATHER:

- At first sign of bad weather or lightning come indoors.
- Move to the designated safe area, and be ready to assume a protective posture if conditions worsen.



Risk Management  
1201 Bryce Drive, Mission, TX 78572  
(956) 323-5545

# MISSION CISD SCHOOL SAFETY PROCEDURES

## Custodial/Cafeteria/Maintenance



### FIRE/EVACUATION:

- Close doors to your work area.
- If you have a radio or cell phone, take it with you.
- Help people exit the building.
- Assemble at the assigned evacuation point or report to command post for assignment.



### SHELTER-IN-PLACE:

- Close doors and windows in your work area. Turn off all fans and other ventilation in your assigned areas.
- Go to designated secure area.
- If chemical odor or effects seep into room, then tape door gaps, place paper or towels along door sill.
- Wait for further direction.



### LOCKDOWN:

- Help move students into nearest securable or safe area. If outside or unable to get into secure area, run from threat.
- Lock doors and, if time permits, cover windows or close blinds.
- Be prepared to run or fight.
- Once in a safe area do not leave until properly authorized to do so.



### SEVERE WEATHER:

- At first sign of bad weather or lightning come indoors.
- Move to the designated safe area, and be ready to assume a protective posture if conditions worsen.

# PROCEDIMIENTO DE SEGURIDAD ESCOLAR

## Custodial/Cafeteria/Maintenance



### INCENDIO/EVACUACIÓN:

- Cerrar las puertas en su área de trabajo.
- Si usted tiene un radio o un teléfono celular, llévelo con usted.
- Ayude a la gente salir del edificio.
- Reúnase en el lugar de la evacuación asignado o repórtese al puesto de comando para asignación.



### LUGAR-DE-REFUGIO:

- Cerrar las puertas y ventanas en su área de trabajo. Apagar todos los ventiladores y cualquier otra ventilación en sus áreas asignadas.
- Vaya al área segura señalada.
- Si el olor químico o los efectos filtra en el sitio, ponga cinta adhesiva en los boquetes de la puerta, colocar papel o toallas a lo largo del umbral de la puerta.
- Espere hasta recibir dirección adicional.



### CERRADO POR EMERGENCIA:

- Ayude a trasladar los estudiantes al área segura más cercana. Si están afuera o no pueden ir al área segura, corran del peligro.
- Ponga seguro a las puertas y, si el tiempo permite, cubra las ventanas o cierre las persianas.
- Este preparado para correr o luchar.
- Una vez en un área segura no se salga hasta autorizado correctamente para hacerlo.



### CLIMA SEVERO:

- En la primera señal del mal tiempo o de relámpagos venir adentro.
- Muévase al área segura señalada, y este listo para asumir una postura protectora si las condiciones empeoran.



Risk Management  
1201 Bryce Drive, Mission, TX 78572  
(956) 323-5545

**Drill & Exercise Documentation Tool**

|                                                                                                                                                                       |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------|--------------------------------------------------------------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------|-----------------------------------------------------------------------|
| Name of School ♦ Drill Report for the Month of _____                                                                                                                  |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| In accordance with District's Emergency Operations Plan and this campus' commitment to safety and security, this campus conducted a drill with the following results. |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Check all that apply:                                                                                                                                                 |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| <input type="checkbox"/> Fire/<br>Evacuation<br><i>(monthly)</i>                                                                                                      | <input type="checkbox"/> Lockdown<br><i>(1 per semester)</i> | <input type="checkbox"/> Severe<br>Weather/ Tornado<br><i>(1 per semester)</i> | <input type="checkbox"/> Reverse<br>Evacuation<br><i>(1 per semester)</i> | <input type="checkbox"/> Shelter-in-<br>Place<br><i>(1 per semester)</i> | <input type="checkbox"/> Actual<br>Event<br><i>(drill substitute)</i> |
| Date of Drill:                                                                                                                                                        |                                                              | Percent of Campus Involved:                                                    |                                                                           |                                                                          |                                                                       |
| Drill Start Time:                                                                                                                                                     |                                                              | Drill End Time:                                                                |                                                                           |                                                                          |                                                                       |
| During this drill we tested our ability to do the following:                                                                                                          |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
|                                                                                                                                                                       |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
|                                                                                                                                                                       |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| <i>(if an actual event, summarize what happened)</i>                                                                                                                  |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Was a Campus Command Post Established?                                                                                                                                |                                                              |                                                                                | <input type="checkbox"/> Yes                                              | <input type="checkbox"/> No                                              |                                                                       |
| If yes, where?/If no, why not:                                                                                                                                        |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Was the Incident Command System Used?                                                                                                                                 |                                                              |                                                                                | <input type="checkbox"/> Yes                                              | <input type="checkbox"/> No                                              |                                                                       |
| If yes, where?/If no, why not:                                                                                                                                        |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Were first responders or district police involved (including school based law enforcement)?                                                                           |                                                              |                                                                                | <input type="checkbox"/> Yes                                              | <input type="checkbox"/> No                                              |                                                                       |
| How long did drill and student/faculty accountability process take?                                                                                                   |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Were any special circumstances tested?                                                                                                                                |                                                              |                                                                                | <input type="checkbox"/> Yes                                              | <input type="checkbox"/> No                                              |                                                                       |
| If yes explain and/or indicate below:                                                                                                                                 |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| <input type="checkbox"/> Obstructed                                                                                                                                   |                                                              | <input type="checkbox"/> Unobstructed                                          | <input type="checkbox"/> Accountability                                   | <input type="checkbox"/> Other                                           |                                                                       |
| <b>Lessons Learned</b>                                                                                                                                                |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| What happened during the drill?                                                                                                                                       |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| What was supposed to happen?                                                                                                                                          |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Why were there differences?                                                                                                                                           |                                                              |                                                                                |                                                                           |                                                                          |                                                                       |
| Will this drill result in changes to plans, policies or procedures?                                                                                                   |                                                              | <input type="checkbox"/> Yes                                                   | <input type="checkbox"/> No                                               | Person who will ensure updates:                                          |                                                                       |
| Report Completed by:                                                                                                                                                  |                                                              |                                                                                |                                                                           | Date Submitted:                                                          |                                                                       |
| Do you have questions for District emergency management or other responders?                                                                                          |                                                              |                                                                                |                                                                           | <input type="checkbox"/> Yes                                             | <input type="checkbox"/> No                                           |

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

NONDISCRIMINATION  
— IN GENERAL

The District shall not fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment on the basis of any of the following protected characteristics:

1. Race, color, or national origin;
2. Sex;
3. Religion;
4. Age (applies to individuals who are 40 years of age or older);
5. Disability; or
6. Genetic information [see DAB].

*42 U.S.C. 1981; 42 U.S.C. 2000e et seq. (Title VII); 20 U.S.C. 1681 et seq. (Title IX); 42 U.S.C. 12111 et seq. (Americans with Disabilities Act); 29 U.S.C. 621 et seq. (Age Discrimination in Employment Act); 29 U.S.C. 793, 794 (Rehabilitation Act); 42 U.S.C. 2000ff et seq. (Genetic Information Nondiscrimination Act); U.S. Const. Amend. I; Human Resources Code 121.003(f); Labor Code Ch. 21 (Texas Commission on Human Rights Act); Labor Code Ch. 21, Subchapter H (genetic information)*

Title VII proscribes employment practices that are overtly discriminatory (disparate treatment), as well as those that are fair in form but discriminatory in practice (disparate impact). Wards Cove Packing Co. v. Atonio, 490 U.S. 642 (1989)

DISPARATE  
TREATMENT

Disparate treatment (intentional discrimination) occurs when members of a protected group have been denied the same employment, promotion, membership, or other employment opportunities as have been available to other employees or applicants. 29 C.F.R. 1607.11

DISPARATE IMPACT

Disparate impact occurs when an employer uses a particular employment practice that causes a disparate (disproportionate) impact on a protected group and the employer fails to demonstrate that the challenged practice is job-related and consistent with business necessity. 42 U.S.C. 2000e-2(k)(1)(A); Labor Code 21.115, .122

BANKRUPTCY  
DISCRIMINATION

The District may not deny employment to, terminate the employment of, or discriminate with respect to employment against, a person that is or has been a debtor under federal bankruptcy laws. The District may not discriminate against a person with whom a bankrupt or debtor has been associated, solely because the bankrupt or debtor is or has been a debtor under federal bankruptcy laws; was insolvent before the commencement of a bankruptcy case or during the case but before the debtor was granted or de-

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

|                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|-------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                         | nied a discharge; or has not paid a debt that is dischargeable in the bankruptcy case or that was discharged under the bankruptcy laws. <i>11 U.S.C. 525(a)</i>                                                                                                                                                                                                                                                                                                                                                                                                                         |
| JOB QUALIFICATION       | The District may take employment actions based on religion, sex, national origin, or age in those certain instances where religion, sex, national origin, or age is a bona fide occupational qualification. <i>42 U.S.C. 2000e-2(e); 29 U.S.C. 623(f); Labor Code 21.119</i>                                                                                                                                                                                                                                                                                                            |
| EMPLOYMENT POSTINGS     | The District shall not print or publish any notice or advertisement relating to District employment that indicates any preference, limitation, specification, or discrimination based on race, color, religion, sex, disability, or national origin, unless the characteristic is a bona fide occupational qualification. <i>42 U.S.C. 2000e-3(b); Labor Code 21.059</i>                                                                                                                                                                                                                |
| HARASSMENT OF EMPLOYEES | The District has an affirmative duty to maintain a working environment free of harassment on the basis of a protected characteristic. <i>42 U.S.C. 2000e et seq.; 29 C.F.R. 1606.8(a), 1604.11 [See DIA]</i>                                                                                                                                                                                                                                                                                                                                                                            |
| RETALIATION             | The District may not discriminate against any employee or applicant for employment because the employee or applicant has opposed any unlawful, discriminatory employment practices or participated in the investigation of any complaint related to an unlawful, discriminatory employment practice. <i>29 U.S.C. 623(d) (ADEA); 42 U.S.C. 2000e-3(a) (Title VII); 34 C.F.R. 100.7(e) (Title VI); 34 C.F.R. 110.34 (Age Act); 42 U.S.C. 12203 (ADA); <u>Jackson v. Birmingham Bd. of Educ.</u>, 544 U.S. 167 (2005) (Title IX); Labor Code 21.055 [See DIA]</i>                         |
| NOTICES                 | The District shall post in conspicuous places upon its premises a notice setting forth the information the Equal Employment Opportunity Commission deems appropriate to effectuate the purposes of the anti-discrimination laws. <i>29 U.S.C. 627; 42 U.S.C. 2000e-10</i>                                                                                                                                                                                                                                                                                                               |
| SECTION 504 NOTICE      | <p>A district that employs 15 or more persons shall take appropriate steps to notify applicants and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of disability.</p> <p>The notice shall state:</p> <ol style="list-style-type: none"><li>1. That the District does not discriminate in employment in its programs and activities; and</li><li>2. The identity of the District's 504 coordinator.</li></ol> <p>Methods of notification may include:</p> <ol style="list-style-type: none"><li>1. Posting of notices;</li></ol> |

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

2. Publication in newspapers and magazines;
3. Placing notices in District publications; and
4. Distributing memoranda or other written communications.

If the District publishes or uses recruitment materials containing general information that it makes available to applicants or employees, it shall include in those materials a statement of its non-discrimination policy.

*34 C.F.R. 104.8*

AGE DISCRIMINATION

The District may take an employment action on the basis of age pursuant to a bona fide seniority system or a bona fide employee benefit plan. However, a bona fide employee benefit plan shall not excuse the failure to hire any individual and no such benefit plan shall require or permit the involuntary retirement of any individual because of age. *29 U.S.C. 623(f); Labor Code 21.102*

SEX DISCRIMINATION

GENDER  
STEREOTYPES

The District may not evaluate employees by assuming or insisting that they match the stereotype associated with their group. *Price Waterhouse v. Hopkins*, 490 U.S. 228 (1989)

PREGNANCY

The prohibition against discrimination on the basis of sex includes discrimination on the basis of pregnancy, childbirth, or related medical conditions. The District shall treat women affected by pregnancy, childbirth, or related medical conditions the same as other employees for all employment-related purposes, including receipt of benefits under fringe benefit programs. *42 U.S.C. 2000e(k); 29 C.F.R. 1604.10; Labor Code 21.106*

EQUAL PAY

The District may not pay an employee at a rate less than the rate the District pays employees of the opposite sex for equal work on jobs the performance of which require equal skill, effort, or responsibility and which are performed under similar working conditions. This rule does not apply if the payment is pursuant to a seniority system, a merit system, a system that measures earnings by quantity or quality of production, or a differential based on any other factor other than sex. *29 U.S.C. 206(d) (Equal Pay Act); 34 C.F.R. 106.54 (Title IX)*

RELIGIOUS  
DISCRIMINATION

The prohibition against discrimination on the basis of religion includes all aspects of religious observances and practice, as well as religious belief, unless the District demonstrates that it is unable to reasonably accommodate an employee's or prospective employee's religious observance or practice without undue hardship to the District's business. "Undue hardship" means more than a *de minimus* (minimal) cost. *42 U.S.C. 2000e(j); 29 C.F.R. 1605.2; Labor Code 21.108*

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

The District may not substantially burden an employee's free exercise of religion, unless the burden is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest. *Civ. Prac. & Rem. Code 110.003*

A person employed or maintained to obtain or aid in obtaining positions for public school employees may not directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment in a public school of this state. A violation of this provision is a Class B misdemeanor. A person who violates this provision is subject to civil penalties. *Education Code 22.901*

DISABILITY  
DISCRIMINATION

The District may not discriminate against a qualified individual on the basis of disability in job application procedures, hiring, advancement, or discharge of employees, compensation, job training, and other terms, conditions, and privileges of employment. *42 U.S.C. 12112(a); 29 C.F.R. 1630.4(b); Labor Code 21.051*

In addition, each district that receives assistance under the Individuals with Disabilities Education Act (IDEA) must make positive efforts to employ, and advance in employment, qualified individuals with disabilities in programs assisted by the IDEA. *34 C.F.R. 300.177(b)*

DISCRIMINATION  
BASED ON LACK OF  
DISABILITY

The Americans with Disabilities Act (ADA) and the Texas Commission on Human Rights Act do not provide a basis for a claim that an individual was subject to discrimination because of the individual's lack of disability. *42 U.S.C. 12201(g); 29 C.F.R. 1630.4(b); Labor Code 21.005(c)*

DEFINITION OF  
DISABILITY

"Disability" means:

1. An actual disability: a physical or mental impairment [see definition, below] that substantially limits one or more of an individual's major life activities;
2. A record of having such an impairment; or
3. Being regarded as having such an impairment.

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

'REGARDED AS'  
HAVING AN  
IMPAIRMENT

An individual meets the requirement of being "regarded as" having an impairment if the individual establishes that he or she has been subjected to an action prohibited by the ADA because of an actual

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

or perceived physical or mental impairment whether or not the impairment limits or is perceived to limit a major life activity.

TRANSITORY  
AND MINOR

The "regarded as" prong of the definition does not apply to impairments that are transitory or minor. A transitory impairment is one with an actual or expected duration of six months or less. The "transitory" exception does not apply to the "actual disability" or "record of disability" prongs of the definition.

MITIGATING  
MEASURES

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, prosthetics, hearing aids, mobility devices, oxygen therapy, assistive technology, or learned behavioral or adaptive neurological modifications.

The ameliorative effects of ordinary eyeglasses or contact lenses shall be considered in determining whether an impairment substantially limits a major life activity. Ordinary eyeglasses and contact lenses are lenses that are intended to fully correct visual acuity or to eliminate refractive error.

*42 U.S.C. 12102(1), (3), (4); 29 C.F.R. 1630.2(g), (j)(1); Labor Code 21.002, .0021*

OTHER  
DEFINITIONS

'PHYSICAL OR  
MENTAL  
IMPAIRMENT'

"Physical or mental impairment" means:

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or
2. Any mental or psychological disorder, such as an intellectual disability (formerly termed "mental retardation"), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

*29 C.F.R. 1630.3(h)*

'MAJOR LIFE  
ACTIVITIES'

"Major life activities" include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working.

"Major life activities" also include the operation of major bodily functions, including functions of the immune system, special sense organs and skin, normal cell growth, and digestive, genitourinary,

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within the body system.

*42 U.S.C. 12102(2); 29 C.F.R. 1630.3(i); Labor Code 21.002*

'QUALIFIED  
INDIVIDUAL'

"Qualified individual" means an individual who:

1. Satisfies the requisite skill, experience, education, and other job-related requirements of the employment position such individual holds or desires; and
2. With or without reasonable accommodation, can perform the essential functions of such position. Consideration shall be given to the District's judgment as to what functions of a job are essential. A written job description prepared before advertising or interviewing applicants for the job is evidence of the job's essential functions.

*42 U.S.C. 12111(8); 29 C.F.R. 1630.3(m)*

REASONABLE  
ACCOMMODATIONS

The District is required, absent undue hardship, to make a reasonable accommodation to an otherwise qualified individual who meets the definition of disability under the "actual disability" or "record of disability" prongs. The District is not required to provide a reasonable accommodation to an individual who meets the definition of disability solely under the "regarded as" prong. *42 U.S.C. 12112(b)(5); 29 C.F.R. 1630.4(o)(4), .9; 29 U.S.C. 794; 34 C.F.R. 104.11; Labor Code 21.128* [See DBB regarding medical examinations and inquiries under the Americans with Disabilities Act]

"Reasonable accommodation" includes:

1. Making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and
2. Job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modification of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

*42 U.S.C. 12111(9); 29 C.F.R. 1630.2(o); 34 C.F.R. 104.12(b)*

"Undue hardship" means an action requiring significant difficulty or expense when considered in light of the nature and cost of the accommodation needed, overall financial resources of the affected facility and the District, and other factors set out in law. *42 U.S.C. 12111(10); 29 C.F.R. 1630.2(p); 34 C.F.R. 104.12(c)*

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

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(LEGAL)

DISCRIMINATION  
BASED ON  
RELATIONSHIP

The District shall not exclude or deny equal jobs or benefits to, or otherwise discriminate against, a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a family, business, social, or other relationship or association. *42 U.S.C. 12112(b)(4); 29 C.F.R. 1630.8; 34 C.F.R. 104.11*

ILLEGAL DRUGS AND  
ALCOHOL

The term "qualified individual with a disability" does not include any employee or applicant who is currently engaging in the illegal use of drugs, when the District acts on the basis of such use.

DRUG TESTING

The District is not prohibited from conducting drug testing of employees and applicants for the illegal use of drugs or making employment decisions based on the results of such tests.

*42 U.S.C. 12114(c), (d); Labor Code 21.002(6)(A) [See DHE]*

ALCOHOL USE

The term "qualified individual with a disability" does not include an individual who is an alcoholic and whose current use of alcohol prevents the employee from performing the duties of his or her job or whose employment, by reason of such current alcohol abuse, would constitute a direct threat to property or the safety of others. *42 U.S.C. 12114(a); 29 U.S.C. 705(20)(C); 29 C.F.R. 1630.3(a); 28 C.F.R. 35.104; Labor Code 21.002(6)(A)*

QUALIFICATION  
STANDARDS

It is unlawful for the District to use qualification standards, employment tests, or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities, on the basis of disability, unless the standard, test, or other selection criteria, as used by the District, is shown to be job related for the position in question and is consistent with business necessity. *29 C.F.R. 1630.10(a)*

DIRECT THREAT  
TO HEALTH OR  
SAFETY

As a qualification standard, the District may require that an individual not pose a direct threat to the health or safety of other individuals in the workplace. "Direct threat" means a significant risk to the health or safety of the individual or others that cannot be eliminated by reasonable accommodation. *42 U.S.C. 12111(3); 29 C.F.R. 1630.2(r); Labor Code 21.002(6)(B)*

VISION  
STANDARDS AND  
TESTS

The District shall not use qualification standards, employment tests, or other selection criteria based on an individual's uncorrected vision unless the standard, test, or other selection criteria, as used by the District, is shown to be job-related for the position in question and consistent with business necessity. *42 U.S.C. 12113(c); 29 C.F.R. 1630.10(b); Labor Code 21.115(b)*

COMMUNICABLE  
DISEASES

The District may refuse to assign or continue to assign an individual to a job involving food handling if the individual has an infectious or communicable disease that is transmitted to others through

EMPLOYMENT OBJECTIVES  
EQUAL EMPLOYMENT OPPORTUNITY

DAA  
(LEGAL)

handling of food. 42 U.S.C. 12113(d); 29 U.S.C. 705(20)(D);  
29 C.F.R. 1630.16(e); Labor Code 21.002(6)(B)

SERVICE ANIMALS

A district that is subject to the jurisdiction of Title I of the ADA (employment discrimination) or to section 504 of the Rehabilitation Act (employment discrimination) shall comply with the reasonable accommodation requirements of those laws with respect to service animals. [See REASONABLE ACCOMMODATIONS, above]

A district that is not subject to either Title I or section 504 shall comply with Title II of the ADA (discrimination by public entity). An employer that is subject to Title II shall comply with 28 C.F.R. part 35, including the requirements relating to service animals at 28 C.F.R. 35.136 [see FBA].

28 C.F.R. 35.140

MILITARY SERVICE

The District shall not deny initial employment, reemployment, retention in employment, promotion, or any benefit of employment on the basis of membership in a uniformed service, performance in a uniformed service, application for uniformed service, or obligation to a uniformed service. The District shall not take adverse employment action or discriminate against any person who takes action to enforce protections afforded by the Uniformed Services Employment and Re-employment Rights Act (USERRA). 38 U.S.C. 4311 [See also DECB]

GRIEVANCE POLICIES  
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

AMERICANS WITH  
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the 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(b); North Haven Board of Education v. Bell, 456 U.S. 512 (1982)

COMPLIANCE  
COORDINATOR

The District shall designate at least one employee to coordinate its efforts to comply with Title IX, Section 504, the Age Act, and the ADA. The District shall notify all employees of the name, office address, and telephone number of the employee(s) so designated. 34 C.F.R. 104.7(b), .11; 28 C.F.R. 35.107, .140; 34 C.F.R. 106.8(b)

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CRIMINAL HISTORY AND CREDIT REPORTS

DBAA  
(LOCAL)

DISQUALIFYING  
OFFENSES

The District shall obtain criminal history record information on final candidates for employment. 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 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; and
8. Any further information provided by the person concerning his or her 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.

SBEC NOTIFICATION

If a candidate for a position has a reported criminal history, and the candidate is certified by the State Board for Educator Certification (SBEC), the District shall report the criminal history to SBEC.

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)]

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

RESTRICTION ON  
PUBLIC SERVANTS —  
PENAL CODE

“Public servant,” for purposes of the following Penal Code provisions, includes a person elected, selected, appointed, employed, or otherwise designated as an officer, employee, or agent of government, even if the person has not yet qualified for office or assumed his or her duties. *Penal Code 1.07(a)(41)(A), (E)*

BRIBERY

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

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

*Penal Code 36.01(3), .02*

ILLEGAL GIFTS

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

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. *Penal Code 36.08(i)*

EXCEPTIONS

“Illegal Gifts to Public Servants” does not apply to:

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

- a. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he or she gives legitimate consideration in a capacity other than as a public servant;
- b. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;
- c. A benefit to a public servant required to file a statement under Chapter 572, Government Code, or a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
  - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (2) The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
- d. A political contribution as defined by Title 15, Election Code;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity; or
- g. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

*Penal Code 36.10*

HONORARIA AND  
EXPENSES

- 3. A public servant commits a Class A misdemeanor offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant's official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

the extent those services are more than merely perfunctory.  
*Penal Code 36.07*

ABUSE OF PUBLIC  
EMPLOYMENT

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

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

"Misuse" means to deal with property contrary to:

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

*Penal Code 39.01(2)*

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.

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

"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); State v. Pirtle, 887 S.W.2d 291 (Tex. Ct. Crim. App. 1994); Atty. Gen. Op. DM-212 (1993)*

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. *Tex. Const., Art. XVI, Sec. 40(b); Atty. Gen. Op. DM-55 (1991)*

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:

BUSINESS  
RELATIONSHIP

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;

GIFT(S)

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

EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LEGAL)

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

FAMILY  
RELATIONSHIP

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)*

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**Note:** For additional provisions and definitions relating to conflict disclosure statements, see BBFA(LEGAL).

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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)*

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

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EMPLOYMENT REQUIREMENTS AND RESTRICTIONS  
CONFLICT OF INTEREST

DBD  
(LOCAL)

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**Note:** For conflicts of interest and gifts and gratuities related to federal grants and awards, see CB and CBB.

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DISCLOSURE—  
GENERAL STANDARD

An employee shall disclose to his or her immediate supervisor a personal financial interest, a business interest, or any other obligation or relationship that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the District.

SPECIFIC  
DISCLOSURES

SUBSTANTIAL  
INTEREST

The Superintendent shall file an affidavit with the Board President disclosing a substantial interest, as defined by Local Government Code 171.002, in any business or real property that the Superintendent or any of his or her relatives in the first degree may have.

ANNUAL FINANCIAL  
MANAGEMENT  
REPORT

The Superintendent, as the executive officer of the District, shall provide to the District in a timely manner information necessary for the District's annual financial management report.

[See BBFA]

GIFTS

An employee shall not accept or solicit any gift, favor, service, or other benefit that could reasonably be construed to influence the employee's discharge of assigned duties and responsibilities. [See CAA, CB, and CBB]

ENDORSEMENTS

An employee shall not recommend, endorse, or require students to purchase any product, material, or service in which the employee has a financial interest or that is sold by a company that employs or retains the District employee during nonschool hours. No employee shall require students to purchase a specific brand of school supplies if other brands are equal and suitable for the intended instructional purpose.

SALES

An employee shall not use his or her position with the District to attempt to sell products or services.

NONSCHOOL  
EMPLOYMENT

An employee shall disclose in writing to his or her immediate supervisor any outside employment that in any way creates a potential conflict of interest with the proper discharge of assigned duties and responsibilities or with the best interest of the District.

PRIVATE TUTORING

An employee shall disclose in writing to his or her immediate supervisor any private tutoring of District students for pay. An employee shall not refer a student for tutoring to a member of his or her immediate family.

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

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.

"COUNSELOR"

"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.

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

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.

*Loc. Gov't Code 180.007*

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

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

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*

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

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.

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(c), (e); Insurance Code 1575.204(b)*

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 e-mail 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*

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DECREASING PAY                     | <p>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. <u>Brajenovich v. Alief Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 021-R10-1106 (2009)</u></p>                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| WIDESPREAD<br>SALARY<br>REDUCTIONS | <p>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.</p> <p>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.</p> <p><i>Education Code 21.4023</i></p> <p>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]. <i>Education Code 21.4022</i></p> |
| FURLOUGH<br>PROGRAM                | <p>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. <i>Education Code 21.4021(a)</i></p> <p>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]. <i>Education Code 21.4022</i></p>                                                                                                                                                                                                                                            |
| FUNDING LEVELS                     | <p>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</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

|                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|-------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                     | Commissioner shall certify the percentage decrease in funding to be provided to the district. <i>Education Code 42.009</i>                                                                                                                                                                                                                                                                                                                                      |
| 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.<br><br><i>Education Code 21.4021</i>                                                                                                                                                                                                                                                             |
| 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: <ol style="list-style-type: none"><li>1. Includes the involvement of the district's professional staff; and</li><li>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.</li></ol>                   |
| PUBLIC MEETING                      | A board must hold a public meeting at which the board and district administration present: <ol style="list-style-type: none"><li>1. Information regarding the options considered for managing the district's available resources, including consideration of a</li></ol>                                                                                                                                                                                        |

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LEGAL)

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*

COMPENSATION AND BENEFITS  
COMPENSATION PLAN

DEA  
(LOCAL)

The Superintendent shall recommend an annual compensation plan for all District employees. The compensation plan may include wage and salary structures, stipends, benefits, and incentives. [See also DEAA] The recommended plan shall support District goals for hiring and retaining highly qualified employees. The Board shall review and approve the compensation plan to be used by the District. The Board shall also determine the total compensation package for the Superintendent. [See BJ series]

PAY ADMINISTRATION

The Superintendent shall implement the compensation plan and establish procedures for plan administration consistent with the budget. The Superintendent or designee shall classify each job title within the compensation plan based on the qualifications, duties, and market value of the position.

ANNUALIZED  
SALARY

The District shall pay all salaried employees over 12 months in equal monthly or bimonthly installments, regardless of the number of months employed during the school year. Salaried employees hired during the school year shall be paid in accordance with administrative regulations.

PAY INCREASES

The Superintendent shall recommend to the Board an amount for employee pay increases as part of the annual budget. The Superintendent or designee shall determine pay adjustments for individual employees, within the approved budget following established procedures.

MID-YEAR PAY  
INCREASES

CONTRACT  
EMPLOYEES

A contract employee's pay may be increased after performance on the contract has begun only if authorized by the compensation plan of the District or there is a change in the employee's job assignment or duties during the term of the contract that warrants additional compensation. Any such changes in pay that do not conform with the compensation plan shall require Board approval. [See DEA(LEGAL) for provisions on pay increases and public hearing requirements]

NON-  
CONTRACT  
EMPLOYEES

The Superintendent may grant a pay increase to a noncontract employee after duties have begun because of a change in the employee's job assignment or to address pay equity. The Superintendent shall report any such pay increases to the Board at the next regular meeting.

PAY DURING CLOSING

If the Board chooses to pay employees during an emergency closure for which the workdays are not scheduled to be made up at a later date, then that authorization shall be by resolution or other Board action and shall reflect the purpose served by the expenditure. [See EB for the authority to close schools]

COMPENSATION PLAN  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

INCENTIVE GRANTS—  
CONTRACT  
PROVISION

A district shall provide in employment contracts that qualifying employees may receive an incentive payment under an awards program established under Education Code Chapter 21, Subchapter O (Educator Excellence Award Program and Educator Excellence Innovation Program) if the district participates in the program. A district shall indicate that any incentive payment distributed is considered a payment for performance and not an entitlement as part of an employee's salary. *Education Code 21.415*

EDUCATOR  
EXCELLENCE  
INNOVATION  
PROGRAM

The Educator Excellence Innovation Program (EEIP) is a grant program under which a district may receive a competitive grant for the purposes of systematically transforming educator quality and effectiveness. TEA will give priority to districts that receive Title I funding and have at a majority of district campuses a student enrollment that is at least 50 percent educationally disadvantaged.

ELIGIBILITY

A district is eligible to apply for EEIP grant funds if the district:

1. Completes and submits a Notice of Intent to Apply to TEA by the date established by the Commissioner;
2. Complies with all assurances in the Notice of Intent to Apply and grant application;
3. Participates in the required technical assistance activities established by the Commissioner, including establishing leadership teams, master teachers, mentor teachers, and instructional coaches and developing career pathways;
4. Agrees to participate for four years; and
5. Complies with any other activities set forth in the program requirements.

An eligible district must submit an application in a form prescribed by the Commissioner. Each eligible applicant must meet all deadlines, requirements, and assurances specified in the application. The Commissioner may waive any eligibility requirements as specified in 19 Administrative Code 102.1073.

LOCAL PLAN

An eligible district that intends to participate in the EEIP shall submit a local educator excellence innovation plan to TEA. A local educator excellence innovation plan must address the elements at 19 Administrative Code 102.1073(e)(2).

A district must act pursuant to its local board policy [see DEAA (LOCAL)] for submitting a local educator excellence innovation plan and grant application to TEA. A local decision to approve and submit a plan and grant application may not be appealed to the Commissioner.

COMPENSATION PLAN  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

A district may renew its local educator excellence innovation plan for three consecutive school years without resubmitting a full grant application to TEA. With TEA approval, a district may amend its local plan in accordance with 19 Administrative Code 102.1073(c) and (h) for each school year the district receives a program grant.

USE OF GRANT  
FUNDS

A district may use grant funds only to carry out purposes of the program as described at Education Code 21.7011, in accordance with the district's local plan, which may include the following specific methods or procedures:

1. Implementation and administration of a high-quality mentoring program for teachers in the first three years of classroom teaching using mentors who meet the qualifications prescribed by Education Code 21.458 [see MENTOR TEACHERS, below];
2. Implementation of a teacher evaluation system using multiple measures that include:
  - a. The results of classroom observation, which may include student comments;
  - b. The degree of student educational growth and learning; and
  - c. The results of teacher self-evaluation;
3. To the extent permitted under Education Code Chapter 25, Subchapter C, restructuring of the school day or school year to provide for embedded and collaborative learning communities for the purpose of professional development [see EC];
4. Establishment of an alternative teacher compensation or retention system; and
5. Implementation of incentives designed to reduce teacher turnover.

WAIVER REQUEST

A district may apply to the Commissioner in writing for a waiver to exempt the district or one or more district campuses from one or more of the statutory sections listed at Education Code 21.7061(a).

The application for the waiver must demonstrate:

1. Why waiving the identified section of the Education Code is necessary to carry out the purposes of the program;
2. Approval for the waiver by a vote of a majority of the members of the board;

COMPENSATION PLAN  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

3. Approval for the waiver by a vote of a majority of the educators employed at each campus for which the waiver is sought; and
4. Evidence that the voting occurred during the school year and in a manner that ensured that all educators entitled to vote had a reasonable opportunity to participate in the voting.

Neither the board nor the superintendent may compel a waiver of rights under Education Code 21.7061.

Not later than April 1 of the year in which the waiver application is submitted, the Commissioner shall notify the district in writing whether the application has been granted or denied. A waiver expires when the waiver is no longer necessary to carry out the purposes of the program, in accordance with the district's local educator excellence innovation plan.

*Education Code Ch. 21, Subch. O; 19 TAC 102.1073*

MENTOR TEACHERS

A district may assign a mentor teacher to each classroom teacher who has less than two years of teaching experience in the subject or grade level to which the teacher is assigned. A teacher assigned as a mentor must:

1. To the extent practicable, teach in the same school;
2. To the extent practicable, teach the same subject or grade level, as applicable; and
3. Meet the qualifications prescribed by Commissioner's rules.

The Commissioner's rules must require that a mentor teacher:

1. Complete a research-based mentor and induction training program approved by the Commissioner;
2. Complete a training program provided by the district; and
3. Have at least three complete years of teaching experience with a superior record of assisting students, as a whole, in achieving improvement in student performance.

A district may apply to the Commissioner for funds for a mentor teacher program. A district may use the funds only for providing:

1. Mentor teacher stipends;
2. Scheduled release time for mentor teachers and the classroom teachers to whom they are assigned for meeting and engaging in mentoring activities; and
3. Mentoring support through providers of mentor training.

*Education Code 21.458; 19 TAC 153.1011*

COMPENSATION PLAN  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

|                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| MASTER TEACHER<br>GRANT PROGRAMS | The Commissioner shall establish master reading, mathematics, technology, and science teacher grant programs to encourage teachers to become certified as master teachers and to work with other teachers and students to improve student performance. <i>Education Code 21.410–.413</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| APPLICATION                      | A district may apply to the Commissioner for grants for each identified high-need campus to be used to pay year-end stipends to certified master teachers.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| USE OF FUNDS                     | Grant funds may be used only for the purpose of paying a year-end stipend to a master teacher whose primary duties are to teach reading, mathematics, technology, or science and to serve as a reading, mathematics, technology, or science teacher mentor for the amount of time and in the manner established by the district.                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| PAYMENTS                         | <p>The Commissioner shall reduce payments to a district proportionately to the extent a teacher does not meet the requirements for a master teacher for the entire school year.</p> <p>If a teacher qualifies as a master teacher for a partial month, a district's written policy will determine how the district counts the partial month, for example, as no month served or as an entire month served. Only whole months shall be entered on the application by a district on the teacher's behalf.</p> <p>Education Code sections 21.410–.413 do not create a property right to a grant or stipend. A master teacher stipend is not considered in determining whether the district is paying the teacher the minimum monthly salary under Education Code 21.402.</p> |
| DESIGNATION OF<br>TEACHER        | <p>A district that employs more certified master teachers than the number of grants available shall designate which certified master teacher(s) to assign the duties required to receive the state stipends. The designation is based on a written policy adopted by the board. A district's decision is final and may not be appealed.</p> <p>A district may not apportion among teachers a stipend paid with a grant the district receives under this program. A district may use local money to pay additional stipends in amounts determined by the district.</p> <p><i>Education Code 21.410–.413; 19 TAC Ch. 102, Subch. BB</i></p>                                                                                                                                 |
| ACHIEVEMENT<br>ACADEMY STIPENDS  | A stipend received by a teacher who attends a literacy achievement, mathematics achievement, or a reading-to-learn academy is not considered in determining whether a district is paying the teacher the minimum monthly salary under Education Code 21.402. <i>Education Code 21.4552(d), .4553(d), .4554(d)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

COMPENSATION PLAN  
INCENTIVES AND STIPENDS

DEAA  
(LEGAL)

A stipend received by a school counselor or teacher who attends a postsecondary education and career counseling academy under Education Code 33.009 is not considered in determining whether a district is paying the school counselor or teacher the minimum monthly salary under Education Code 21.402. *Education Code 33.009(h)*

RETIREMENT  
INCENTIVES

A district may not offer or provide a financial or other incentive to an employee to encourage the employee to retire from the Teacher Retirement System of Texas. *Education Code 22.007*

ATTENDANCE  
SUPPLEMENT

A district shall not deny an educator a salary bonus or similar compensation given in whole or in part on the basis of educator attendance because of the educator's absence from school for observance of a religious holy day observed by a religion whose places of worship are exempt from property taxation under Tax Code 11.20. *Education Code 21.406*

COMPENSATION PLAN  
WAGE AND HOUR LAWS

DEAB  
(LEGAL)

FAIR LABOR  
STANDARDS ACT  
MINIMUM WAGE  
AND OVERTIME

Unless an exemption applies, a district shall pay each of its employees not less than minimum wage for all hours worked. 29 U.S.C. 206(a)(1)

Unless an exemption applies, a district shall pay an employee not less than one and one-half times the employee's regular rate of pay for all hours worked in excess of 40 in any workweek. 29 U.S.C. 207(a)(1); 29 C.F.R. pt. 778

BREAKS FOR  
NONEXEMPT  
EMPLOYEES

Rest periods of up to 20 minutes must be counted as hours worked. Coffee breaks or time for snacks are rest periods, not meal periods. 29 C.F.R. 785.18

Bona fide meal periods of 30 minutes or more are not counted as hours worked if the employee is completely relieved from duty. The employee is not relieved from duty if the employee is required to perform any duties, whether active or inactive, while eating. For example, an office employee who is required to eat at his or her desk is working while eating. It is not necessary that an employee be permitted to leave the premises if the employee is otherwise completely freed from duties during the meal period. 29 C.F.R. 785.19

COMPENSATORY  
TIME  
ACCRUAL

Nonexempt employees may receive, in lieu of overtime compensation, compensatory time off at a rate of not less than one and one-half hours for each hour of overtime work, pursuant to an agreement or understanding arrived at between the employer and employee before the performance of the work. Such agreement or understanding may be informal, such as when an employee works overtime knowing that the employer rewards overtime with compensatory time.

An employee may accrue not more than 240 hours of compensatory time. If the employee's overtime work included a public safety activity, an emergency response activity, or a seasonal activity, the employee may accrue not more than 480 hours of compensatory time. After the employee has reached these limits, the employee shall be paid overtime compensation for additional overtime work.

PAYMENT FOR  
ACCRUED TIME

Compensation paid to an employee for accrued compensatory time shall be paid at the regular rate earned by the employee at the time of payment. An employee who has accrued compensatory time off shall be paid for any unused compensatory time upon separation from employment at the rates set forth at 29 U.S.C. 207(o)(4).

USE

An employee who has requested the use of compensatory time shall be permitted to use such time within a reasonable period after making the request if the use of the compensatory time does not unduly disrupt the operations of the district.

COMPENSATION PLAN  
WAGE AND HOUR LAWS

DEAB  
(LEGAL)

The Fair Labor Standards Act (FLSA) does not prohibit a district from compelling the use of accrued compensatory time.

*29 U.S.C. 207(o); Christensen v. Harris County, 529 U.S. 576 (2000); Houston Police Officers' Union v. City of Houston, 330 F.3d 298 (5th Cir. 2003)*

EXEMPT  
EMPLOYEES

The minimum wage and overtime provisions do not apply to any employee employed in a bona fide executive, administrative, or professional capacity. *29 U.S.C. 213(a)(1)*

ACADEMIC  
ADMINISTRATORS

The term "employee employed in a bona fide administrative capacity" includes an employee:

1. Compensated for services on a salary or fee basis at a rate of not less than \$455 per week exclusive of board, lodging, or other facilities, or on a salary basis that is at least equal to the entrance salary for teachers in the district by which employed; and
2. Whose primary duty is performing administrative functions directly related to academic instruction or training in a district or department or subdivision thereof.

"Performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

Employees engaged in academic administrative functions include:

1. The superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program;
2. The principal and any vice principals responsible for the operation of an elementary or secondary school;
3. Academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and
4. Other employees with similar responsibilities.

COMPENSATION PLAN  
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DEAB  
(LEGAL)

Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers, or dietitians do not perform academic administrative functions, although such employees may qualify for another exemption.

*29 C.F.R. 541.204*

SALARY BASIS

To qualify as an exempt executive, administrative, or professional employee, the employee must be compensated on a salary basis, unless the employee is a teacher. Subject to the exceptions listed in the rule, an employee must receive the full salary for any week in which the employee performs any work, without regard to the number of days or hours worked. A district that makes improper deductions from salary shall lose the exemption if the facts demonstrate that the district did not intend to pay exempt employees on a salary basis. *29 C.F.R. 541.600, .602(a), .603*

PARTIAL-DAY  
DEDUCTIONS

A district employee who otherwise meets the salary basis requirements shall not be disqualified from exemption on the basis that the employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the employee's pay to be reduced or the employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one workday when accrued leave is not used by an employee because:

1. Permission for its use has not been sought or has been sought and denied;
2. Accrued leave has been exhausted; or
3. The employee chooses to use leave without pay.

Deductions from the pay of a district employee for absences due to a budget-required furlough shall not disqualify the employee from being paid on a salary basis except in the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

*29 C.F.R. 541.710*

SAFE HARBOR  
POLICY

If a district has a clearly communicated policy that prohibits improper pay deductions and includes a complaint mechanism, reimburses employees for any improper deductions, and makes a good faith commitment to comply in the future, the district will not lose the deduction unless the district willfully violates the policy by con-

tinuing to make improper deductions after receiving employee complaints.

The best evidence of a clearly communicated policy is a written policy that was distributed to employees before the improper pay deductions by, for example, providing a copy of the policy to employees upon hire, publishing the policy in an employee handbook, or publishing the policy on a district's intranet.

*29 C.F.R. 541.603(d)*

#### TEACHERS

The term "employee employed in a bona fide professional capacity" includes any employee with a primary duty of teaching, tutoring, instructing, or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an elementary or secondary school system by which the employee is employed. The salary basis requirements do not apply to teaching professionals.

Exempt teachers include:

1. Regular academic teachers;
2. Teachers of kindergarten or nursery school pupils;
3. Teachers of gifted or disabled children;
4. Teachers of skilled and semi-skilled trades and occupations;
5. Teachers engaged in automobile driving instruction;
6. Home economics teachers; and
7. Vocal or instrumental music instructors.

Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate, or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the state to refer to different kinds of certificates. However, a teacher who is not certified may be considered for

COMPENSATION PLAN  
WAGE AND HOUR LAWS

DEAB  
(LEGAL)

exemption, provided that such individual is employed as a teacher by the employing school or school system.

*29 C.F.R. 541.303*

WAGE AND HOUR  
RECORDS

A district shall maintain and preserve payroll or other records for nonexempt employees containing the information required by the regulations under the FLSA. *29 C.F.R. 516.2(a)*

PAYDAY LAW  
EXEMPTION

The Texas Payday Law does not apply to the state or a political subdivision. *Labor Code 61.003*

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LEGAL)

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**Note:** This policy addresses leaves in general. For provisions regarding the Family and Medical Leave Act (FMLA), including FML for an employee seeking leave because of a relative's military service, see DECA. For provisions addressing leave for an employee's military service, see DECB.

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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  
(ESC) EMPLOYEES

A district shall accept the sick leave accrued by an employee who was formerly employed by a regional education service center (ESC), not to exceed five days per year for each year of employment. *Education Code 8.007*

ORDER OF USE

A board's policy governing an employee's use of state personal leave may not restrict the order in which an employee may use state personal leave and any additional personal leave provided by the school district.

An employee who retains any state sick leave is entitled to use the state sick leave, state personal leave, or local personal leave in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

*Education Code 22.003(a), (f)*

COMPENSATION AND BENEFITS  
LEAVES AND ABSENCES

DEC  
(LEGAL)

USE DURING  
MILITARY LEAVE

An employee with available personal leave is entitled to use the leave for compensation during a term of active military service. "Personal leave" includes personal or sick leave available under former law or provided by local policy. *Education Code 22.003(d), (e)* [See DECB(LEGAL)]

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

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|                                                               | employee at the school at which the employee formerly taught or was assigned.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| LENGTH OF ABSENCE                                             | <p>A superintendent shall grant the length of leave of absence for temporary disability as required by the individual educator. A board may establish a maximum length for a leave of absence for temporary disability, but the maximum length may not be less than 180 calendar days.</p> <p><i>Education Code 21.409; Atty. Gen. Op. DM-177 (1992); Atty. Gen. Op. H-352 (1974)</i></p>                                                                                                                                                                                                                                                                                                                                                                            |
| SICK LEAVE<br>DIFFERENT FROM<br>TEMPORARY<br>DISABILITY LEAVE | <p>An employee's entitlement to sick leave is unaffected by any concurrent eligibility for a leave of absence for temporary disability. The two types of leave are different, and each must be granted by its own terms. <i>Atty. Gen. Op. H-352 (1974)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| ASSAULT LEAVE                                                 | <p>In addition to all other days of leave, a district employee who is physically assaulted during the performance of regular duties is entitled to the number of days of leave necessary to recuperate from physical injuries sustained as a result of the assault. The leave shall be paid as set forth below at COORDINATION WITH WORKERS' COMPENSATION BENEFITS.</p> <p>A district employee is physically assaulted if the person engaging in the conduct causing injury to the employee:</p> <ol style="list-style-type: none"><li>1. Could be prosecuted for assault; or</li><li>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.</li></ol> |
| NOTICE OF RIGHTS                                              | <p>Any informational handbook a district provides to employees in an electronic or paper form or makes available by posting on the district's website must include notification of an employee's rights regarding assault leave, in the relevant section of the handbook. Any form used by a district through which an employee may request personal leave must include assault leave as an option.</p>                                                                                                                                                                                                                                                                                                                                                              |
| ASSIGNMENT TO<br>ASSAULT LEAVE                                | <p>At the request of an employee, a district must immediately assign the employee to assault leave. Days of assault leave may not be deducted from accrued personal leave. Assault leave may not extend more than two years beyond the date of the assault. Following an investigation of the claim, a district may change the assault leave status and charge the leave against the employee's accrued personal leave or against the employee's pay if insufficient accrued personal leave is available.</p>                                                                                                                                                                                                                                                        |

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| COORDINATION<br>WITH WORKERS'<br>COMPENSATION<br>BENEFITS | <p>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.</p> <p><i>Education Code 22.003(b)–(c-1)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| RELIGIOUS<br>OBSERVANCES                                  | <p>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); <u>Ansonia Bd. of Educ. v. Philbrook</u>, 479 U.S. 60, (1986); <u>Pinsker v. Joint Dist. No. 28J of Adams and Arapahoe Counties</u>, 735 F.2d 388 (10th Cir. 1984)</p>                                                                                                                                                                                                                                                                                                |
| COMPLIANCE WITH A<br>SUBPOENA                             | <p>A district may not discharge, discipline, or penalize in any manner an employee because the employee complies with a valid subpoena to appear in a civil, criminal, legislative, or administrative proceeding. <i>Labor Code 52.051(a)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| JURY DUTY                                                 | <p>A district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against an employee because of the employee's compliance with a summons to appear as a juror. For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a district shall pay the employee the employee's normal daily compensation. An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror. <i>Education Code 22.006</i></p>                                                                                                                                                                                                                                              |
| ATTENDANCE AT<br>TRUANCY HEARING                          | <p>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. <i>Family Code 65.063</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| DEVELOPMENTAL<br>LEAVES OF ABSENCE                        | <p>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.</p> <p>A developmental leave of absence may be granted for one school year at one-half regular salary or for one-half of a school year at full regular salary. Payment to the employee shall be made periodically by a district in the same manner, on the same schedule, and with the same deductions as if the employee were on full-time duty.</p> <p>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,</p> |

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holding memberships, and receiving benefits afforded by employment in a district.

*Education Code 21.452*

ABSENCE CONTROL

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

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

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DEFINITIONS

The term "immediate family" is defined as:

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, use, or recording of leave shall mean the number of hours per day equivalent to the employee's usual assignment, whether full-time or part-time.

CATASTROPHIC  
ILLNESS OR INJURY

A catastrophic illness or injury is a life-threatening or terminal condition or combination of conditions affecting the mental or physical health of the employee or a member of the employee's immediate family, as defined for FMLA purposes, 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.

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.

EARNING LOCAL  
LEAVE

An employee shall not earn any local leave when he or she is in unpaid status. An employee using full or proportionate paid leave shall be considered to be in paid status.

DEDUCTIONS

LEAVE WITHOUT  
PAY

The District shall not approve paid leave for more leave days than have been accumulated in prior years plus leave currently available. Any unapproved absences or absences beyond accumulated and available paid leave shall result in deductions from the employee's pay.

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| LEAVE PRORATION<br>EMPLOYED FOR<br>LESS THAN FULL<br>YEAR | <p>If an employee separates from employment with the District before his or her last duty day of the year, or begins employment after the first duty day, state personal leave and local leave shall be prorated based on the actual time employed.</p> <p>If an employee separates from employment before the last duty day of the school year, the employee's final paycheck shall be reduced for:</p> <ol style="list-style-type: none"><li>1. State personal leave the employee used beyond his or her pro rata entitlement for the school year; and</li><li>2. Local leave the employee used but had not earned as of the date of separation.</li></ol> |
| EMPLOYED FOR<br>FULL YEAR                                 | <p>If an employee uses more local leave than he or she earned and remains employed with the District through his or her last duty day, the District shall deduct the cost of the excess leave days from the employee's pay in accordance with administrative regulations.</p>                                                                                                                                                                                                                                                                                                                                                                                |
| RECORDING                                                 | <p>Leave shall be recorded as follows:</p> <ol style="list-style-type: none"><li>1. Leave shall be recorded in half-day increments for all employees.</li><li>2. If the employee is taking intermittent FMLA leave, leave shall be recorded in one-hour increments.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                |
| ORDER OF USE                                              | <p>Earned compensatory time shall be used before any available paid state and local leave. [See DEA]</p> <p>Unless an employee requests a different order, available paid state and local leave shall be used in the following order, as applicable:</p> <ol style="list-style-type: none"><li>1. Local leave.</li><li>2. State sick leave accumulated before the 1995-96 school year.</li><li>3. State personal leave.</li></ol> <p>Use of extended sick leave or sick leave pool days shall be permitted only after all available state and local leave has been exhausted.</p>                                                                            |
| CONCURRENT USE OF<br>LEAVE                                | <p>When an absent employee is eligible for FMLA leave, the District shall designate the absence as FMLA leave.</p> <p>The District shall require the employee to use temporary disability leave and paid leave, including compensatory time, concurrently with FMLA leave.</p> <p>An employee receiving workers' compensation income benefits may be eligible for paid or unpaid leave. An absence due to a</p>                                                                                                                                                                                                                                              |

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|                                                 | work-related injury or illness shall be designated as FMLA leave, temporary disability leave, and/or assault leave, as applicable.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| MEDICAL<br>CERTIFICATION                        | <p>An employee shall submit medical certification of the need for leave if:</p> <ol style="list-style-type: none"><li>1. The employee is absent more than five consecutive workdays because of personal illness or illness in the immediate family;</li><li>2. The District requires medical certification due to a questionable pattern of absences or when deemed necessary by the supervisor or Superintendent;</li><li>3. The employee requests FMLA leave for the employee's serious health condition or that of a spouse, parent, or child; or</li><li>4. The employee requests FMLA leave for military caregiver purposes.</li></ol> <p>In each case, medical certification shall be made by a health-care provider as defined by the FMLA. [See DECA(LEGAL)]</p> |
| MOONLIGHTING OR<br>OTHER WORK WHILE<br>ON LEAVE | <p>Taking another job or working at another job while on FMLA leave or using any other paid or unpaid leave pursuant to District policy is prohibited and shall be grounds for disciplinary action, up to and including termination, in accordance with applicable policy. [See DBD, DECA, and DF series]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|                                                 | <hr/> <p><b>Note:</b> For District contribution to employee insurance during leave, see CRD(LOCAL).</p> <hr/>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| STATE PERSONAL<br>LEAVE                         | <p>The Board requires employees to differentiate the manner in which state personal leave is used:</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| NON-<br>DISCRETIONARY<br>USE                    | <ol style="list-style-type: none"><li>1. Non-discretionary use of leave shall be for the same reasons and in the same manner as state sick leave accumulated before May 30, 1995. [See DEC(LEGAL)]</li></ol> <p>Non-discretionary 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.</p>                                                                                                                                                                                                                                                                                                                                                                            |
| DISCRETIONARY<br>USE                            | <ol style="list-style-type: none"><li>2. Discretionary use of leave is at the individual employee's discretion, subject to limitations set out below.</li></ol>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| LIMITATIONS<br>REQUEST FOR<br>LEAVE             | <p>The employee shall submit a written request for discretionary use of state personal leave to the immediate supervisor or designee in advance in accordance with administrative regulations. In deciding whether to approve or deny state personal leave, the supervisor or designee shall not seek or consider</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                    |

COMPENSATION AND BENEFITS  
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|                         | <p>the reasons for which an employee requests to use leave. The supervisor or designee shall, however, consider the effect of the employee's absence on the educational program or District operations, as well as the availability of substitutes.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| DURATION OF LEAVE       | <p>Discretionary use of state personal leave shall not exceed five consecutive workdays. The maximum number of state personal leave days permitted for discretionary use in one semester shall be five, and the maximum number permitted in a school year shall be ten.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| SCHEDULE OF LIMITATIONS | <p>Discretionary use of state personal leave shall not be allowed on the day before a school holiday, the day after a school holiday, staff development days, the first week of school, or the last week of school.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| LOCAL LEAVE             | <p>All employees shall earn five paid local leave days per school year in accordance with administrative regulations.</p> <p>Local leave shall accumulate to a maximum of 100 leave days.</p> <p>Local leave shall be used according to the terms and conditions of state sick leave accumulated before the 1995-96 school year, except that an employee may donate local leave to a sick leave pool. [See DEC(LEGAL)]</p> <p>An employee may use up to two days of local leave per year according to the terms and conditions discretionary use of state personal leave, but only with prior approval from the employee's immediate supervisor. In order for these provisions to become effective, the employee shall have reported for duty.</p> <p>An employee may also use local leave for absences related to the birth or placement of a child when leave is taken within the first year after the child's birth, adoption, or foster placement.</p> |
| EXTENDED SICK LEAVE     | <p>After all available state and local leave days have been exhausted, an employee shall be granted in a school year a maximum of five leave days of extended sick leave to be used only for the employee's own personal illness or injury, including pregnancy-related illness or injury.</p> <p>A written request for extended sick leave must be accompanied by medical certification of the illness or injury.</p> <p>For professional employees, \$90 shall be deducted for each day of extended sick leave taken, whether or not a substitute is employed. For employees other than professionals, \$20 shall be deducted for each day of extended sick leave taken.</p>                                                                                                                                                                                                                                                                             |

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SICK LEAVE POOL

An employee who has exhausted all paid leave and who suffers from a catastrophic illness or injury or is absent due to the catastrophic illness or injury of a member of the employee's immediate family may request the establishment of a sick leave pool, to which District employees may donate only local leave for use by the eligible employee.

If the employee is unable to submit the request, a member of the employee's family or the employee's supervisor may submit the request to establish a sick leave pool.

The pool shall cease to exist when the employee no longer needs leave for the purpose requested, uses the maximum number of days allowed under a pool, or exhausts all leave days donated to the sick leave pool.

The Superintendent or designee shall develop regulations for the implementation of the sick leave pool that address the following:

1. Procedures to request the establishment of a sick leave pool;
2. The maximum number of days an employee may donate to a sick leave pool;
3. The maximum number of days per school year an eligible employee may receive from a sick leave pool; and
4. The return of unused days to donors.

APPEAL

All decisions regarding the establishment or implementation of the District's sick leave pool may be appealed in accordance with DGBA(LOCAL), beginning with the Superintendent or designee.

FAMILY AND MEDICAL  
LEAVE

For purposes of an employee's entitlement to FMLA leave, the 12-month period shall begin on the first duty day of the school year.

TWELVE-MONTH  
PERIOD

COMBINED LEAVE  
FOR SPOUSES

If 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 12 weeks. The District shall limit military caregiver leave to a combined total of 26 weeks. [See DECA(LEGAL)]

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. [See DECA(LEGAL) for use of intermittent or reduced schedule leave due to a medical necessity.]

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| CERTIFICATION OF LEAVE         | If an employee requests leave, the employee shall provide certification, as required by FMLA regulations, of the need for leave. [See DECA(LEGAL)]                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| FITNESS-FOR-DUTY CERTIFICATION | If 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. If the District will require certification of the employee's ability to perform essential job functions, the District shall provide a list of essential job functions to the employee with the FMLA designation notice.                                                                                                                                                                                                 |
| END OF SEMESTER LEAVE          | If 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. [See DECA(LEGAL), LEAVE AT THE END OF A SEMESTER]                                                                                                                                                                                                                                                                                                                                                                                                  |
| FAILURE TO RETURN              | If, at the expiration of FMLA leave, the employee is able to return to work but chooses not to do so, the District may require reimbursement of premiums paid by the District during the leave. [See DECA(LEGAL), RECOVERY OF BENEFIT COST]                                                                                                                                                                                                                                                                                                                                                     |
| TEMPORARY DISABILITY LEAVE     | <p>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.]</p> <p>An employee's notification of need for extended absence due to the employee's own medical condition shall be forwarded to the Superintendent or designee as a request for temporary disability leave.</p>   |
| WORKERS' COMPENSATION          | <hr/> <p><b>Note:</b> 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. [See CRD(LOCAL) regarding payment of insurance contribution during employee absences.]</p> <hr/> <p>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.</p> <p>An employee eligible for workers' compensation income benefits, and not on assault leave, may elect in writing to use paid leave.</p> |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                |

COMPENSATION AND BENEFITS  
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Absences due to court appearances for personal business shall be deducted from the employee's personal leave or shall be taken as leave without pay.

REIMBURSEMENT FOR  
LEAVE UPON  
RETIREMENT OR  
DEATH

The following leave provisions shall apply to state and local leave earned beginning on the original effective date of this program.

An employee who retires from the District shall be eligible for reimbursement for state and local leave under the following conditions:

1. The employee's retirement is voluntary, i.e., the employee is not being discharged or nonrenewed.
2. The employee has at least ten continuous years of service with the District.
3. The employee is retiring under the Texas Teacher Retirement System (TRS).

The employee shall be reimbursed for each day of state and local leave, to a maximum of 100 days. Professional employees shall be reimbursed at the rate of \$60 per day, to a maximum of \$6,000. All other employees shall be reimbursed at the rate of \$30 per day, to a maximum of \$3,000. If the employee is reemployed with the District, days for which the employee received payment shall not be available to that employee.

The reimbursement described above shall also be paid to the estate of a deceased person who, at the time of death, was a District employee and was otherwise eligible for the benefit by virtue of ten continuous years of service with the District immediately prior to the date of death.

The rate established by the Board shall be in effect until the Board adopts a new rate. Any changes to the rate shall apply beginning with the school year following the adoption of the rate change.

UNIFORM ABSENCES  
POLICY

The District shall take all necessary steps to terminate the employment of any employee who has exhausted all available leave under District policy if the employee is subsequently absent from duty for five or more days within the course of the same school year. Before making a final decision to terminate employment based on absences after all leave is exhausted, the District shall consider the employee's eligibility for reasonable accommodation of a disability under the Americans with Disabilities Act. [See DAA] This policy shall not require the District to maintain the employment of any person who is incarcerated in a federal, state, or local correctional institution.

TERMINATION OF EMPLOYMENT

DF  
(LEGAL)

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|  | <b>Note:</b> For a detailed treatment of termination and nonrenewal of educator contracts, see policies DFAA and DFAB (Probationary Contracts), and DFBA and DFBB (Term Contracts). |
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| WITHHOLDING INFORMATION           | An attempt by any district employee to encourage or coerce a child to withhold information from the child's parent is grounds for discharge or suspension under Education Code 21.104 (probationary contracts) and 21.211 (term contracts). <i>Education Code 26.008(b)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DISCHARGE OF CONVICTED EMPLOYEES  | <p>A district shall discharge an employee if the district obtains information through a criminal history record information (CHRI) review that:</p> <ol style="list-style-type: none"><li>1. The employee has been convicted of:<ol style="list-style-type: none"><li>a. A felony under Penal Code Title 5;</li><li>b. An offense requiring registration as a sex offender under Code of Criminal Procedure Chapter 62; or</li><li>c. An offense under the laws of another state or federal law that is equivalent to an offense under paragraphs a or b; and</li></ol></li><li>2. At the time the offense occurred, the victim of the offense was under 18 years of age or was enrolled in a public school.</li></ol> |
| EXCEPTION                         | <p>However, a district is not required to discharge an employee if the person committed an offense under Title 5, Penal Code, and:</p> <ol style="list-style-type: none"><li>1. The date of the offense is more than 30 years before June 15, 2007; and</li><li>2. The employee satisfied all terms of the court order entered on conviction.</li></ol>                                                                                                                                                                                                                                                                                                                                                                |
| CERTIFICATION TO THE COMMISSIONER | Each school year, a superintendent shall certify to the Commissioner that a district has complied with the above provisions.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| SANCTIONS                         | The State Board for Educator Certification (SBEC) may impose a sanction on an educator who does not discharge an employee if the educator knows or should have known, through a criminal history record information review, that the employee has been convicted of an offense described above.                                                                                                                                                                                                                                                                                                                                                                                                                        |
| OPTIONAL TERMINATION              | A district may discharge an employee if the district obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to SBEC or the district. An employee so discharged is                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

TERMINATION OF EMPLOYMENT

DF  
(LEGAL)

considered to have been discharged for misconduct for purposes of Labor Code 207.044 (unemployment compensation).

*Education Code 22.085 [See DBAA]*

CERTAIN OFFENSES  
AGAINST STUDENTS  
  
MANDATORY  
TERMINATION

If a district receives notice that SBEC has revoked the certificate of a person based on conviction for a felony under Penal Code Title 5 or an offense requiring registration as a sex offender, and the victim of the offense is under 18 years of age, 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 or term contract:
  - 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 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:

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 or term contract is void if 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

TERMINATION OF EMPLOYMENT

DF  
(LEGAL)

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 or term 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)*

TERMINATION OF EMPLOYMENT

DF  
(LEGAL)

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| EXCEPTION                        | <p>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:</p> <ol style="list-style-type: none"><li>1. The employee requests an extension from SBEC to renew, extend, or otherwise validate the employee's certificate or permit; and</li><li>2. Not later than the tenth day after the date the contract is void, the employee takes necessary measures to renew, extend, or otherwise validate the employee's certificate or permit, as determined by SBEC.</li></ol> <p><i>Education Code 21.0031(b-1)</i></p>                                                           |
| NO APPEAL OR CHAPTER 21 HEARING  | <p>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. <i>Education Code 21.0031</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| APPLICABILITY                    | <p>These void contract provisions do not affect the rights and remedies of a party in an at-will employment relationship and do not apply to a certified teacher assigned to teach a subject for which the teacher is not certified. <i>Education Code 21.0031; Nunez v. Simms, 341 F.3d 385 (5th Cir. 2003)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                  |
| REPORT TO SBEC                   | <p>A superintendent shall report the educator's termination to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| FALSIFICATION OF MILITARY RECORD | <p>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.</p> <p>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]</p> <p><i>Labor Code Ch. 105</i></p> |

PROBATIONARY CONTRACTS  
RETURN TO PROBATIONARY STATUS

DFAC  
(LEGAL)

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|--------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| UPON CHANGE IN PROFESSIONAL CAPACITY             | <p>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.</p> <p>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.</p> <p><i>Education Code 21.102(a-1)</i> [See 19 TAC 230.33(b) for list of certificate classes]</p> |
| IN LIEU OF DISCHARGE, TERMINATION, OR NONRENEWAL | <p>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. <i>Education Code 21.106(a)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| AFTER BOARD PROPOSAL                             | <p>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] <i>Education Code 21.106(b)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| AFTER NOTICE FROM SUPERINTENDENT                 | <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| NOTICE                                           | <p>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.</p> <p><i>Education Code 21.106(d)</i></p>                                                                                                                                                                                                                                                                                                                                                                 |
| NEW PROBATIONARY PERIOD                          | <p>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. <i>Education Code 21.106(c)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

TERMINATION OF EMPLOYMENT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

APPLICABILITY

This hearing process applies only if an employee requests a hearing after receiving notice of a proposed decision to:

1. Terminate a continuing contract at any time, except as provided below;
2. Terminate a probationary or term contract before the end of the contract period, except as provided below; or
3. Suspend without pay.

EXCEPTION

This hearing process does not apply to a decision to:

1. Terminate a probationary contract at the end of the contract term;
2. Not renew a term contract, unless the Board has adopted this process for nonrenewals; or
3. 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*

REQUEST FOR  
HEARING

Not later than the 15th day after the date the employee receives notice of one of the proposed contract actions listed above, the employee must file a written request with the Commissioner for a hearing before a hearing examiner. The employee must provide the District with a copy of the request and must provide the Commissioner with a copy of the notice. The parties may agree in writing to extend by not more than ten days the deadline for requesting a hearing. *Education Code 21.253*

ASSIGNMENT OF  
HEARING EXAMINER  
BY AGREEMENT

The parties may agree to select a hearing examiner from the list maintained by the Commissioner or a person who is not certified to serve as a hearing examiner, provided that person is licensed to practice law in Texas. If the parties agree on a hearing examiner the parties shall, before the date the Commissioner is permitted to assign a hearing examiner, notify the Commissioner in writing of the agreement, including the name of the hearing examiner selected.

BY APPOINTMENT

If the parties do not select a hearing examiner by agreement, the Commissioner shall assign the hearing examiner not earlier than the sixth business day and not later than the tenth business day after the date on which the Commissioner receives the request for

TERMINATION OF EMPLOYMENT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

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|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                            | a hearing. When a hearing examiner has been assigned, the Commissioner shall notify the parties immediately.                                                                                                                                                                                                                                                                                                                                                                                                     |
| REJECTION                  | The parties may agree to reject a hearing examiner for any reason and either party is entitled to reject an assigned hearing examiner for cause. A rejection must be in writing and filed with the Commissioner not later than the third day after the date of notification of the hearing examiner's assignment. If the parties agree to reject the hearing examiner or if the Commissioner determines that one party has good cause for the rejection, the Commissioner shall assign another hearing examiner. |
| FINALITY OF DECISION       | After the employee receives notice of the proposed contract action, the parties may agree in writing that the hearing examiner's decision be final and nonappealable on all or some issues.<br><br><i>Education Code 21.254</i>                                                                                                                                                                                                                                                                                  |
| POWERS OF HEARING EXAMINER | The hearing examiner may issue subpoenas, administer oaths, rule on motions and the admissibility of evidence, maintain decorum, schedule and recess the proceedings, allow the parties to take depositions or use other means of discovery, and make any other orders as provided by Commissioner rule.                                                                                                                                                                                                         |
| CONDUCT OF HEARING         | The hearing and any depositions must be held within the geographical boundaries of the District or at the regional education service center that serves the District.<br><br><i>Education Code 21.255</i>                                                                                                                                                                                                                                                                                                        |
| SCHEDULE RESTRICTION       | A hearing before a hearing examiner may not be held on a Saturday, Sunday, or a state or federal holiday, unless all parties agree.<br><i>Education Code 21.257(c)</i>                                                                                                                                                                                                                                                                                                                                           |
| PRIVATE                    | A hearing before a hearing examiner shall be private unless the employee makes a written request for a public hearing.                                                                                                                                                                                                                                                                                                                                                                                           |
| EXCEPTION                  | If necessary to maintain decorum, the hearing examiner may close a hearing that an employee has requested be public.                                                                                                                                                                                                                                                                                                                                                                                             |
| PROTECTION OF WITNESSES    | To protect the privacy of a witness who is a child, the hearing examiner may close the hearing to receive the testimony or order that the testimony be presented by procedures in Article 38.071, Code of Criminal Procedure.                                                                                                                                                                                                                                                                                    |
| EMPLOYEE RIGHTS            | At the hearing, the employee has the right to:<br><ol style="list-style-type: none"><li>1. Be represented by a representative of the employee's choice;</li><li>2. Hear the evidence on which the charges are based;</li><li>3. Cross-examine each adverse witness; and</li></ol>                                                                                                                                                                                                                                |

TERMINATION OF EMPLOYMENT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

4. Present evidence.

The hearing is not subject to the Administrative Procedure Act.

The hearing shall be conducted in the same manner as a trial without a jury in state district court. A certified shorthand reporter shall record the hearing.

|                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| EVIDENCE                    | The Texas Rules of Civil Evidence shall apply at the hearing. An evaluation or appraisal of the teacher is presumed to be admissible at the hearing. The hearing examiner's findings of fact and conclusions of law shall be presumed to be based only on admissible evidence.                                                                                                                                                                                                                                                                                                                                                                                                |
| BURDEN OF PROOF             | The District has the burden of proof by a preponderance of the evidence at the hearing.<br><br><i>Education Code 21.256</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| COSTS                       | The District shall bear the cost of the services of the hearing examiner and certified shorthand reporter and the production of any original hearing transcript. Each party shall bear its costs of discovery, if any, and its attorney's fees. <i>Education Code 21.255(e)</i>                                                                                                                                                                                                                                                                                                                                                                                               |
| RECOMMENDATION              | Not later than the 60th day after the date on which the Commissioner receives a request for a hearing before a hearing examiner, the hearing examiner shall complete the hearing and make a written recommendation. The recommendation must include findings of fact and conclusions of law. The recommendation may include a proposal for granting relief, including reinstatement, back pay, or employment benefits. The proposal for relief may not include attorney's fees or other costs associated with the hearing or appeals from the hearing. The hearing examiner shall send a copy of the recommendation to each party, the Board President, and the Commissioner. |
| WAIVER OF DEADLINE          | The parties may agree in writing to extend by not more than 45 days the right to a recommendation by the date specified above.<br><br><i>Education Code 21.257</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| CONSIDERATION               | The Board or a designated subcommittee shall consider the hearing examiner's record and recommendation at the first Board meeting for which notice can be posted in compliance with the open meetings laws. The meeting must be held not later than the 20th day after the date that the Board President receives the hearing examiner's recommendation and record.                                                                                                                                                                                                                                                                                                           |
| ORAL ARGUMENT AND RECORDING | At the meeting, the Board or subcommittee shall allow each party to present an oral argument to the Board or subcommittee. The Board may, by written policy, limit the amount of time for oral argu-                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |

TERMINATION OF EMPLOYMENT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

ment, provided equal time is allotted each party. A certified shorthand reporter shall record any such oral argument.

LEGAL ADVICE

The Board or subcommittee may obtain advice from an attorney who has not been involved in the proceedings.

*Education Code 21.258, .260*

DECISION

Not later than the tenth day after the date on which the meeting to consider the hearing examiner's recommendation is held, the Board or subcommittee shall announce its decision, which must include findings of fact and conclusions of law, and may include a grant of relief.

The Board or subcommittee may adopt, reject, or change the hearing examiner's conclusions of law or proposal for granting relief. A determination by the hearing examiner regarding good cause for the suspension of an employee without pay or the termination of a probationary, continuing, or term contract is a conclusion of law and may be adopted, rejected, or changed by the Board or Board subcommittee.

The Board may reject or change a finding of fact made by the hearing examiner:

1. Only after reviewing the record of the proceedings; and
2. Only if the finding of fact is not supported by substantial evidence.

The Board or subcommittee shall state in writing the reason for and legal basis for a change or rejection.

*Education Code 21.257, .259*

RECORDING

A certified shorthand reporter shall record the announcement of the decision. The District shall bear the cost of the reporter's services.  
*Education Code 21.260*

RECORD OF  
PROCEEDINGS

The Commissioner shall consider the appeal solely on the basis of the local record and may not consider any additional evidence or issue. *Education Code 21.301(c)*

The record of the proceedings before the independent hearing examiner shall include:

1. The transcripts of proceedings at the local level;
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;

TERMINATION OF EMPLOYMENT  
HEARINGS BEFORE HEARING EXAMINER

DFD  
(LEGAL)

5. A description of matters officially noticed;
6. If applicable, the recommendation of the independent hearing examiner;
7. The transcript of the oral argument before the Board or Board subcommittee;
8. The decision of the Board or Board subcommittee; and
9. If applicable, the Board or Board subcommittee's written reasons for changing the recommendation of the independent hearing examiner.

*19 TAC 157.1072(e)*

TERMINATION OF 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.

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LEGAL)

RESIGNATION  
WITHOUT CONSENT  
(UNILATERAL  
RESIGNATION)

An educator employed under a probationary contract for the following school year, or under a term or continuing contract, may relinquish the position and leave district employment at the end of the school year without penalty by filing a written resignation with a board or a board's designee not later than the 45th day before the first day of instruction of the following school year.

A written resignation mailed by prepaid certified or registered mail to a board president or a board's designee at the post office address of the district is considered filed at the time of mailing.

*Education Code 21.105(a), .160(a), .210(a)*

An unequivocal resignation filed not later than the 45th day before the first day of instruction of the following school year is effective upon filing with a district and the district cannot reject such a resignation. The resignation cannot be withdrawn by the teacher based on an argument that the district has not accepted the resignation. *Fantroy v. Dallas Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 034-R9-0206 (Mar. 5, 2009); Garcia v. Miles Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 055-R1-503 (Nov. 30, 2006).*

RESIGNATION WITH  
CONSENT

The educator may resign, with the consent of the board or the board's designee, at any other time. *Education Code 21.105(b), .160(b), .210(b)*

SANCTIONS FOR  
ABANDONMENT OF  
CONTRACT

On written complaint by a district, the State Board for Educator Certification (SBEC) may impose sanctions against an educator who is employed under a probationary contract, or under a continuing or term contract, for the following school year, and who:

1. Resigns;
2. Fails without good cause to comply with the resignation deadline or the provision regarding resignation by consent; and
3. Fails without good cause to perform the contract.

*Education Code 21.105(c), .160(c), .210(c)*

Acceptance or approval of a resignation indicates consent to abandonment of contract. *Quitman Indep. Sch. Dist. v. Wilkerson, Tex. Comm'r of Educ. Decision No. 142-TTC-698 (Dec. 2, 1999); Houston Indep. Sch. Dist. v. Johnson, Tex. Comm'r of Educ. Decision No. 054-TTC-1196 (Sept. 28, 1998)*

SBEC shall not pursue sanctions against an educator who is alleged to have abandoned his or her contract unless a board:

1. Submits a written complaint within 30 calendar days after the effective date of the educator's separation from employment

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LEGAL)

from the district. Unless the district and the educator have a written agreement to the contrary, the effective date of separation from employment is the first day that, without district permission, the educator fails to appear for work under the contract.

2. Renders a finding that good cause did not exist under Education Code 21.105(c)(2) (probationary contract), 21.160(c)(2) (continuing contract), or 21.210(c)(2) (term contract). This finding constitutes prima facie evidence of the educator's lack of good cause but is not a conclusive determination.
3. Submits the following required attachments to the written complaint:
  - a. The educator's resignation letter, if any;
  - b. The agreement with the educator regarding the effective date of separation from employment, if any;
  - c. The educator's contract; and
  - d. Board meeting minutes indicating a finding of "no good cause." If the board does not meet within 30 calendar days of the educator's separation from employment, the minutes may be submitted within 10 calendar days after the next board meeting.

*19 TAC 249.14(g)*

REPORT TO SBEC

A superintendent shall report the educator's resignation to SBEC if the conditions set forth at Education Code 21.006 exist. [See DHB] *Education Code 21.006*

INVESTIGATION

A superintendent shall complete an investigation of an educator if there is evidence that the educator may have abused or otherwise committed an unlawful act with a student or minor, despite the educator's resignation from district employment before completion of the investigation. *Education Code 21.006(b-1); 19 TAC 249.14(d)(3)(C)*

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LOCAL)

GENERAL  
REQUIREMENTS

All resignations shall be submitted in writing to the Superintendent or designee. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

AT-WILL EMPLOYEES

The Superintendent or designee shall be authorized to accept the resignation of an at-will employee at any time.

CONTRACT  
EMPLOYEES

The Superintendent or designee shall be authorized to 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. The resignation requires no further action by the District and is accepted upon receipt.

The Superintendent or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time. The Superintendent or other Board designee 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 and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

TERMINATION OF EMPLOYMENT  
REDUCTION IN FORCE

DFF  
(LEGAL)

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| BOARD AUTHORITY                  | <p>The Board is charged with the responsibility of governance of the District; governance includes the making of responsible choices in managing the finances and personnel of the District. <u>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)</u></p> <p>The District is always free to change its organizational structure as it seeks to increase its efficiency. <u>Wasserman v. Nederland Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 171-R1-784 (1988)</u></p>                                                                                                                                                                                                                                                                                                      |
| CONSIDERATION FOR OPEN POSITIONS | <p>The Commissioner has held that, when a position is eliminated due to a necessary reduction in force, the District must transfer the employee to a different position if the teacher meets the District's objective criteria for that position. Objective criteria may include credentials, education, experience, applying for the position, and interviewing for the position. The District need not offer a position to a teacher who refuses to apply and interview for an open position. <u>Amerson v. Houston Indep. Sch. Dist., Tex. Comm'r of Educ. Decision No. 022-R2-1202 (2003)</u></p>                                                                                                                                                                                                                                                                                  |
| PROBATIONARY CONTRACT            | <p>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. <i>Education Code 21.104(a), .1041, .159</i></p> <p>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. <i>Education Code 21.103(a)</i></p> |
| TERM CONTRACT                    | <p>The 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. <i>Education Code 21.211(a)</i></p> <p>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,</p>                                                                                                                                   |

TERMINATION OF EMPLOYMENT  
REDUCTION IN FORCE

DFF  
(LEGAL)

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|                     | <p>Subchapter F (hearings before independent hearing examiner) [see DFD], as determined by the Board. <i>Education Code 21.159</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| CONTINUING CONTRACT | <p>An employee employed under a continuing contract may be discharged at any time for good cause as determined by the Board. <i>Education Code 21.156</i></p> <p>Continuing contract employees may be released from employment by the District at the end of a school year because of a necessary reduction of personnel. 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. <i>Education Code 21.157</i></p> <p>A hearing of a proposed action based on a declaration of financial exigency shall be conducted in the 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. <i>Education Code 21.1041, .159</i></p> |
| FINANCIAL EXIGENCY  | <p>The Board may adopt a resolution declaring a financial exigency for the District. <i>Education Code 44.011</i> [See CEA]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| HEARING EXAMINER    | <p>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. <i>Education Code 21.251</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| WARN ACT            | <p>Local governments are not covered by the federal Worker Adjustment and Retraining Notification Act (WARN Act) (plant closings and mass layoffs). <i>20 C.F.R. 639.3(a)(ii)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

EMPLOYEE FREE  
SPEECH

District employees do not shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.

However, neither an employee nor anyone else has an absolute constitutional right to use all parts of a school building or its immediate environs for unlimited expressive purposes. When a public employee makes statements pursuant to his or her official duties, the employee is not speaking as a citizen for First Amendment purposes, and the Constitution does not insulate the communications from employer discipline.

*Garcetti v. Ceballos*, 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)

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

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 time lines 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.

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

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| AFFIRMATIVE<br>DEFENSE                         | <p>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.</p> <p><i>Gov't Code 554.004</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| NOTICE OF RIGHTS                               | <p>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. <i>Gov't Code 554.009</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| RIGHT TO REPORT A<br>CRIME                     | <p>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. <i>Education Code 37.148</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| PROTECTION FOR<br>REPORTING CHILD<br>ABUSE     | <p>A board or its agents may not suspend or terminate the employment of, or otherwise discriminate against, a professional employee who in good faith:</p> <ol style="list-style-type: none"><li>1. Reports child abuse or neglect to:<ol style="list-style-type: none"><li>a. The person's supervisor,</li><li>b. An administrator of the facility where the person is employed,</li><li>c. A state regulatory agency, or</li><li>d. A law enforcement agency; or</li></ol></li><li>2. Initiates or cooperates with an investigation or proceeding by a governmental entity relating to an allegation of child abuse or neglect.</li></ol> <p>A person whose employment is suspended or terminated or who is otherwise discriminated against in violation of the foregoing may sue for injunctive relief, damages, or both. A district employee who has a cause of action under WHISTLEBLOWER PROTECTION may not bring an action under PROTECTION FOR REPORTING CHILD ABUSE.</p> <p><i>Family Code 261.110</i></p> |
| PROTECTION FROM<br>DISCIPLINARY<br>PROCEEDINGS | <p>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] <i>Education Code 22.0512(b)</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

EMPLOYEE RIGHTS AND PRIVILEGES

DG  
(LEGAL)

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| 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]. <i>Education Code 38.0041</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| USE OF PHYSICAL FORCE                               | <p>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. <i>Education Code 22.0512(a); Tex. Att'y Gen. Op. GA-0202 (2004)</i></p> <p>Penal Code 9.62 provides that the use of force, other than deadly force, against a person is justified:</p> <ol style="list-style-type: none"><li>1. If the actor is entrusted with the care, supervision, or administration of the person for a special purpose; and</li><li>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.</li></ol> |
| 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                                           | <p>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.</p> <p>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.</p> <p><i>Education Code 31.104(e); 19 TAC 66.107(c), .1319(d)</i></p>                                                                                                                       |
| BREAKS FOR NURSING MOTHERS—NONEXEMPT EMPLOYEES      | A district shall provide a nonexempt employee a reasonable break to express breast milk, each time the employee needs to express breast milk for her nursing child, for one year after the child's birth. The district shall provide a place, other than a bathroom, that is                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

EMPLOYEE RIGHTS AND PRIVILEGES

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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 is not required to compensate the employee receiving reasonable break time for any work time spent for such purpose.

A district that employs fewer 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.

*29 U.S.C. 207(r)*

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*

EMPLOYEE RIGHTS AND PRIVILEGES

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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)*

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EMPLOYEE RIGHTS AND PRIVILEGES  
PERSONNEL-MANAGEMENT RELATIONS

DGB  
(LEGAL)

PRIVILEGES TO  
EMPLOYEE  
ORGANIZATIONS

The District may distinguish among associations on the basis of proportionate membership if it ensures that any distinguishing policies and customs are reasonable and not coercive. *San Antonio Federation of Teachers v. San Antonio Indep. Sch. Dist.*, Comm. of Ed. Dec. 77-R105 (1980)

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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UNITED STATES  
CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV*

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968) [See DG]

TEXAS CONSTITUTION

Employees shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] District*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS  
SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. 34 C.F.R. 104.7(b), .11

AMERICANS WITH  
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). 28 C.F.R. 35.107, .140

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of employee complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. 34 C.F.R. 106.8(b); *North Haven Bd. of Educ. v. Bell*, 456 U.S. 512 (1982)

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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STATE LAWS

WAGES, HOURS,  
CONDITIONS OF  
WORK

The prohibition against collective bargaining and strikes [see DGA] does not impair the right of employees to present grievances concerning their wages, hours of employment, or conditions of work, either individually or through a representative that does not claim the right to strike. *Gov't Code 617.005*

The term "conditions of work" should be construed broadly to include any area of wages, hours or conditions of employment, and any other matter that is appropriate for communications from employees to employer concerning an aspect of their relationship. *Atty. Gen. Op. JM-177 (1984)*; *Corpus Christi Fed. of Teachers v. Corpus Christi Indep. Sch. Dist.*, 572 S.W.2d 663 (Tex. 1978)

The statute protects grievances presented individually or individual grievances presented collectively. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.)

REPRESENTATIVE

The District cannot deny an employee's representative, including an attorney, the right to represent the employee at any stage of the grievance procedure, so long as the employee designates the representative and the representative does not claim the right to strike. *Lubbock Prof'l Firefighters v. City of Lubbock*, 742 S.W.2d 413 (Tex. App.—Amarillo 1987, writ ref'd n.r.e.); *Sayre v. Mullins*, 681 S.W.2d 25 (Tex. 1984)

The District should meet with employees or their designated representatives at reasonable times and places to hear grievances concerning wages, hours of work, and conditions of work. The right to present grievances is satisfied if employees have access to those in a position of authority to air their grievances. However, that authority is under no legal compulsion to take action to rectify the matter. *Atty. Gen. Op. H-422 (1974)*; *Corpus Christi Indep. Sch. Dist. v. Padilla*, 709 S.W.2d 700 (Tex. App.—Corpus Christi, 1986, no writ)

EMPLOYMENT  
POLICY

The 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 the 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*

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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| GRIEVANCE POLICY         | <p>The District's grievance policy must permit an employee to report a grievance against a supervisor to a different supervisor if the employee alleges that the supervisor:</p> <ol style="list-style-type: none"><li>1. Violated the law in the workplace; or</li><li>2. Unlawfully harassed the employee.</li></ol>                                                                                                                                                                                                                 |
| TELEPHONE REPRESENTATION | <p>If the District's grievance policy provides for representation, the policy must permit an employee's representative to represent the employee through a telephone conference call at any formal grievance proceeding, hearing, or conference at which the employee is entitled to representation according to the policy. This provision applies to grievances under Education Code 11.171(a) and only if the District has the equipment necessary for a telephone conference call.</p> <p><i>Education Code 11.171(a), (c)</i></p> |
| AUDIO RECORDING          | <p>The District's grievance policy must permit an employee who reports a grievance to make an audio recording of any meeting or proceeding at which the substance of a grievance that complies with the policy is investigated or discussed. The implementation of an employee's authorization to make an audio recording may not result in a delay of any time line provided by the grievance policy. The District is not required to provide equipment for the employee to make the recording. <i>Education Code 11.171(b)</i></p>   |
| FINALITY OF GRADES       | <p>An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board.</p> <p>The Board's determination is not subject to appeal.</p> <p><i>Education Code 28.0214</i></p>                                                                                                                                                                                |
| OPEN MEETINGS ACT        | <p>The Board is not required to conduct an open meeting to hear a complaint or charge against an employee. However, the Board may not conduct a closed meeting if the employee who is the subject of the hearing requests a public hearing. <i>Gov't Code 551.074</i> [See BEC]</p>                                                                                                                                                                                                                                                    |
| CLOSED MEETING           | <p>The Board may conduct a closed meeting on an employee complaint to the extent required or provided by law. <i>Gov't Code 551.082</i> [See BEC]</p>                                                                                                                                                                                                                                                                                                                                                                                  |
| RECORD OF PROCEEDINGS    | <p>An appeal of the Board's decision to the Commissioner shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic</p>                                                                                                                                                                                                                                                                                                                                  |

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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recording or written transcript of all oral testimony or argument.  
*Education Code 7.057(c), (f)*

It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:

1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:
  - a. The tape recording must be complete, audible, and clear; and
  - b. Each speaker must be clearly identified.
2. All evidence admitted;
3. All offers of proof;
4. All written pleadings, motions, and intermediate rulings;
5. A description of matters officially noticed;
6. If applicable, the decision of the hearing examiner;
7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

*19 TAC 157.1073(d)*

WHISTLEBLOWER  
COMPLAINTS

Before bringing suit, an employee who seeks relief under Government Code Chapter 554 (whistleblowers) must initiate action under the District's grievance or appeal procedures relating to suspension or termination of employment or adverse personnel action. *Gov't Code 554.006* [See DG]

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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COMPLAINTS

In this policy, the terms "grievance" or "complaint" shall mean an employee's specific written statement expressing dissatisfaction with his or her wages, hours of work, or conditions of work. The term also includes an employee's specific allegations of unlawful discrimination, harassment, or retaliation based on gender, age, religion, national origin, disability, "whistleblower" complaints, or the employee exercise of rights protected by the U.S. Constitution or other state or federal law.

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 but not limited to 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, or any other form of retaliation (including workers' compensation retaliatory discharge) shall be brought under this policy, but certain forms of such complaints shall be initially investigated pursuant to a report filed in accordance with DIA.
4. Complaints concerning instructional materials shall be submitted in accordance with EFA.
5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.
6. Any complaint, including an employee's assertion that the proposed action is because the employee made a good faith report to an appropriate law enforcement authority of a District violation of a law, arising from or related to any of the following events must be addressed through the local and statutory processes described in the DF series of District policies, specifically:
  - a. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code, which shall be submitted in accordance with DFBB.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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- b. Complaints concerning the proposed suspension without pay from a term contract or a probationary contract issued under Chapter 21 of the Education Code during the contract term [see DFAA or DFBA].
- c. Complaints concerning the proposed termination of an employee on a probationary or term contract issued under Chapter 21 of the Education Code during the contract term, which shall be submitted in accordance with DFAA and DFBA.

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**Note:** This policy shall apply to complaints or grievances resulting from dismissal or termination of at-will employees [see DCD] or professional employees whose probationary contracts are terminated at the end of a school year [see DFAB].

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NOTICE TO  
EMPLOYEES

The principal of each campus and other supervisors are responsible for ensuring that all employees under their supervision are informed of this policy.

PURPOSE  
INFORMAL  
PROCESS

The Board's employee complaint policy is adopted to provide a process for the prompt and orderly resolution of workplace conflicts without fear of prejudice, coercion, or retaliation. The Board encourages employees to discuss their concerns with their supervisor, principal, or other appropriate administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy, except by mutual written consent.

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.

FREEDOM FROM  
RETALIATION

Neither the Board nor any District employee may unlawfully retaliate against any employee for exercising the right to bring a complaint under this policy.

WHISTLEBLOWER  
COMPLAINTS

Whistleblower complaints shall be filed within the time specified by law. Time lines for the employee and the District set out in this policy may be shortened to allow the Board to make a final decision within 60 calendar days of the initiation of the complaint. [See DG]

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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| COMPLAINTS AGAINST SUPERVISORS | Complaints alleging a supervisor's violation of law may be made to the Superintendent beginning at Level Two. A complaint alleging a violation of law by the Superintendent may be made directly to the Board beginning at Level Three.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| GENERAL PROVISIONS<br>FILING   | Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are postmarked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.                                 |
| SCHEDULING CONFERENCES         | The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If the employee fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the employee's absence.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| RESPONSE                       | At Levels One and Two, "response" shall mean a written communication to the employee from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the employee's e-mail address of record, or sent by U.S. Mail to the employee's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.                                                                                                                                                                                                                                                                                                                                               |
| DAYS                           | "Days" shall mean calendar days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is "day zero." The following day is "day one."                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| REPRESENTATIVE                 | <p>"Representative" shall mean any person who or an organization that does not claim the right to strike and is designated by the employee to represent him or her in the complaint process.</p> <p>The employee may designate a representative through written notice to the District at any level of this process. The representative may participate in person or by telephone conference call. If the employee designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.</p> |
| IMMEDIATE SUPERVISOR           | "Immediate supervisor" means the administrator or other District employee responsible for the employee's supervision and evaluation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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|                              | <p>The Superintendent may authorize a complaint over dismissal of an at-will employee from District employment or termination of a probationary contract at the end of a school year to be initially filed with the Superintendent or designee according to the time lines and other requirements for filing a complaint at Level One.</p>                                                                                                                                                                                                                                                                                                          |
| CONSOLIDATING COMPLAINTS     | <p>Complaints arising out of an event or a series of related events shall be addressed in one complaint. Employees shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.</p> <p>When two or more complaints are sufficiently similar in nature and remedy sought to permit their resolution through one proceeding, the District may consolidate the complaints.</p>                                                                                                                                                                         |
| UNTIMELY FILINGS             | <p>Complaints that are not filed in accordance with the time lines shall be dismissed. No administrator shall have the authority to extend a deadline for filing a complaint. The employee may appeal the dismissal by seeking review within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness. All appeals challenging the determination of timeliness shall be filed in writing and shall state the reason the employee believes the complaint was timely filed.</p>                                                                                                  |
| COSTS INCURRED               | <p>Each party shall pay its own costs incurred in the course of the complaint.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| FAILURE TO ATTEND HEARING    | <p>Failure of the employee or designated representative to attend a scheduled hearing shall constitute a waiver of the right to relief at the level and shall affirm the decision of the lower level, if applicable. The failure of an employee or designated representative to attend a scheduled hearing shall also constitute a waiver of the employee's right to proceed to a higher grievance level.</p>                                                                                                                                                                                                                                       |
| CONTENT OF WRITTEN GRIEVANCE | <p>All employee complaints and appeals must be submitted on the grievance form approved by the District and must include all of the information listed below and detailed on the form. Each complaint or appeal must contain:</p> <ol style="list-style-type: none"><li>1. The employee's name.</li><li>2. The employee's campus or position.</li><li>3. The date of the event or action that gave rise to the complaint.</li><li>4. A detailed statement of the decision or action that gave rise to the complaint or appeal. The statement must include a factual description of all the circumstances that gave rise to the complaint.</li></ol> |

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

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5. A detailed statement specifically identifying how the employee has been harmed by that decision or action. The employee has the burden to prove the allegations of the complaint or appeal and to demonstrate the harm.
6. Copies of all documents that the employee shall rely upon during the grievance process and an explanation of what each document shall prove. If the employee does not have copies of documents at the time the complaint or appeal is filed, the employee shall have the opportunity to provide copies of the documents at the Level One conference, but an explanation of the documents shall be required on the original complaint. No new documents shall be accepted after the Level One conference unless the employee did not know the document existed before the time of the Level One conference.
7. Identification of the specific policy or policies, constitutional or statutory provisions, or administrative regulations alleged to be violated or misapplied, or the specific type of discrimination alleged to have been committed and facts to support the allegation.
8. A description of any efforts to resolve the problem informally including to whom the employee spoke, the date of the meeting, and the responses.
9. The specific remedy the employee is seeking through the grievance process.
10. The date of filing.
11. Signatures of the employee and representative, if any. The employee's signature must appear on each grievance form.
12. The name, address, and telephone number of the employee's representative. This information may be added to the grievance record whenever the employee chooses to have representation.

A complaint or appeal that is incomplete in any material aspect shall be dismissed but may be refiled with all the required information provided the refiling is within the designated time for filing.

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.

PERSONNEL-MANAGEMENT RELATIONS  
EMPLOYEE COMPLAINTS/GRIEVANCES

DGBA  
(LOCAL)

RELIEF GRANTED                   An employee shall not be allowed to appeal the decision of a hearing officer at Level One or Level Two when the decision has granted all of the relief requested by the employee.

LEVEL ONE                       Complaint forms must be filed:

1. Within 15 days of the date the employee first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and
2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, employees on a school campus shall file Level One complaints with the campus principal; other District employees shall file Level One complaints with their immediate supervisor.

If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and, within one business day, forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the employee within seven days after receipt of the written complaint. If the deadline for the conference falls on a day that the central administration office is not open, the deadline shall extend to the next day that the central administration office is open. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the employee a written response within seven days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.

LEVEL TWO

If the employee is not satisfied with the decision from Level One, or if the time for a response has expired, the employee may request a conference with the Superintendent or designee to discuss the grievance and appeal the Level One decision.

The request must be filed in writing on a form provided by the District, within seven days following receipt of the written response at Level One. If the administration does not provide a written response and the time for providing the response has expired, the employee's request must be filed within seven days following the expiration of the administration's time for providing a written response to the employee's Level One grievance.

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After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The employee may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the employee at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The request must state specifically what portion of the Level One decision the employee disagrees with and specifically why the employee disagrees with the decision. Documents used at Level One that support the Level Two appeal must also be identified. The request must include a copy of the Level One decision and the original complaint, including all attachments and documents that the employee used at Level One and an explanation of what they prove.

The relief available to the employee at Level Two shall be limited to that requested by the employee at Level One. New or additional relief requested at Level Two shall not be considered except at the discretion of the Superintendent or designee.

The Superintendent or designee shall schedule a conference within seven days after receipt of the written appeal notice is filed. If the deadline for the conference falls on a day that the central administration office is not open, the deadline shall extend to the next day that the central administration office is open. The conference shall be limited to the issues and documents presented at Level One and shall be identified in the Level Two appeal notice. The employee or the representative shall have 20 minutes to present the employee's appeal.

The Superintendent or designee shall provide the employee a written response within seven days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

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LEVEL THREE

If the employee is not satisfied with the decision from Level Two, or if the time for a response has expired, the employee may submit to the Superintendent or designee a request to place the matter on the agenda of a future Board meeting. An employee requesting a Level Three grievance hearing may request that opportunity to make an oral argument before the Board at the meeting where the grievance is to be considered. In the alternative, an employee may present his or her Level Three grievance to the Board solely in the form of a written petition with supporting evidence. A grievance submitted to the Board in writing shall only be discussed in a closed session unless otherwise required to be discussed in open session under this policy and shall not require the employee or representative to attend the hearing. If the employee does not specifically request the opportunity to make an oral argument before the Board, then no oral argument shall be heard and the Board shall consider the written record only.

The appeal notice must be in writing on a form provided by the District, within seven days following receipt of the written Level Two response or, if no response was received, within seven days of the Level Two response deadline. If the appeal notice is untimely, not on the District's form, or incomplete in any material way, the Superintendent, after consultation with the Board President, may dismiss the complaint and provide written notice of dismissal to the complainant.

The Superintendent or designee shall inform the employee of the date, time, and place of the Board meeting at which the employee's complaint shall be an agenda item for presentation to the Board.

The Board shall consider only those issues and documents presented at Level Two and identified in the Level Three appeal.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The employee may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The request must state specifically what portion of the Level Two decision the employee disagrees with and specifically why the em-

PERSONNEL-MANAGEMENT RELATIONS  
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employee disagrees with the decision. The request must also include a copy of the original complaint, documents relied upon at Level One, the Level One decision, the Level Two appeal, documents relied upon at Level Two, the Level Two decision, and the Level Three appeal. Documents used at Level Two that support the Level Three appeal must also be identified.

If at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the employee notice of the nature of the evidence at least three days before the hearing.

The relief available to the employee at Level Three shall be limited to that requested by the employee at Level One or granted to the employee at Level Two. New or additional relief requested by the employee at Level Two or Level Three shall not be considered.

The Board may hear the complaint in open or closed meeting but shall hear it in open meeting if the employee makes a request to that effect. However, if the employee's complaint is against another District employee, the option to request an open meeting lies with the employee against whom the complaint or charge is being brought.

The employee shall be allotted ten minutes to argue his or her position to the Board according to the procedures established by the Board for the presentation. The administration's presentation, if any, shall also be limited to ten minutes.

The Level Three presentation before the Board, including the employee's or the employee's representative's argument, any presentation from the administration, and questions from the Board with responses shall be recorded by audio tape. The Board's deliberations shall not be recorded.

The Board shall consider the grievance but is not required to respond or take any action on the matter. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. The lack of a response by the Board, or Board inaction, upholds the administrative decision at Level Two. Announcing the Board's decision or announcing the effect of the Board inaction in the employee's presence constitutes communication of the decision. If for any reason the Board fails to reach a decision regarding the grievance by the end of the next regularly scheduled meeting, the lack of a response by the Board shall uphold the administrative decision at Level Two.

EMPLOYEE STANDARDS OF CONDUCT

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|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | <p>Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. [See DH(EXHIBIT)]</p> <p>Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.</p> <p>An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]</p> |
| VIOLETIONS OF STANDARDS OF CONDUCT | <p>Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines shall be considered good cause for termination and may result in disciplinary action, including termination of employment. [See DCD and DF series]</p>                                                                |
| NURSE PEER REVIEW                  | <p>The District shall report a nurse to the Peer Review Committee of School Nurses of South Texas if the District terminates, suspends for more than seven days, or takes other substantive disciplinary action against the nurse.</p>                                                                                                                                                                                                                                                                                        |
| WEAPONS PROHIBITED                 | <p>The District prohibits the use, possession, or display of any firearm, illegal knife, club, or prohibited weapon, as defined at FNCG, on District property at all times.</p>                                                                                                                                                                                                                                                                                                                                               |
| EXCEPTIONS                         | <p>No violation of this policy occurs when 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]</p>                                                                                                                                                                                                                                                                                                              |
| ELECTRONIC MEDIA                   | <p>Electronic media includes all forms of social media, such as text messaging, instant messaging, electronic mail (e-mail), web logs (blogs), electronic forums (chat rooms), video-sharing websites, editorial comments posted on the Internet, and social network sites. Electronic media also includes all forms of telecommunication, such as landlines, cell phones, and web-based applications.</p>                                                                                                                    |
| USE WITH STUDENTS                  | <p>In accordance with administrative regulations, a certified or licensed employee, or any other employee designated in writing by the Superintendent or a campus principal, may use electronic media to communicate with currently enrolled students about matters within the scope of the employee's professional responsibilities. All other employees are prohibited from using electronic media to communicate directly with students who are currently enrolled in the District. The regulations shall address:</p>     |

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1. Exceptions for family and social relationships;
2. The circumstances under which employees may use text messaging to communicate with students; and
3. Other matters deemed appropriate by the Superintendent or designee.

Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic media. [See CPC]

PERSONAL USE

An employee shall be held to the same professional standards in his or her public use of electronic media as for any other public conduct. If an employee's use of electronic media violates state or federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

SAFETY  
REQUIREMENTS

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

HARASSMENT OR  
ABUSE

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

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

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

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

RELATIONSHIPS WITH  
STUDENTS

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

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

An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances

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during working hours while on District property or at school-related activities, regardless of time or place:

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.

NOTICE

Each employee shall be given a copy of the District's notice regarding drug-free schools. [See DI(EXHIBIT)]

A copy of this policy, a purpose of which is to eliminate drug abuse from the workplace, shall be provided to each employee at the beginning of each year or upon employment.

ARRESTS,  
INDICTMENTS,  
CONVICTIONS, AND  
OTHER  
ADJUDICATIONS

An employee shall notify his or her principal or immediate supervisor within two calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:

1. Crimes involving school property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;

EMPLOYEE STANDARDS OF CONDUCT

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(LOCAL)

3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or
4. Crimes involving moral turpitude, which include:
  - Dishonesty; fraud; deceit; theft; misrepresentation;
  - Deliberate violence;
  - Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
  - Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
  - Felony driving while intoxicated (DWI); or
  - Acts constituting abuse or neglect under the Texas Family Code.

DRESS AND  
GROOMING

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

Additionally, an employee's hair must be clean, neatly combed, and out of the eyes and face. Men's hair shall not extend beyond the top of the collar and mohawks, ducktails, and ponytails shall not be allowed. Hair that is styled in a manner that is extreme, outlandish, distracting, or draws attention to the employee shall not be allowed. Hair coloring shall be limited to only natural hair colors.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(EXHIBIT)

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 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 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 District employees, 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.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(EXHIBIT)

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 consume alcoholic beverages on school property or during school activities when students are present.

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 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.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(EXHIBIT)

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

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LEGAL)

SEARCHES—  
GENERAL RULE

Citizens, including district employees, have a right to be free from unreasonable searches and seizures. *U.S. Const. Amendment IV; Tex. Const. Art. I, Sec. 9*

A district may search an employee or an employee's property if:

1. There are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct; and
2. The search is reasonably related in scope to the circumstances that justified the interference in the first place.

*O'Connor v. Ortega*, 480 U.S. 709 (1987); *New Jersey v. T.L.O.*, 469 U.S. 325 (1985)

In addition, a district may search an employee's workplace for noninvestigatory, work-related purposes, if there are reasonable grounds to believe that the search will turn up evidence that the employee is guilty of work-related misconduct. *O'Connor v. Ortega*, 480 U.S. 709 (1987)

DRUG / ALCOHOL  
TESTING

Blood, urine, and breath tests of public employees to determine drug use are searches under the Fourth Amendment of the U.S. Constitution. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989)

RANDOM DRUG  
TESTING

A district may conduct drug tests, without a warrant and without individualized suspicion, when the test serves special governmental needs that outweigh the individual's privacy expectation. *Skinner v. Railway Labor Executives Ass'n*, 489 U.S. 602 (1989); *Nat'l Treasury Employees Union v. Von Raab*, 489 U.S. 656 (1989)

SAFETY-  
SENSITIVE  
POSITIONS

Random alcohol and drug testing of employees in "safety-sensitive" positions may be permissible when the intrusiveness of the search is minimal and a board is able to demonstrate that the drug-testing program furthers its interest in ensuring the physical safety of students. "Safety-sensitive" positions include those that involve the handling of potentially dangerous equipment or hazardous substances in an environment including a large number of children. *Aubrey v. Sch. Bd. of LaFayette Parish*, 148 F.3d 559 (5th Cir. 1998)

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**Note:** The following testing requirements apply to employees who operate commercial motor vehicles and are subject to commercial driver's license requirements in accordance with federal regulations.

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EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LEGAL)

|                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
|----------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| TESTING OF DRIVERS                     | <p>A district shall conduct testing, in accordance with federal regulations, of commercial motor vehicle operators for use of alcohol or a controlled substance that violates law or federal regulation.<br/><i>49 U.S.C. 31.306; 49 C.F.R. Part 382</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                   |
| COMMERCIAL<br>MOTOR VEHICLE<br>DEFINED | <p>A commercial motor vehicle is defined as a motor vehicle used to transport passengers or property that:</p> <ol style="list-style-type: none"><li>1. Has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;</li><li>2. Has a gross vehicle weight rating of 26,001 or more pounds;<br/>or</li><li>3. Is designed to transport 16 or more passengers, including the driver.</li></ol> <p><i>49 C.F.R. 382.107</i></p>                                                                                                                                                       |
| TESTING<br>PROCEDURES                  | <p>A district shall ensure that all alcohol or controlled substances testing conducted under 49 C.F.R. Part 382 complies with the procedures set forth in 49 C.F.R. Part 40. <i>49 C.F.R. 382.105</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| TESTS REQUIRED                         | <p>Required testing includes pre-employment, post-accident, random, reasonable suspicion, return-to-duty, and follow-up testing. No driver shall refuse to submit to a post-accident alcohol or controlled substances test, a random alcohol or controlled substances test, a reasonable suspicion alcohol or controlled substances test, or a return-to-duty or follow-up alcohol or controlled substances test. A district shall not permit a driver who refuses to submit to such tests to perform or continue to perform safety-sensitive functions.<br/><i>49 C.F.R. 382.211, .309</i></p>                                                                                |
| EDUCATION AND<br>TREATMENT             | <p>A district is not required to provide an evaluation by a substance abuse professional or any subsequent recommended education or treatment for an employee who has violated a drug and alcohol regulation of the U.S. Department of Transportation (DOT).</p> <p>However, if a district offers an employee an opportunity to return to a safety-sensitive duty following a violation, the district must, before the employee again performs that duty, ensure that the employee receives an evaluation by a substance abuse professional and that the employee successfully complies with the professional's evaluation recommendations.</p> <p><i>49 C.F.R. 40.289</i></p> |
| RETURN-TO-DUTY<br>TESTING              | <p>If a district permits an employee who has violated a DOT drug and alcohol regulation to return to safety-sensitive functions, the district must ensure that the employee takes a return-to-duty test. This</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

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test cannot occur until after the substance abuse professional has determined that the employee has successfully complied with prescribed education and/or treatment. The employee must have a negative drug test result and/or an alcohol test with an alcohol concentration of less than 0.02 before resuming performance of safety-sensitive duties.

A district is not required to return an employee to safety-sensitive duties because the employee has met the conditions described in the preceding paragraph. Return-to-duty is a personnel decision that the district has the discretion to make subject to legal requirements.

*49 C.F.R. 40.305(a)–(b)*

EDUCATIONAL  
MATERIALS

A district shall provide educational materials that explain the federal requirements and the district's policies and procedures with respect to meeting these requirements. The district shall ensure that a copy of these materials is distributed to each driver before the start of alcohol and controlled substances testing under this policy and to each driver subsequently hired or transferred into a position that requires driving a commercial motor vehicle. Written notice to representatives of employee organizations of the availability of this information shall also be provided. The materials shall include detailed discussion of at least the items listed at 49 C.F.R. 382.601.  
*49 C.F.R. 382.601*

REPORTS

A district required by federal safety regulations to conduct alcohol and drug testing of an employee who holds a commercial driver's license shall report the following information to the Department of Public Safety:

1. A valid positive result on an alcohol or drug test and whether the specimen producing the result was a dilute specimen.  
  
"Valid positive result" means an alcohol concentration of 0.04 or greater on an alcohol confirmation test, or a result at or above the cutoff concentration levels listed in 49 C.F.R. 40.87 on a confirmation drug test.  
  
"Dilute specimen" means a specimen with creatinine and specific gravity values that are lower than expected for human urine.
2. A refusal to provide a specimen for an alcohol or drug test.
3. An adulterated specimen or substituted specimen, as defined at 49 C.F.R. 40.3, on an alcohol or drug test.

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EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

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(LEGAL)

For purposes of this requirement, the term "employee" includes applicants for employment subject to pre-employment testing.

*Trans. Code 644.251-.252; 49 C.F.R. 40.3*

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

DHE  
(LOCAL)

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]

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**Note:** The following provisions apply to employees who are covered by the federal Department of Transportation (DOT) rules.

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FEDERALLY  
REQUIRED DOT  
TESTING PROGRAM

In accordance with 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.

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 required follow-up test.

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

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8. Testing positive for controlled substances in a required follow-up test.
9. Testing positive for alcohol, at a concentration of 0.04 or above, in a reasonable suspicion test.
10. 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 may be reinstated as a driver if he or she successfully completes a return-to-duty test. The employee may also be subject to follow-up tests.

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 subsequent positive test result for alcohol of 0.02 or greater but less than 0.04, 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 driver is on duty.

The observations may include indication of the chronic and withdrawal effects of controlled substances. Within 24 hours of the observed behavior, the supervisor shall provide a signed, written record documenting the observations leading to a controlled substance reasonable suspicion test.

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, including a second or subsequent positive test result for alcohol of 0.02 or greater but less than 0.04, shall be subject to District-imposed discipline, as determined by his or her supervisor and the Superintendent. Such discipline may include any appropriate action from suspension without pay during the period of removal from safety-sensitive functions, up to and including termination of employment. [See DF series]

EMPLOYEE STANDARDS OF CONDUCT  
SEARCHES AND ALCOHOL/DRUG TESTING

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In cases where a driver is also employed in a nondriving capacity by the District, disciplinary action imposed for violation of alcohol and controlled substances policies shall apply to the employee's functions and duties that involve driving. Additionally, upon recommendation of the employee's supervisor, disciplinary measures up to and including termination of employment with the District may be considered.

EMPLOYEE WELFARE

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(LEGAL)

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| HAZARD<br>COMMUNICATION ACT | A district shall perform the following duties in compliance with the Hazard Communication Act:                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| NOTICE                      | 1. Post and maintain the notice promulgated by the Texas Department of State Health Services (TDSHS) in the workplace. <i>Health and Safety Code 502.017(a)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| EDUCATION AND<br>TRAINING   | 2. Provide an education and training program for employees using or handling hazardous chemicals. "Employee" means any person who may be or may have been exposed to hazardous chemicals in the person's workplace under normal operating conditions or foreseeable emergencies. Workers such as office workers or accountants who encounter hazardous chemicals only in nonroutine, isolated instances are not employees for purposes of these requirements. <i>Health and Safety Code 502.003(10), .009</i><br><br>3. Maintain the written hazard communication program and a record of each training session to employees, including the date, a roster of the employees who attend, the subjects covered in the training session, and the names of the instructors. Records shall be maintained for at least five years. <i>Health and Safety Code 502.009(g)</i> |
| WORKPLACE<br>CHEMICAL LIST  | 4. Compile and maintain a workplace chemical list that includes required information for each hazardous chemical normally present in the workplace or temporary workplace in excess of 55 gallons or 500 pounds, or as determined by TDSHS for certain highly toxic or dangerous hazardous chemicals. The list shall be readily available to employees and their representatives. <i>Health and Safety Code 502.005(a), (c)</i><br><br>5. Update the list as necessary, but at least by December 31 each year, and maintain at least 30 years. Each workplace chemical list shall be dated and signed by the person responsible for compiling the information. <i>Health and Safety Code 502.005(b), (d)</i>                                                                                                                                                          |
| LABELING                    | 6. As required by law, label new or existing stocks of hazardous chemicals with the identity of the chemical and appropriate hazard warnings, if such stocks are not already appropriately labeled. <i>Health and Safety Code 502.007</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| SAFETY DATA<br>SHEETS       | 7. Maintain a legible copy of the most current manufacturer's safety data sheets (SDS) for each hazardous chemical; request such sheets from the manufacturer if not already provided or otherwise obtain a current SDS; make such sheets readily available to employees or their representatives on request. <i>Health and Safety Code 502.006</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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PROTECTIVE  
EQUIPMENT

8. Provide employees with appropriate personal protective equipment. *Health and Safety Code 502.017(b)*

PEST CONTROL  
TREATMENT NOTICE

The chief administrator or building manager shall notify persons who work in a district building or facility of a planned pest control treatment by both of the following methods:

1. Posting the sign provided by the certified applicator or technician in an area of common access the employees are likely to check on a regular basis at least 48 hours before each planned treatment.
2. Providing the official Structural Pest Control Board Consumer Information Sheet to any individual working in the building, on request.

*Occupations Code 1951.455; 4 TAC 7.146*

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DRUG-FREE  
AWARENESS  
PROGRAM

The District shall maintain a drug-free environment and shall establish, as needed, a drug-free awareness program complying with federal requirements. [See DH] The program shall provide applicable information to employees in the following areas:

1. The dangers of drug use and abuse in the workplace.
2. The District's policy of maintaining a drug-free environment. [See DH(LOCAL)]
3. Drug counseling, rehabilitation, and employee assistance programs that are available in the community, if any.
4. The penalties that may be imposed on employees for violation of drug use and abuse prohibitions. [See DI(EXHIBIT)]

EMPLOYEE  
RESPONSIBILITY

Unless covered by the District's group health-care insurance plan, fees or charges associated with drug/alcohol abuse counseling or rehabilitation shall be the responsibility of the employee.

### DRUG-FREE WORKPLACE NOTICE

The District prohibits the unlawful manufacture, distribution, dispensation, possession, or use of controlled substances, illegal drugs, inhalants, and alcohol in the workplace.

Employees who violate this prohibition shall be subject to disciplinary sanctions. Sanctions may include:

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

As a condition of employment, an employee shall:

- Abide by the terms of this notice; and
- Notify the Superintendent, in writing, if the employee is convicted for a violation of a criminal drug statute occurring in the workplace. The employee must provide the notice in accordance with DH(LOCAL).

[This notice complies with the requirements of the federal Drug-Free Workplace Act (41 U.S.C. 702).]

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FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

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

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OFFICIAL  
OPPRESSION

A public official commits a Class A misdemeanor if, while acting in his or her official or employment capacity, the official intentionally subjects another to unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person's exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly. *Penal Code 39.03*

HARASSMENT OF  
EMPLOYEES

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

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

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

HOSTILE  
ENVIRONMENT

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

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

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

QUID PRO QUO

Conduct of a sexual nature also constitutes harassment when:

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

*29 CFR 1604.11(a)*

SAME-SEX SEXUAL  
HARASSMENT

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

HARASSMENT POLICY

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

CORRECTIVE ACTION

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

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

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

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

HARASSMENT OF  
UNPAID INTERNS

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

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

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| DEFINITIONS                    | Solely for purposes of this policy, the term “employees” includes former employees, applicants for employment, and unpaid interns.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| STATEMENT OF NONDISCRIMINATION | The District prohibits discrimination, including prohibited harassment, against any employee on the basis of race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law. Retaliation against anyone involved in the complaint process is a violation of District policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| DISCRIMINATION                 | Discrimination against an employee is defined as conduct directed at an employee on the basis of race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law, that adversely affects the employee’s employment.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| HARASSMENT                     | <p>Prohibited harassment of an employee is defined as physical, verbal, or nonverbal conduct based on an employee’s race, color, religion, gender, national origin, age, disability, or any other basis prohibited by law, when the conduct is so severe, persistent, or pervasive that the conduct:</p> <ol style="list-style-type: none"><li>1. Has the purpose or effect of unreasonably interfering with the employee’s work performance;</li><li>2. Creates an intimidating, threatening, hostile, or offensive work environment; or</li><li>3. Otherwise adversely affects the employee’s performance, environment, or employment opportunities.</li></ol>                                                                                                               |
| SEXUAL HARASSMENT              | <p>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:</p> <ol style="list-style-type: none"><li>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</li><li>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.</li></ol> |

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| RETALIATION                      | <p>The District prohibits retaliation against an employee who makes a claim alleging to have experienced prohibited discrimination or harassment, or another employee who, in good faith, makes a report, serves as a witness, or otherwise participates in an investigation.</p> <p>An employee who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding harassment or discrimination is subject to appropriate discipline.</p> |
| PROHIBITED CONDUCT               | <p>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.</p>                                                                                                                                                                                                                                                                                               |
| REPORTING PROCEDURES             | <p>An employee who believes that he or she has experienced prohibited conduct or believes that another employee has experienced prohibited conduct shall timely report the alleged acts. The employee may report the alleged acts to his or her supervisor or campus principal.</p> <p>Alternatively, the employee may report the alleged acts to one of the District officials below.</p>                                                                                                              |
| DEFINITION OF DISTRICT OFFICIALS | <p>For the purposes of this policy, District officials are the Title IX coordinator, the ADA coordinator, the Section 504 coordinator, and the Superintendent.</p>                                                                                                                                                                                                                                                                                                                                      |
| TITLE IX COORDINATORS            | <p>Reports of discrimination based on sex or gender, including sexual harassment, may be directed to the designated Title IX coordinators. [See DIA(EXHIBIT)]</p>                                                                                                                                                                                                                                                                                                                                       |
| ADA AND SECTION 504 COORDINATORS | <p>Reports of discrimination based on disability may be directed to the designated ADA coordinators or the Section 504 coordinator. [See DIA(EXHIBIT)]</p>                                                                                                                                                                                                                                                                                                                                              |
| SUPERINTENDENT                   | <p>The Superintendent shall serve as coordinator for purposes of District compliance with all other antidiscrimination laws.</p>                                                                                                                                                                                                                                                                                                                                                                        |
| ALTERNATIVE REPORTING PROCEDURES | <p>An employee shall not be required to report prohibited conduct to the person alleged to have committed it. Reports concerning prohibited conduct, including reports against the Title IX coordinators, the ADA coordinators, or the 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.</p>  |
| TIMELY REPORTING                 | <p>Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. Reports of</p>                                                                                                                                                                                                                                                                                                                                                                |

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prohibited conduct must be filed within 15 calendar days of the date the employee first knew, or with reasonable diligence should have known, of the prohibited conduct.

NOTICE OF REPORT

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

INVESTIGATION OF  
THE REPORT

The District may request, but shall not insist upon, a written report. If a report is made orally, the District official may reduce the report to written form. Upon receipt or notice of a report, the District official should determine whether the allegations, if proven, would constitute prohibited conduct as defined by this policy. If so, the District official shall authorize or undertake an investigation, regardless of whether a criminal or regulatory investigation regarding the same or similar allegations is pending.

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.

CONCLUDING THE  
INVESTIGATION

The investigator may prepare a written report of the investigation. Any report should be provided to the employee.

DISTRICT ACTION

If the results of an investigation indicate that prohibited conduct occurred, the District shall respond by taking disciplinary or corrective action.

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

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). A complaint must be filed within seven calendar days of the date the employee receives the investigation report under this policy, or, if no report is received, within 30 calendar days of the date the employee made or should have made the report under this policy. To the extent that the timelines for filing a complaint under this section conflict with the timelines in DBGA(LOCAL), the timelines in this section shall be the timelines for filing a Level One complaint regarding prohibited conduct.

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

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| RECORDS RETENTION | Copies of reports alleging prohibited conduct, investigation reports, and related records shall be maintained by the District for a period of at least three years. [See CPC] |
| ACCESS TO POLICY  | This policy shall be distributed annually to District employees or made available on the District's website.                                                                  |

DATE ISSUED: 10/21/2015  
UPDATE 103  
DIA(LOCAL)-X

ADOPTED:

4 of 4

ASSIGNMENT AND SCHEDULES

DK  
(LEGAL)

ASSIGNMENT

A public school employee must have the appropriate credentials for his or her current assignment unless the appropriate permit has been issued. The credentials appropriate to each assignment are set forth in rules of the State Board for Educator Certification (SBEC) at 19 Administrative Code Chapter 231. 19 TAC 231.1 [See DBA]

EMERGENCY PERMITS

A superintendent or designee who cannot secure an appropriately certified and qualified individual to fill a vacant position may activate an emergency permit for an individual who does not have one of the appropriate credentials for the assignment.

The Superintendent or designee must:

1. Document the efforts the District has taken to employ a fully certified individual in the position for which an emergency permit is activated;
2. Apply for an emergency permit when a vacant position is filled with an uncertified or inappropriately certified individual who will serve as the teacher of record or will serve in the assignment for more than 30 consecutive instructional days. The application must be submitted to TEA within 45 instructional days of the date of assignment;
3. Verify that the District maintains a support system, has assigned a trained mentor, and will provide release time as needed to assist the individual serving on an emergency permit. However, the District shall not be required to provide a mentor for a degreed, certified teacher assigned on an emergency permit if the teacher has one or more creditable years' experience within the District, as defined at 19 Administrative Code Chapter 153, Subchapter CC; and
4. Verify that the individual for whom the emergency permit is activated has been advised of the SBEC rules regarding permits and permit renewal requirements in 19 Administrative Code Chapter 230, Subchapter F.

*19 TAC 230.71(b)*

For all assignments except career and technical education assignments based on skill and experience, the Superintendent, designee, or authorized representative must verify the individual's eligibility for the emergency permit and submit online to TEA, within 45 instructional days of assignment, the information listed at 19 Administrative Code 230.79. 19 TAC 230.79

An emergency permit is authorized for the District for a specific assignment and is not the property of the individual for whom the

ASSIGNMENT AND SCHEDULES

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emergency permit was activated. If an emergency permit authorized by SBEC is not used, the District shall notify TEA staff by email. *19 TAC 230.71(d)–(e)*

TEMPORARY  
VACANCIES

The District is not required to activate an emergency permit if an uncertified individual is assigned for a certified teacher who will be absent for more than 30 consecutive instructional days due to documented health-related reasons and has expressed the intention to return to the assignment. The District must, however, comply with the parent notification requirements below. *19 TAC 230.71(g)*

EDUCATOR  
CONSENT

A certified teacher must consent to the activation of an emergency permit and be advised of the conditions of the emergency permit.

A teacher who refuses to consent to activation of an emergency permit may not be terminated or nonrenewed or otherwise retaliated against because of the teacher's refusal to consent to the activation of the emergency permit. However, a teacher's refusal to consent shall not impair the District's right to implement a necessary reduction in force or other personnel actions in accordance with local policy.

*19 TAC 230.71(c)*

ELIGIBILITY  
REQUIREMENTS

An individual for whom an emergency permit is activated must meet the general eligibility criteria listed at 19 Administrative Code 230.75 and the specific eligibility requirements for the assignment listed at 19 Administrative Code 230.77. *19 TAC 230.75, .77*

HARDSHIP  
EXCEPTION

An emergency permit may be authorized on a hardship basis for an individual who does not meet all eligibility requirements only if approval has been granted and e-mail notification received from TEA staff. The District must:

1. Document local conditions requiring the assignment of an individual who does not meet emergency permit requirements;
2. Verify that the deficiencies for the certificate sought do not exceed 36 semester credit hours; and
3. Verify:
  - a. That the individual will be enrolled in the first available course listed on the deficiency plan; or
  - b. Registration for the next available administration of the appropriate content specialization portion of the certification examination for an individual who holds a valid Texas classroom teaching certificate and a bachelor's degree from an accredited institution of higher education

ASSIGNMENT AND SCHEDULES

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and is placed in an assignment requiring a different classroom teaching certificate.

*19 TAC 230.71(f)*

VALIDITY OF  
EMERGENCY  
PERMIT

An emergency permit is valid for the remainder of the school year for which it is activated. The emergency permit must be submitted to TEA within 45 instructional days from the date of assignment. The permit is valid for service only in the requesting district and only for the assignments indicated on the emergency permit application.

The employment of an individual on an emergency permit may not exceed three school years in the same assignment. The individual may serve in a specific assignment no more than two additional school years beyond the initial emergency permit. To continue beyond the initial emergency permit year, the individual must comply with the renewal provisions specified in 19 Administrative Code 230.81.

To continue employment in the assignment beyond the validity of the emergency permit, the individual must hold the appropriate certificate. An individual may not serve as a classroom teacher of record in the District for more than three school years without obtaining initial, standard certification.

*19 TAC 230.73*

RENEWAL OF  
PERMIT

The Superintendent, designee, or authorized representative may renew an emergency permit for the same assignment in the same district for which the initial emergency permit was activated. Renewal procedures are set forth at 19 Administrative Code 230.81(5).

No individual may continue in the same assignment for more than three school years of service on an emergency permit, except that emergency permits used fewer than 90 calendar days may be renewed for one additional year of service. The total of semester credit hours or the equivalent contact hours required to obtain certification appropriate for the assignment shall determine the number of emergency permit renewals for which the individual may be eligible. The schedule for determining eligibility for emergency permit renewal is set forth at 19 Administrative Code 230.81(3).

*19 TAC 230.81*

NONRENEWABLE  
PERMITS

The Superintendent or designee may activate a nonrenewable permit for an individual who has not completed the appropriate examination requirements specified in 19 Administrative Code 230.21 (Educator Assessment). A nonrenewable permit may not be acti-

ASSIGNMENT AND SCHEDULES

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vated for an individual in the same assignment area for which another permit had previously been authorized.

A nonrenewable permit may be activated for an individual in one or more of the categories listed at 19 Administrative Code 230.83(b).

The Superintendent, designee, or authorized representative must verify that an individual is eligible for the permit and submit the following information within 60 calendar days of assignment:

1. An application for a nonrenewable permit completed before the effective date of the assignment; and
2. The appropriate fee (payable by the District).

*19 TAC 230.83*

PRINCIPAL'S  
APPROVAL

The principal of a campus shall approve all teacher and staff appointments for the campus from a pool of applicants selected by the District or of applicants who meet the hiring requirements established by the District, based on criteria developed by the principal after informal consultation with the faculty. The Superintendent or designee has final placement authority for a teacher transferred because of enrollment shifts or program changes. *Education Code 11.202; Atty. Gen. Op. DM-27 (1991)*

TRANSFERS

The District's employment policy may include a provision for providing each current District employee with an opportunity to participate in a process for transferring to another school in or position with the District. *Education Code 11.1513(c)(3)*

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**Note:** In accordance with Education Code 21.057, the following notice requirements do not apply if a school is required by the No Child Left Behind Act of 2001 to provide notice to a parent or guardian regarding a teacher who is not highly qualified, provided the school gives notice as required by that Act. [See DBA]

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PARENT  
NOTIFICATION

If the District assigns an inappropriately certified or uncertified teacher (as defined below) to the same classroom for more than 30 consecutive instructional days during the same school year, it shall provide written notice of the assignment to the parents or guardians of each student in that classroom.

The Superintendent shall provide the notice not later than the 30th instructional day after the date of the assignment of the inappropriately certified or uncertified teacher. The District shall make a good-faith effort to ensure that the notice is provided in a bilingual form to any parent or guardian whose primary language is

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(LEGAL)

not English. The District shall retain a copy of the notice and make information relating to teacher certification available to the public on request.

INAPPROPRIATELY  
CERTIFIED OR  
UNCERTIFIED  
TEACHER

An "inappropriately certified or uncertified teacher" includes an individual serving on an emergency certificate or an individual who does not hold any certificate or permit. It does not include an individual who is:

1. Certified and assigned to teach a class or classes outside his or her area of certification, as determined by SBEC rules specifying the certificate required for an assignment;
2. Serving on a certificate issued due to a hearing impairment;
3. Serving on a certificate issued pursuant to enrollment in an approved alternative certification program;
4. Certified by another state or country and serving on a certificate issued under Education Code 21.052;
5. Serving on a school district teaching permit; or
6. Employed under a waiver granted by the Commissioner.

*Education Code 21.057; 19 TAC 231.1*

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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.

CAMPUS  
ASSIGNMENTS

The principal's criteria for approval of campus assignments and reassignments shall be consistent with District policy regarding equal opportunity employment, and with staffing patterns approved in the District and campus plans. [See BQ series] In exercising their authority to approve assignments and reassignments, principals shall work cooperatively with the central office staff to ensure the efficient operation of the District as a whole.

MODIFIED DUTY  
ASSIGNMENTS

Modified duty assignments shall only be permitted for an employee who has been injured on the job. When an employee has been released by his or her physician to return to work with restrictions or limitations, the supervisor shall attempt to make a short-term modified duty assignment for the employee in accordance with the following:

1. The supervisor shall attempt to identify suitable work within the department or school consistent with the employee's stated restrictions or limitations.
2. An employee's modified duty assignment shall not exceed 60 workdays per injury.
3. If a suitable assignment consistent with the stated restrictions or limitations is not available in the employee's regularly assigned department or school, the supervisor shall contact the risk management department to determine if a suitable assignment is available in another department or school.
4. An employee on a modified duty assignment shall remain subject to all District policies and procedures.
5. An employee who cannot return to his or her regular assignment without restrictions or limitations after 60 workdays in a modified duty assignment shall be returned to inactive status and shall then be subject to the District's uniform absences policy. [See DEC(LOCAL)]

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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 CALENDAR  
AND SCHEDULES

Subject to the Board-adopted budget and compensation plan and in harmony with employment contracts, the Board shall determine the required work calendar for teachers. [See DC] The Superintendent or designee shall define days of service for other contractual and for noncontractual employees.

Daily time schedules for all employees shall be determined by the Superintendent or designee and principals.

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
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ANTIVICTIMIZATION  
PROGRAM

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

DUTY TO REPORT  
BY ANY PERSON

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

ABUSE OF  
PERSONS WITH  
DISABILITIES

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

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

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

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

BY A  
PROFESSIONAL

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

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

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

*Family Code 261.101(b)*

ADULT VICTIMS OF  
ABUSE

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

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

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|                                                       | child or an elderly person or person with a disability. <i>Family Code 261.101(b-1)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| PSYCHOTROPIC<br>DRUGS AND<br>PSYCHOLOGICAL<br>TESTING | <p>An employee may not use or threaten to use the refusal of a parent, guardian, or managing or possessory conservator to administer or consent to the administration of a psychotropic drug to a child, or to consent to any other psychiatric or psychological testing or treatment of the child, as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:</p> <ol style="list-style-type: none"><li>1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or</li><li>2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.</li></ol> <p><i>Education Code 26.0091; Family Code 261.111(a)</i> [See FFAC]</p>    |
| CONTENTS OF<br>REPORT                                 | <p>The report should reflect the reporter's belief that a child has been or may be abused or neglected or has died of abuse or neglect. The person making the report shall identify, if known:</p> <ol style="list-style-type: none"><li>1. The name and address of the child;</li><li>2. The name and address of the person responsible for the care, custody, or welfare of the child; and</li><li>3. Any other pertinent information concerning the alleged or suspected abuse or neglect.</li></ol> <p><i>Family Code 261.103, .104</i></p>                                                                                                                                                                                                                     |
| TO WHOM REPORTED                                      | <p>If the alleged or suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is made under item 3, below, or the report involves a juvenile justice program or facility [see JJAEPS, below].</p> <p>All other reports shall be made to:</p> <ol style="list-style-type: none"><li>1. Any local or state law enforcement agency;</li><li>2. DFPS, Child Protective Services (CPS) Division;</li><li>3. A local office of CPS, where available; or</li><li>4. The state agency that operates, licenses, certifies, or registers the facility in which the alleged abuse or neglect occurred.</li></ol> <p><i>Family Code 261.103(a); 19 TAC 61.1051(a)(1)</i></p> |

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LEGAL)

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| JJAEPS                                 | Any report of alleged abuse, neglect, or exploitation in a juvenile justice program or facility shall be made to the Texas Juvenile Justice Department and a local law enforcement agency for investigation. The term "juvenile justice program" includes a juvenile justice alternative education program. <i>Family Code 261.405(a)(2)(A), (b)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| IMMUNITY FROM LIABILITY                | <p>A person acting in good faith who reports or assists in the investigation of a report of alleged child abuse or neglect or who testifies or otherwise participates in a judicial proceeding arising from a report, petition, or investigation of alleged child abuse or neglect is immune from any civil or criminal liability that might otherwise be incurred or imposed. <i>Family Code 261.106</i></p> <p>A district may not suspend or terminate the employment of, or otherwise discriminate against, a professional who makes a good faith report of abuse or neglect. <i>Family Code 261.110</i> [See DG]</p>                                                                                                                                                                                           |
| CRIMINAL OFFENSES<br>FAILURE TO REPORT | <p>A person commits a Class A misdemeanor if he or she is required to make a report under Family Code 261.101(a) [see DUTY TO REPORT, above] and knowingly fails to make a report as provided by law.</p> <p>A person who is a professional commits a Class A misdemeanor if the person is required to make a report under Family Code 261.101(b) [see DUTY TO REPORT] and knowingly fails to make a report as provided by law. The professional commits a state jail felony if he or she intended to conceal the abuse or neglect.</p> <p><i>Family Code 261.109</i></p> <p>Failure to report child abuse or neglect violates the Educator's Code of Ethics and may result in sanctions against an educator's certificate, as addressed in 19 Administrative Code Chapter 249. <i>19 TAC 61.1051(a)(2)(A)</i></p> |
| FALSE REPORT                           | A person commits an offense if, with the intent to deceive, the person knowingly makes a report of abuse and neglect that is false. The offense is a state jail felony, except that it is a felony of the third degree if the person has previously been convicted of the offense. <i>Family Code 261.107(a)</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| COERCION                               | A public servant, including as a school administrator, who coerces another into suppressing or failing to report child abuse or neglect to a law enforcement agency commits a Class C misdemeanor offense. <i>Penal Code 39.06</i>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| CONFIDENTIALITY OF REPORT              | A report of alleged or suspected abuse or neglect and the identity of the person making the report is confidential and not subject to release under Government Code Chapter 552 (Public Information                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

FFG  
(LEGAL)

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|                                                          | <p>Act). Such information may be disclosed only for purposes consistent with federal or state law or under rules adopted by an investigating agency. <i>Family Code 261.201</i></p> <p>Unless waived in writing by the person making the report, the identity of an individual making a report under this chapter is confidential and may be disclosed only to a law enforcement officer for the purposes of a criminal investigation of the report, or as ordered by a court under Family Code 261.201. <i>Family Code 261.101(d)</i></p>                                                                                                                                                                              |
| INVESTIGATIONS<br>REPORTS TO<br>DISTRICT                 | <p>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. <i>Family Code 261.105(d)</i></p> <p>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. <i>Family Code 261.406(b)</i></p>                             |
| INTERVIEW OF<br>STUDENT                                  | <p>The investigating agency shall be permitted to interview the child at any reasonable time and place, including at the child's school. <i>Family Code 261.302(b)</i> [See GRA]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| INTERFERENCE<br>WITH<br>INVESTIGATION<br>CONFIDENTIALITY | <p>A person may not interfere with an investigation of a report of child abuse or neglect conducted by DFPS. <i>Family Code 261.303(a)</i></p> <p>A photograph, videotape, audiotape, or other audio or visual recording, depiction, or documentation of a child that is made by DFPS in the course of an inspection or investigation is confidential, is not subject to release under the Texas Public Information Act, and may be released only as required by state or federal law or rules adopted by the DFPS. <i>Human Resources Code 42.004</i></p>                                                                                                                                                              |
| REPORTING POLICY                                         | <p>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.</p> <p>The policies must require every school employee, agent, or contractor who suspects child abuse or neglect to submit a written or oral report to at least one of the authorities listed above [see TO WHOM REPORTED, above] within 48 hours or less, as determined by the board, after learning of facts giving rise to the suspicion.</p> <p>The policies must be consistent with the Family Code, Chapter 261, and 40 Administrative Code Chapter 700 (relating to CPS) regarding investigations by DFPS, including regulations governing</p> |

STUDENT WELFARE  
CHILD ABUSE AND NEGLECT

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

The policies must notify school personnel of the following:

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

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

*19 TAC 61.1051(a)*

ANNUAL  
DISTRIBUTION  
AND STAFF  
DEVELOPMENT

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

Each school year, a district shall provide training as required by Education Code 38.0041 to all new district employees as a part of

new employee orientation. [See DH and DMA] *Education Code 38.0041; 19 TAC 61.1051(c)*

REQUIRED POSTER

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

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

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

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

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

The applicable District policies—FFG(LEGAL) and (LOCAL), GRA(LEGAL) and (LOCAL), and DH(LOCAL) and (EXHIBIT)—are enclosed in this packet. This distribution is required by state law. At regular intervals, these policies will be addressed in staff development as well. If you have any questions about these policies, please contact the risk manager/security specialist at (956) 580-5545.

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

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

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

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

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

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

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

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

Reports may be made to any of the following:

- A law enforcement agency: The Mission Police Department, at (956) 584-5000;
- The CPS division of the Texas Department of Family and Protective Services, at (800) 252-5400 or on the web at <http://www.txabusehotline.org>; or

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FFG  
(EXHIBIT)

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

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

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

**Will my report be kept confidential?**

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

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

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

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

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

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

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

State law specifically prohibits school officials from:

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

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

STUDENT WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH  
(LEGAL)

The District may develop and implement a sexual harassment policy to be included in the District improvement plan. The District shall adopt and implement a dating violence policy to be included in the District improvement plan. *Education Code 37.083, 37.0831* [See BQ]

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

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

DEFINITION OF  
SEXUAL HARASSMENT

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

EMPLOYEE- STUDENT  
SEXUAL HARASSMENT

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

STUDENT-STUDENT  
SEXUAL HARASSMENT

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

STUDENT WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH  
(LOCAL)

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

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STATEMENT OF  
NONDISCRIMINATION

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

DISCRIMINATION

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

PROHIBITED  
HARASSMENT

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

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

Prohibited harassment includes dating violence as defined by this policy.

SEXUAL HARASSMENT  
BY AN EMPLOYEE

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

1. A District employee causes the student to believe that the student must submit to the conduct in order to participate in a school program or activity, or that the employee will make an educational decision based on whether or not the student submits to the conduct; or

STUDENT WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

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2. The conduct is so severe, persistent, or pervasive that it:
  - a. Affects the student's ability to participate in or benefit from an educational program or activity, or otherwise adversely affects the student's educational opportunities; or
  - b. Creates an intimidating, threatening, hostile, or abusive educational environment.

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

BY OTHERS

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

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

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

GENDER-BASED  
HARASSMENT

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

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

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3. Otherwise adversely affects the student's educational opportunities.

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 who is in a marriage or dating relationship with the individual who is or was once in a marriage or dating relationship with the person committing the offense.

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

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

RETALIATION

The District prohibits retaliation against a student who claims to have experienced discrimination or harassment, as defined in this policy, or another student who, in good faith, makes a report of discrimination or harassment experienced by another student, serves as a witness in any investigation under this policy, or otherwise participates in an investigation under this policy.

FALSE CLAIM

A student who intentionally makes a false claim, offers false statements, or refuses to cooperate with a District investigation regarding discrimination or harassment under this policy is subject to appropriate discipline.

PROHIBITED  
CONDUCT

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

REPORTING  
PROCEDURES

STUDENT REPORT

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

EMPLOYEE REPORT

Any District employee who suspects or receives notice that a student or group of students has or may have experienced prohibited

STUDENT WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH  
(LOCAL)

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|                                  | conduct shall promptly notify the appropriate District official listed in this policy and take any other steps required by this policy.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| DEFINITION OF DISTRICT OFFICIALS | For purposes of this policy, District officials are the Title IX coordinator, the ADA coordinator, the Section 504 coordinator, the Superintendent, and the campus administrator.                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| TITLE IX COORDINATORS            | Reports of discrimination based on sex, including sexual harassment or gender-based harassment, may be directed to the designated Title IX coordinators for students. [See FFH(EXHIBIT)]                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| ADA AND SECTION 504 COORDINATORS | Reports of discrimination based on disability may be directed to the designated ADA coordinator or the Section 504 coordinator for students. [See FFH(EXHIBIT)]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| SUPERINTENDENT                   | The Superintendent shall serve as coordinator for purposes of all other nondiscrimination laws.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| ALTERNATIVE REPORTING PROCEDURES | <p>No student is required to report prohibited conduct to the person alleged to have committed the conduct. Reports of alleged prohibited conduct, including reports against the Title IX, ADA, or Section 504 coordinators, may be addressed to the Superintendent.</p> <p>A report against the Superintendent may be made directly to the Board. If a report is made directly to the Board, the Board shall take action at a properly posted Board meeting that includes an agenda item related to a complaint against the Superintendent to appoint an appropriate person, who need not be a District employee, to conduct an investigation.</p> |
| TIMELY REPORTING                 | Reports of prohibited conduct shall be made as soon as possible after the alleged act or knowledge of the alleged act. A failure to promptly report may impair the District's ability to investigate.                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 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.                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| NOTICE TO OTHER OFFICIALS        | If the alleged perpetrator is not a District employee or other adult over whom the District can exercise any jurisdiction, the District official shall also promptly notify appropriate law enforcement or Child Protective Services if the official has reason to believe that the child has been or may be neglected or abused.                                                                                                                                                                                                                                                                                                                   |
| INVESTIGATION OF THE REPORT      | The District may request but shall not require a written complaint or report of alleged prohibited conduct. If a report is made orally, the District official shall prepare a written report from the oral information.                                                                                                                                                                                                                                                                                                                                                                                                                             |
| INITIAL ASSESSMENT               | Upon receipt or notice of the report, the District official shall determine whether the allegations, if proven, would constitute prohibited                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |

STUDENT WELFARE  
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FFH  
(LOCAL)

conduct, as defined by this policy. If so, the District official shall promptly authorize or undertake an investigation, except as provided below at CRIMINAL INVESTIGATION.

If no investigation is warranted under this policy, the District official shall make a determination under FFI, Freedom from Bullying, whether the alleged conduct would constitute bullying rather than discrimination, harassment, or retaliation. If so, the matter shall be referred to be handled under FFI.

If the District official determines that the alleged conduct, if proven, would not be a violation of this policy or of policy FFI, the District official shall so notify the complainant/reporter in writing and dismiss the complaint.

INTERIM ACTION      If appropriate and regardless of whether a criminal or regulatory investigation regarding the alleged conduct is pending, the District official 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 a District official or a designee, such as the campus principal, or by a third party designated by the District, such as an attorney. When appropriate, the campus principal shall be involved in or informed of the investigation.

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.

STUDENT WELFARE  
FREEDOM FROM DISCRIMINATION, HARASSMENT, AND RETALIATION

FFH  
(LOCAL)

|                            |                                                                                                                                                                                                                                                                                           |
|----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| NOTIFICATION OF<br>OUTCOME | Notification of the outcome of the investigation shall be provided to both parties in compliance with FERPA.                                                                                                                                                                              |
| DISTRICT ACTION            | In no circumstance shall the District be required to inform the complainant of the specific disciplinary or corrective action taken.                                                                                                                                                      |
| PROHIBITED<br>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.   |
| BULLYING                   | If the results of the investigation indicate bullying occurred, the official shall refer to FFH for appropriate notice to parents and District action and to FDB for applicable transfer provisions.                                                                                      |
| IMPROPER<br>CONDUCT        | If the investigation reveals improper conduct that was neither "prohibited conduct" nor "bullying," the District may nonetheless take appropriate disciplinary action consistent with the Student Code of Conduct or other corrective action to address the conduct.                      |
| CONFIDENTIALITY            | To the extent possible, the District shall endeavor to protect the privacy of the complainant, persons against whom a complaint is filed, and witnesses. However, 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, and shall also have the right to file a complaint with the United States Department of Education Office for Civil Rights.                |
| RECORDS RETENTION          | The District shall retain copies of allegations, investigation reports, and related records regarding any prohibited conduct in accordance with the District's records retention schedules, but for no less than the minimum amount of time required by law. [See CPC]                    |
| ACCESS TO POLICY           | Information regarding this policy and any related procedures shall be included annually in the employee and student handbooks. The policy and procedures shall be posted on the District's website; a copy may also be obtained at each campus and the District's administrative offices. |

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT CONDUCT

FNC  
(LEGAL)

DISCIPLINE  
MANAGEMENT  
PROGRAM

Each school district shall adopt and implement a discipline management program to be included in the district improvement plan under 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)*

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

UNITED STATES  
CONSTITUTION

The District shall take no action abridging the freedom of speech or the right of the people to petition the Board for redress of grievances. *U.S. Const. Amend. I, XIV* [See FNA]

The Board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the Board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. *Rosenberger v. Rector & Visitors of Univ. of Virginia*, 515 U.S. 819, 828 (1995); *City of Madison v. Wis. Emp. Rel. Comm'n*, 429 U.S. 167, 174 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563, 568 (1968)

TEXAS CONSTITUTION

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. *Tex. Const. Art. I, Sec. 27*

There is no requirement that the Board negotiate or even respond to complaints. However, the Board must stop, look, and listen and must consider the petition, address, or remonstrance. *Prof'l Ass'n of College Educators v. El Paso County Cmty. [College] Dist.*, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref'd n.r.e.)

FEDERAL LAWS  
SECTION 504

A district that receives federal financial assistance, directly or indirectly, and that employs 15 or more persons shall adopt grievance procedures that incorporate appropriate due process standards and that provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504 of the Rehabilitation Act of 1973. *34 C.F.R. 104.7(b)*

AMERICANS WITH  
DISABILITIES ACT

A district that employs 50 or more persons shall adopt and publish grievance procedures providing for prompt and equitable resolution of complaints alleging any action that would be prohibited by the Code of Federal Regulations, Title 28, Part 35 (Americans with Disabilities Act regulations). *28 C.F.R. 35.107*

TITLE IX

A district that receives federal financial assistance, directly or indirectly, shall adopt and publish grievance procedures providing for prompt and equitable resolution of student complaints alleging any action prohibited by Title IX of the Education Amendments of 1972. *34 C.F.R. 106.8(b)* [See FB]

EDUCATION CODE  
CHAPTER 26

Parents are partners with educators, administrators, and the Board in their children's education. Parents shall be encouraged to actively participate in creating and implementing educational programs for their children. *Education Code 26.001(a)*

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

Unless otherwise provided by law, the Board, an administrator, an educator, or other person may not limit parental rights. *Education Code 26.001(c)*

'PARENT' DEFINED

For purposes of Education Code Chapter 26 (Parental Rights), "parent" includes a person standing in parental relation, but does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Education Code Title 2 and all educational rights under Family Code 151.003(a)(10) shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Family Code Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order. *Education Code 26.002*

COMPLAINT  
PROCEDURES

The Board shall provide for procedures to consider complaints that a parent's right has been denied. *Education Code 26.001(d)*

The Board shall adopt a grievance procedure under which the Board shall address each complaint that it receives concerning a violation of a right guaranteed by Education Code Chapter 26 (Parental Rights). *Education Code 26.011*

PARENTAL RIGHTS

Parental rights listed in Education Code Chapter 26 are:

1. Rights concerning academic programs. *Education Code 26.003* [See EHA, EIF, FDB, and FMH]
2. Access to student records. *Education Code 26.004* [See FL]
3. Access to state assessments. *Education Code 26.005* [See EKB]
4. Access to teaching materials. *Education Code 26.006* [See EF and EKB]
5. Access to Board meetings, other than a closed meeting under the Open Meetings Act. *Education Code 26.007* [See BE and BEC]
6. Right to full information concerning a student. *Education Code 26.008* [See DF, FFE, and FM]
7. Right to information concerning special education and education of students with learning disabilities. *Education Code 26.0081* [See FB]
8. Requests for public information. *Education Code 26.0085* [See GBA]

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

9. Consent required for certain activities. *Education Code 26.009* [See EHA, FFE, FL, FM, and FO]
10. Refusal of psychiatric or psychological treatment of child as basis for report of neglect. *Education Code 26.0091* [See FFG]
11. Exemption from instruction. *Education Code 26.010* [See EMB]

OBJECTION TO  
SCHOOL ASSIGNMENT

The parent or person standing in parental relation to any student may object to the student's school assignment. Upon receiving a written petition to request or object to a student's assignment, the Board shall follow the procedures set forth at Education Code 25.034. *Education Code 25.033(2), .034* [See FDB]

CHALLENGE TO  
EDUCATION RECORDS

The District shall give a parent or eligible student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the records is inaccurate, misleading, or in violation of the privacy rights of the student. *34 C.F.R. 99.21* [See FL]

DENIAL OF CLASS  
CREDIT OR FINAL  
GRADE

If a student is denied credit or a final grade for a class by an attendance committee, the student may appeal the decision to the Board. *Education Code 25.092(d)* [See FEC]

COMPLAINTS AGAINST  
PROFESSIONAL  
EMPLOYEES

A person may not file suit against a professional employee of the District unless the person has exhausted the District's remedies for resolving the complaint. *Education Code 22.0514*

"Professional employee of the District" includes:

1. The Superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by the District;
2. A teacher employed by a company that contracts with the District to provide the teacher's services to the District;
3. A student in an education preparation program participating in a field experience or internship;
4. A DPS-certified school bus driver;
5. A member of the Board; and
6. Any other person whose employment by the District requires certification and the exercise of discretion.

*Education Code 22.051(a)*

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

7. A tape recording or transcript of the oral argument before the Board; and
8. The decision of the Board.

19 TAC 157.1073(d)

DISRUPTION

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. *Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Crim. App. 1991)*

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**Note:** See EHBAB for provisions concerning students with disabilities; see the FO series for provisions concerning student discipline; see FL for provisions concerning student records.

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STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LEGAL)

|                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|---------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| FINALITY OF GRADES              | <p>An examination or course grade issued by a classroom teacher is final and may not be changed unless the grade is arbitrary, erroneous, or not consistent with the District's grading policy applicable to the grade, as determined by the Board.</p> <p>The Board's determination is not subject to appeal. This provision does not prohibit an appeal related to a student's eligibility to participate in extracurricular activities under Education Code 33.081. [See FM]</p> <p><i>Education Code 28.0214</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| REQUESTS FOR PUBLIC INFORMATION | <p>A district that receives a request from a parent for public information relating to the parent's child shall comply with Government Code Chapter 552 (Public Information Act). The District shall also comply with the deadlines and provisions set forth at Education Code 26.0085. <i>Gov't Code Ch. 552; Education Code 26.0085</i></p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| CLOSED MEETING                  | <p>The Board may conduct a closed meeting on a parent or student complaint to the extent required or provided by law. <i>Gov't Code Ch. 551, Subch. D</i> [See BEC]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| RECORD OF PROCEEDINGS           | <p>An appeal of the Board's decision to the Commissioner of Education shall be decided based on a review of the record developed at the District level. "Record" includes, at a minimum, an audible electronic recording or written transcript of all oral testimony or argument. <i>Education Code 7.057(c), (f)</i></p> <p>It is the District's responsibility to make and preserve the records of the proceedings before the Board. If the District fails to create and preserve the record without good cause, all substantial evidence issues that require missing portions of the record for resolution shall be deemed against the District. The record shall include:</p> <ol style="list-style-type: none"><li>1. A tape recording or a transcript of the hearing at the local level. If a tape recording is used:<ol style="list-style-type: none"><li>a. The tape recording must be complete, audible, and clear; and</li><li>b. Each speaker must be clearly identified.</li></ol></li><li>2. All evidence admitted;</li><li>3. All offers of proof;</li><li>4. All written pleadings, motions, and intermediate rulings;</li><li>5. A description of matters officially noticed;</li><li>6. If applicable, the decision of the hearing examiner;</li></ol> |

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

COMPLAINTS

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

OTHER COMPLAINT  
PROCESSES

Student or parent 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 FNG after the relevant complaint process:

1. Complaints alleging discrimination or harassment based on race, color, gender, national origin, disability, or religion shall be submitted in accordance with FFH.
2. Complaints concerning dating violence shall be submitted in accordance with FFH.
3. Complaints concerning retaliation related to discrimination and harassment shall be submitted in accordance with FFH.
4. Complaints concerning bullying or retaliation related to bullying shall be submitted in accordance with FFI.
5. Complaints concerning failure to award credit or a final grade on the basis of attendance shall be submitted in accordance with FEC.
6. Complaints concerning expulsion shall be submitted in accordance with FOD and the Student Code of Conduct.
7. Complaints concerning any final decisions of the gifted and talented selection committee regarding selection for or exit from the gifted program shall be submitted in accordance with EHBB.
8. Complaints concerning identification, evaluation, or educational placement of a student with a disability within the scope of Section 504 shall be submitted in accordance with FB and the procedural safeguards handbook.
9. Complaints concerning identification, evaluation, educational placement, or discipline of a student with a disability within the scope of the Individuals with Disabilities Education Act shall be submitted in accordance with EHBAE, FOF, and the procedural safeguards handbook provided to parents of all students referred to special education.
10. Complaints concerning instructional materials shall be submitted in accordance with EFA.
11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

12. Complaints concerning intradistrict transfers or campus assignment shall be submitted in accordance with FDB.
13. Complaints concerning admission, placement, or services provided for a homeless student shall be submitted in accordance with FDC.

NOTICE TO STUDENTS  
AND PARENTS

The District shall inform students and parents of this policy through appropriate District publications.

GUIDING PRINCIPLES

INFORMAL  
PROCESS

The Board encourages students and parents to discuss their concerns with the appropriate teacher, principal, or other campus administrator who has the authority to address the concerns. Concerns should be expressed as soon as possible to allow early resolution at the lowest possible administrative level.

Informal resolution shall be encouraged but shall not extend any deadlines in this policy.

FORMAL PROCESS

A student or parent may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, students and parents are encouraged to seek informal resolution of their concerns. A student or parent whose concerns are resolved may withdraw a formal complaint at any time.

The process described in this policy shall not be construed to create new or additional rights beyond those granted by law or Board policy, nor to require a full evidentiary hearing or "mini-trial" at any level.

FREEDOM FROM  
RETALIATION

Neither the Board nor any District employee shall unlawfully retaliate against any student or parent for bringing a concern or complaint.

GENERAL  
PROVISIONS  
FILING

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including e-mail and fax, or by U.S. Mail. Hand-delivered filings shall be timely filed if received by the appropriate administrator or designee by the close of business on the deadline. Filings submitted by electronic communication shall be timely filed if they are received by the close of business on the deadline, as indicated by the date/time shown on the electronic communication. Mail filings shall be timely filed if they are post-marked by U.S. Mail on or before the deadline and received by the appropriate administrator or designated representative no more than three days after the deadline.

SCHEDULING  
CONFERENCES

The District shall make reasonable attempts to schedule conferences at a mutually agreeable time. If a student or parent fails to

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

appear at a scheduled conference, the District may hold the conference and issue a decision in the student's or parent's absence.

RESPONSE

At Levels One and Two, "response" shall mean a written communication to the student or parent from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the student's or parent's e-mail address of record, or sent by U.S. Mail to the student's or parent's mailing address of record. Mailed responses shall be timely if they are postmarked by U.S. Mail on or before the deadline.

DAYS

"Days" shall mean District calendar days. In calculating time lines under this policy, the day a document is filed is "day zero." The following day is "day one."

REPRESENTATIVE

"Representative" shall mean any person who or organization that is designated by the student or parent to represent the student or parent in the complaint process. A student may be represented by an adult at any level of the complaint.

The student or parent may designate a representative through written notice to the District at any level of this process. If the student or parent designates a representative with fewer than three days' notice to the District before a scheduled conference or hearing, the District may reschedule the conference or hearing to a later date, if desired, in order to include the District's counsel. The District may be represented by counsel at any level of the process.

CONSOLIDATING  
COMPLAINTS

Complaints arising out of an event or a series of related events shall be addressed in one complaint. A student or parent shall not file separate or serial complaints arising from any event or series of events that have been or could have been addressed in a previous complaint.

UNTIMELY FILINGS

Complaints that are not filed in accordance with the time lines shall be dismissed. No administrator shall have the authority to extend a deadline for filing a complaint. The student or parent may appeal the dismissal by seeking review in writing within ten days, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness. All appeals challenging the determination of timeliness shall be filed in writing and state the reason the student or parent believes the complaint was timely filed. For appeals of timeliness only, the student or parent shall not be entitled to make a personal presentation at any grievance level on the subject. Rather a determination shall be made solely on the written documentations provided by the student or parent in connection with their appeal.

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

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|----------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| COSTS INCURRED             | Each party shall pay its own costs incurred in the course of the complaint.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| COMPLAINT AND APPEAL FORMS | <p>Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.</p> <p>Copies of any documents that support the complaint should be attached to the complaint form. If the student or parent does not have copies of these documents, copies may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the student or parent unless the student or parent did not know the documents existed before the Level One conference.</p> <p>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.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| LEVEL ONE                  | <p>Complaint forms must be filed:</p> <ol style="list-style-type: none"><li>1. Within 15 days of the date the student or parent first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint or grievance; and</li><li>2. With the lowest level administrator who has the authority to remedy the alleged problem.</li></ol> <p>In most circumstances, students and parents shall file Level One complaints with the campus principal.</p> <p>If the complaint is not filed with the appropriate administrator, the receiving administrator must note the date and time the complaint form was received and within one business day forward the complaint form to the appropriate administrator.</p> <p>The appropriate administrator shall investigate as necessary and schedule a conference with the student or parent within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.</p> <p>Absent extenuating circumstances, the administrator shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the administrator may consider information provided at the Level One conference and any other relevant documents or information the administrator believes will help resolve the complaint.</p> |
| LEVEL TWO                  | If the student or parent did not receive the relief requested at Level One or if the time for a response has expired, the student or parent                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

may request a conference with the Superintendent or designee to appeal the Level One decision.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level One response or, if no response was received, within ten days of the Level One response deadline.

After receiving notice of the appeal, the Level One administrator shall prepare and forward a record of the Level One complaint to the Level Two administrator. The student or parent may request a copy of the Level One record.

The Level One record shall include:

1. The original complaint form and any attachments.
2. All other documents submitted by the student or parent at Level One.
3. The written response issued at Level One and any attachments.
4. All other documents relied upon by the Level One administrator in reaching the Level One decision.

The Superintendent or designee shall schedule a conference within ten days after the appeal notice is filed. The conference shall be limited to the issues and documents considered at Level One. At the conference, the student or parent may provide information concerning any documents or information relied upon by the administration for the Level One decision. The Superintendent or designee may set reasonable time limits for the conference.

The Superintendent or designee shall provide the student or parent a written response within ten days following the conference. The written response shall set forth the basis of the decision. In reaching a decision, the Superintendent or designee may consider the Level One record, information provided at the Level Two conference, and any other relevant documents or information the Superintendent or designee believes will help resolve the complaint.

Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

LEVEL THREE

If the student or parent did not receive the relief requested at Level Two or if the time for a response has expired, the student or parent may appeal the decision to the Board.

The appeal notice must be filed in writing, on a form provided by the District, within ten days of the date of the written Level Two re-

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

sponse or, if no response was received, within ten days of the Level Two response deadline. If the appeal notice is untimely, not on the District's form, or incomplete in any material way, the Superintendent, after consultation with the Board President, may dismiss the complaint and provide written notice of dismissal to the complainant.

The Superintendent or designee shall inform the student or parent of the date, time, and place of the Board meeting at which the complaint will be on the agenda for presentation to the Board.

The Superintendent or designee shall provide the Board the record of the Level Two appeal. The student or parent may request a copy of the Level Two record.

The Level Two record shall include:

1. The Level One record.
2. The notice of appeal from Level One to Level Two.
3. The written response issued at Level Two and any attachments.
4. All other documents relied upon by the administration in reaching the Level Two decision.

The appeal shall be limited to the issues and documents considered at Level Two, except that if at the Level Three hearing the administration intends to rely on evidence not included in the Level Two record, the administration shall provide the student or parent notice of the nature of the evidence at least three days before the hearing.

The District shall determine whether the complaint will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BE]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student or parent and administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the complaint and may request that the administration provide an explanation for the decisions at the preceding levels.

In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the Level Three presentation. The Level Three presentation, including the presentation by the student or parent or the student's representative, any presentation from the administration, and questions from the Board

STUDENT RIGHTS AND RESPONSIBILITIES  
STUDENT AND PARENT COMPLAINTS/GRIEVANCES

FNG  
(LOCAL)

with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the complaint. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If the Board does not make a decision regarding the complaint by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the administrative decision at Level Two.

RELATIONS WITH GOVERNMENTAL ENTITIES  
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(LEGAL)

CPS INVESTIGATIONS  
AT SCHOOL

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

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

CPS INVESTIGATIONS  
OF SCHOOLS

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

NOTICE TO  
PRINCIPAL

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

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

*40 TAC 700.407*

INTERVIEWS

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

PARTICIPANTS

CPS may request that school personnel or volunteers not be present during the interview or examination of an alleged victim, an

RELATIONS WITH GOVERNMENTAL ENTITIES  
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(LEGAL)

alleged perpetrator, an adult or child witness, or any other person who may have information relevant to the investigation if the investigator determines that:

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

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

REPORT OF  
FINDINGS

After DFPS has closed the school investigation, CPS shall provide a report of the investigation to TEA, SBEC, the Board President, and the school principal, unless the principal is the alleged perpetrator.

CPS need not provide a report of the investigation if a report of abuse or neglect is closed administratively prior to notification to any school official that a report was received by DFPS.

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

STUDENTS TAKEN  
INTO CUSTODY

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

1. Pursuant to an order of the juvenile court.
2. Pursuant to the laws of arrest.
3. By a law enforcement officer, including a 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 58.021.

*Family Code 52.01(a), 58.021*

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

1. By an authorized representative of the DFPS, a law enforcement officer, or a juvenile probation officer under the

RELATIONS WITH GOVERNMENTAL ENTITIES  
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(LEGAL)

conditions set out in Family Code 262.104, relating to the student's physical health or safety; or

2. As otherwise provided by Family Code Chapter 262 (Suit by Governmental Entity to Protect Health and Safety of Child).

*Family Code Chapter 262*

STUDENTS IN  
CUSTODY

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

RELATIONS WITH GOVERNMENTAL ENTITIES  
STATE AND LOCAL GOVERNMENTAL AUTHORITIES

GRA  
(LOCAL)

CHILD ABUSE  
INVESTIGATION

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

OTHER QUESTIONING  
OF STUDENTS

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

1. The principal shall verify and record the identity of the officer or other authority and request an explanation of the need to question or interview the student at school.
2. The principal ordinarily shall make reasonable efforts to notify the student's parent or other person having lawful control of the student. If the interviewer raises what the principal considers to be a valid objection to the notification, 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 his or her ability, the principal shall verify the official's authority to take custody of the student and then shall deliver over the student.

The principal shall immediately notify the Superintendent and ordinarily shall notify the 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 for notification requirements by the campus behavior coordinator under Education Code Chapter 37.]