

Vantage Points

A Board Member's Guide to Update 98

Please note: *Vantage Points* is an executive summary, prepared specifically for board members, of the TASB Localized Update. The topic-by-topic outline and the thumbnail descriptions focus attention on key issues to assist local officials in understanding changes found in the policies. **The description of policy changes in *Vantage Points* is highly summarized and should not substitute for careful attention to the more detailed, district-specific Explanatory Notes and the policies within the localized update packet.**

This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional advisor. Consult with your attorney or professional advisor to apply these principles to specific fact situations.

We welcome your comments or suggestions for improving *Vantage Points*. Please write to us at TASB Policy Service, P.O. Box 400, Austin, TX 78767-0400, e-mail us at policy.service@tasb.org, or call us at 800-580-7529 or 512-467-0222.

For further information about Policy Service, check out our Web site at <http://policy.tasb.org>.

© 2013 Texas Association of School Boards, Inc. All rights reserved.

Update 98 represents the first of two post-legislative updates and encompasses changes in law from the 83rd Regular Legislative Session that have an immediate effect on the governance and management of the district. Update 99 will be issued in spring 2014 and will address the remaining legislative changes from the session.

Throughout this document, House Bill is abbreviated as HB and Senate Bill as SB.

Accreditation and Accountability

HB 5 prompted extensive changes throughout the policy manual, including the following changes to provisions on accountability:

- AIA(LEGAL) reflects new student achievement indicators and modified district and campus distinction designations.
- At AIB(LEGAL), districts must assign district and campus performance ratings regarding community and student engagement, as well as compliance with statutory reporting and policy requirements. Districts must report the ratings to TEA.

Board Issues Elections

In accordance with a recent U.S. Supreme Court decision that held certain preclearance requirements of the Voting Rights Act unconstitutional, we have deleted from legally referenced policies at BBB, BBC, CCA, and CCG provisions regarding preclearance for election changes.

Several bills from the 83rd Legislative Session also affected provisions on board member elections, as reflected at BBB(LEGAL):

- SB 910 changes deadlines for filing special elections and eliminates the option for a district to set a date by which a candidate's application must be filed.
- HB 506 requires certain districts conducting November elections to designate as an early voting polling place any polling place established by the county and located in the district, while HB 985 extends the deadline to canvass early voting results for November elections.
- HB 259 restricts districts from prohibiting electioneering outside the 100 foot marker allowed by law, though districts may set reasonable regulations regarding the time, place, and manner of electioneering.

At BBC(LEGAL), SB 910 extends the date for holding a special election to fill a board member vacancy.

Access to Information

In accordance with HB 628 and as provided at BBE(LEGAL), a board member, when acting in his or her official capacity, has an inherent right of access to district information without submitting a Public Information Act (PIA) request. New requirements for reporting the number and cost of board member requests for information have also been added.

BBE(LOCAL) POLICY CONSIDERATIONS

As a result of the HB 628 provision described above, recommended revisions to this local policy specify that if a board member is not acting in his or her official capacity, the board member has no greater access to district records than a member of the public. A board member who is denied access to a record may ask the board to determine whether the record should be provided or he or she may file a request under the PIA.

New recommended text also mirrors the new statutory requirement that the district track and report the number and cost of responding to information requests from board members.

Meetings

As reflected at BE(LEGAL) and new policy BBI(LEGAL), HB 2414 clarifies that a communication between board members does not constitute a meeting for purposes of the Texas Open Meetings Act if the communication is in writing, posted to an online message board that is viewable and searchable, displayed in real time, and remains visible for no less than 30 days.

Also at BE(LEGAL), SB 984 and HB 2414 expand a board member's ability to participate in a board meeting by videoconference call.

In accordance with provisions from SB 471, we have removed references to "tape" recordings throughout several codes in this update.

District Operations

As reflected at CCA(LEGAL), SB 637 requires the election order for a bond election to list specific items and describes the election order posting requirements.

Local Revenue Sources

Legislative changes regarding ad valorem taxes have been incorporated at CCG(LEGAL):

- In accordance with HBs 97, 709, and 1597, a disabled veteran may pay residential property taxes in four equal installments.

- HB 585 permits a board to authorize reappraisal of damaged property located in a governor-declared disaster area. Previously, the law referred to a *natural* disaster area.
- HB 3390 made extensive changes to the Texas Economic Development Act.

As reflected at CCH(LEGAL), HB 585 now requires a local administrative judge to appoint appraisal review board members in any county with a population of 120,000 or more.

Use of District Facilities

At CDB(LEGAL), SB 2 requires a district to offer each open-enrollment charter school located within district boundaries the opportunity to buy, lease, or use unused or underutilized district facilities before the facility is offered to another entity. The board is not required to accept the charter school's offer.

Purchasing and Contracts

At CH(LEGAL) and CV(LEGAL), HBs 1050 and 3648 revise rules for awarding contracts to out-of-state bidders, while HB 1050 also addresses the purchase of construction-related goods or services through interlocal agreements.

Donations and Disposal of Property

Two bills specifically affect donation or disposal of district property:

- At CE(LEGAL), SB 1536 now permits a district to donate funds or other property or service to the Texas State Guard.
- At CI(LEGAL), SB 211 prohibits a district from disposing of property acquired from the Texas Facilities Commission for two years from the date acquired.

Instructional Materials

As reflected at CMD(LEGAL), HB 5 requires that the Commissioner provide an estimate of instructional materials (IM) funding for the next fiscal year and allows districts to place an IM order before the next fiscal year for up to 80 percent of the estimate. The Commissioner will prioritize those orders, though a publisher may decline an order.

**School Safety
Police Officers**

For districts that have a legally referenced policy at CKE regarding security personnel, several legislative changes affect those provisions, including changes from SB 1114, which requires the district police chief to report to the superintendent only, and from HB 1016, which requires, in certain circumstances, a district to provide a district peace officer free legal representation in a suit relating to an official act by the employee.

CKE(LOCAL) POLICY CONSIDERATIONS

For districts that have a local policy at CKE addressing district peace officers, we have incorporated recommended changes corresponding to the SB 1114 requirement that the district chief of police report only to the superintendent. We have deleted references to the superintendent's designee throughout.

Transportation CNC(LEGAL) reflects provisions from HB 347 regarding prohibitions on the use of wireless communication devices while operating a vehicle on school property, and provisions from SBs 393 and 1114 limiting the offense of disruption of transportation to persons other than a primary or secondary student and any person under 12. Revisions have also been made at GKA(LEGAL) regarding how the offense of disruption of transportation applies to non-students.

Food Services At CO(LEGAL), HB 1781 limits the sanctions the Texas Department of Agriculture can impose on districts for the sale of foods of minimal nutritional value.

School Health Advisory Council Legislative changes affecting a district's school health advisory council (SHAC) include the following:

- In provisions incorporated at BDF(LEGAL), HB 1018 requires a SHAC to form a physical activity and fitness planning subcommittee. At EHAA(LEGAL), the same bill requires a SHAC to recommend, if feasible, joint use agreements with community organizations.
- Also at EHAA(LEGAL), SB 460 expands SHAC duties to include recommending policies, procedures, and strategies in addition to curriculum and adds SHAC duties related to mental health concerns.

Winter Celebrations HB 308 addresses traditional winter celebrations, outlines when scenes or symbols may be displayed, and permits the exchange of traditional holiday greetings. Provisions associated with this bill have been added at FNA(LEGAL).

Personnel
Employee Records At DBA(LEGAL), provisions from HB 2961 clarify that an employee's social security number (SSN) is confidential, and a district cannot require an employee or former employee to choose whether to allow public access to his or her SSN. At DC(LEGAL), the same bill requires a board to adopt a policy prohibiting the use of an employee's SSN as an employee identifier other than for tax purposes.

DBA(LOCAL) POLICY CONSIDERATIONS

To comply with the policy requirement from HB 2961, recommended new provisions in this local policy state that the district will not use an employee's SSN as an employee identifier, except for tax purposes, and will keep the number confidential.

Compensation

As provided at DEAB(LEGAL), HB 483 requires a district to hold a public hearing to pay an employee or former employee more than the person is owed under an employment contract. The board must state the source and exact amount of the payment; the reason for the payment, including the public purpose served; and the terms for distribution of the payment.

Complaints and Grievances

At DGBA, a provision from HB 2607 states that, if a district's grievance policy entitles employees to representation, the policy must allow for representation via telephone conference call, provided the district has the necessary equipment, in grievances against the employee's supervisor for harassment or violations of law. The requirement applies to any formal proceeding, hearing, or conference at which the employee is entitled to representation.

DGBA(LOCAL) POLICY CONSIDERATIONS

If the district's DGBA(LOCAL) policy has existing text allowing for employee representatives, a new provision is recommended to comply with the HB 2607 requirement that the district permit an employee's representative to participate by telephone conference call in the grievance process. Recommended provisions broaden this telephone participation to any type of employee grievance, rather than only those required by law.

Staff Development

As reflected at DMA(LEGAL), SB 939 requires all new and existing employees to receive training on awareness of child abuse and other maltreatment of children. HB 1952 requires every principal or other appropriate administrator to attend training at least once every three years regarding student discipline.

Evaluations and Employment Decisions

At DNA(LEGAL), HB 2012 requires that certain components of the appraisal process be conducted as necessary to ensure that teachers receive adequate evaluation and guidance. Districts must give priority to inexperienced teachers and experienced teachers with identified areas of deficiency.

Another provision from HB 2012, reflected at DFBB(LEGAL) and DNA(LEGAL), requires a district to use a teacher's consecutive appraisals from more than one year, if available, in making employment decisions and developing career recommendations.

DFFA, DFFB, AND DFFC(LOCAL) POLICY CONSIDERATIONS

Consistent with the consecutive appraisal provision mentioned above, recommended changes to local policies regarding reduction in force require the district to use an employee's consecutive formal appraisal from more than one year, if available, in addition to the most recent formal appraisal, when evaluating performance for reduction-in-force decisions. This provision has been added to any existing local policies at DFFA (Financial Exigency), DFFB (Program Change), and DFFC (Continuing Contracts) and pertains to all evaluated employees.

DNA(LOCAL) POLICY CONSIDERATIONS

In light of HB 2012, language at DNA(LOCAL) regarding when evaluative information will be considered in employment decisions is no longer accurate and is recommended for deletion. Also in accordance with HB 2012 provisions, new language has been added at DNA(LOCAL) requiring a district to conduct components of the appraisal process more frequently if necessary to ensure a teacher receives appropriate guidance.

Instruction

**Structure of
School Day**

At EC(LEGAL), HB 5 requires a board to adopt policy limiting a student's removal from class for remedial tutoring or test preparation to no more than ten percent of days on which the class is offered. A parent can consent to additional removals from class.

EC(LOCAL) POLICY CONSIDERATIONS

This new recommended local policy addresses the HB 5 requirement limiting a student's removal from class, as described above, and also includes recommended text to comply with Education Code 25.083 limiting nonacademic activities, announcements, and solicitations that interrupt class time.

Curriculum

Several bills prompted changes at EHAA(LEGAL), regarding required instruction:

- HB 2662 adds personal financial literacy to the enrichment curriculum. At EHAC(LEGAL) is a requirement that each district offer a half-credit elective course in personal financial literacy, while personal financial literacy instruction has been removed from the essential knowledge and skills requirements for economics.
- SB 1474 requires that a specific process be followed before the adoption any major curriculum initiative.
- HB 462 prohibits districts from using common core state standards.
- HB 2483 adds oral health education as part of the overall coordinated health program.

Special Programs

At EHBA(LEGAL), SB 816 moves the time frame for completing the written report of an initial individual evaluation for special education services. The bill also sets a deadline for the district to respond to a parent's request for an initial evaluation.

Special Education

At EHBAB(LEGAL), SB 914 requires that any behavior intervention plan be included in a student's individualized education program and be provided to each of the student's teachers.

SB 906, as provided at EKB(LEGAL), prohibits TEA from adopting a performance standard that indicates a student's performance does not meet standards if the ARD committee determines that the lowest level of the STAAR-Alt assessment reflects the student's developmental level.

Compensatory/ Accelerated Services

Legislative changes regarding compensatory and accelerated services have been incorporated at EHBC(LEGAL):

- HB 5 changed the definition of "at-risk student" to include anyone under the age of 26, rather than the previous age of 21.
- SB 1404 requires that intensive programs of instruction be offered to any student the district determines is not likely to graduate within four years.
- HB 5 requires each district to partner with at least one institution of higher education to provide college preparatory courses in math and English language arts to a student in grade 12 who is not ready for entry-level college coursework. These provisions are also reflected at EKB(LEGAL).

Alternative Instructional Settings

Extensive revisions to provisions on credit by examination without prior instruction were prompted by companion bills HB 2694 and SB 1365. As provided at EHDC(LEGAL), a board must now approve at least four exams for each subject or course. The passing standard is now 80 percent rather than 90, and a student is not required to take an end-of-course (EOC) assessment in a subject if the student is awarded credit by exam. Revisions have also been made at FEC(LEGAL) to clarify that a student who earns credit by this method is not subject to the 90 percent attendance requirement to be awarded credit. Local policy recommendations will be issued after the State Board of Education publishes final rules.

Credit by Exam

Dual Credit

At EHDD(LEGAL), regarding college coursework and dual credit, HB 842 allows a district to implement a career and technical (CTE) program for students to earn 12 semester credit hours of college credit. HB 5 now permits a district to enter into an agreement for a community college to offer courses regardless of community college service areas. However, student enrollment is limited to three dual credit courses in a community college that does not serve the student's high school.

TxVSN

As reflected at EHDE(LEGAL), HB 1926 revised components of the Texas Virtual School Network (TxVSN). A district must now annually distribute to parents of middle and high school students a copy of its written policy regarding opportunities to enroll in TxVSN courses. Additionally, a district may now deny a student's request to enroll in a TxVSN course if the district offers a substantially similar course. Funding for TxVSN courses is limited to three yearlong courses.

State Assessment

HB 5 affected several codes with provisions on state assessments:

EOC Assessments

- At EHBC(LEGAL), HB 5 clarifies a district's obligations to provide accelerated instruction to a student who does not perform satisfactorily on a required EOC assessment. A district must annually hold a public hearing after evaluating the effectiveness of its accelerated instruction. Provisions added at CE(LEGAL) require a district to separately budget funds, including compensatory education funds, for providing accelerated instruction.
- As reflected at EIA(LEGAL) and EKB(LEGAL), HB 5 removed provisions requiring a student's score on an EOC assessment to count for 15 percent of the student's final grade.
- At EIC(LEGAL), provisions from HB 5 prohibit a district from using a student's performance on EOC assessments to determine class rank for any purpose, including automatic admission to college.

- At EKB(LEGAL), provisions addressing cumulative and minimum scores for EOC assessments have been deleted as a result of HB 5, as well as references to obsolete EOC assessments.

EIA(LOCAL) POLICY CONSIDERATIONS

For districts whose EIA(LOCAL) policy addresses EOC assessments and as a result of changes from HB 5 deleting the requirement to count EOC assessment scores as 15 percent of the student's final grade, we recommend deleting the provisions in the district's grading policy addressing EOC assessments, including how the district would count retake scores and calculate final grades.

EIC(LOCAL) POLICY CONSIDERATIONS

Also in accordance with the changes from HB 5, for districts whose EIC(LOCAL) policy on class rank addresses EOC assessments, we recommend deleting provisions regarding whether those assessments affect class rank.

Other Assessment Issues

Other assessment issues affected by legislative changes are addressed at several codes:

- At EK(LEGAL), HB 5 prohibits a district from administering more than two benchmark assessment instruments designed to prepare students for a state assessment. A parent of a student with special needs may request additional assessments.
- At EKB(LEGAL), HB 5 adds "except as required by federal law" to the provision exempting a student from administration of a grade-level assessment when the student is enrolled and tested in a course or subject above his or her enrolled grade level.
- At EKBA(LEGAL), HB 5 addresses minimum days for consecutive enrollment for an English language learner in determining whether the student qualifies for an exemption from or accommodation for a state assessment.

Graduation

Two bills affect provisions at EIF(LEGAL), concerning graduation. HB 5 allows a student who is completing his or her fourth year in high school during the 2013–14 school year to graduate under the new foundation program if the

student satisfies the program requirements. SB 1404 provides for a student in the conservatorship of the state to graduate from a previous school district if the student transfers in grade 11 or 12 and would be eligible to graduate from the former district.

Charter Schools As reflected at EL(Legal), SB 2 modified the creation, content, and accountability provisions for campus charters and addresses TRS eligibility of employees of a district or open enrollment charter holder with which the district contracts.

Student Issues Multiple bills affected provisions at FD(Legal) regarding admissions:

- Admissions**
- HB 2619 requires that any student placed in the conservatorship of the state now be allowed to continue in enrollment, tuition-free, until completion of the highest grade offered at the student's school when placed in a residence outside that school's attendance zone. Note that SB 832 requires each district to provide TEA the contact information for the district's foster care liaison.
 - SB 453 requires districts that accept students with F1 visas to accept payment of tuition in accordance with Commissioner guidelines.
 - HB 2137 requires that a district enroll in its summer school program a student who is not enrolled in the district but who is otherwise entitled to enroll. The student must meet course eligibility requirements and pay any authorized fees.
 - SB 1142 provides for district funding for students enrolled in an adult high school diploma and industry certification charter school pilot program.

Attendance and Absences FEA(Legal) incorporates legislative changes affecting provisions on compulsory attendance:

- Compulsory Attendance Exemptions**
- In accordance with HB 2619 and SB 1404, a child in the conservatorship of the state must be excused for mental health or therapy appointments and for certain court-ordered activities.
 - HB 455 expands the existing requirement to excuse a student for purposes of attending a health-care appointment if the student is attending a health-care appointment for the student's child.
 - SB 260 requires a district to excuse absences of up to five days per school year for a child to visit with a parent, stepparent, or legal

guardian who is an active duty military member and meets certain deployment standards. The absences must occur within an identified time frame.

- SB 553 permits a district to adopt a policy excusing a student for serving as an early voting election clerk. This provision has also been added at EIA(LEGAL) and FM(LEGAL) in reference to how this type of service can apply toward curriculum requirements.

FEA(LOCAL) POLICY CONSIDERATIONS

To correspond with the option to adopt a policy allowing a student to serve as an early voting election clerk, we recommend a revision to FEA(LOCAL) that will permit service as an election clerk for up to two days per year. This change is only recommended if the district serves high school students.

ADA Funding

FEB(LEGAL) has been updated to include the absences added at FEA(LEGAL), described above, and to affirm that districts will receive funding when students are absent for those purposes.

Impact on Award of Credit or Final Grade

HB 5 clarifies that the 90 percent attendance rule applies to students in kindergarten through grade 12 and that the rule applies to the award of credit or a final grade. Revisions have been made at EI(LEGAL), FEC(LEGAL), and FNG(LEGAL) to reflect this clarification.

FEC(LOCAL) POLICY CONSIDERATIONS

Recommended changes to FEC(LOCAL) reflect the clarification provided by HB 5 that the 90 percent attendance requirement applies to both the award of credit as well as a final grade. The growing list of excused absences is recommended for deletion in favor of a cross-reference to the list at FEA(LEGAL).

Attendance Enforcement

As reflected at FEA(LEGAL), SB 393 requires that a district complaint filed for failure to attend school be dismissed by a court if the complaint does not include certification about the use of truancy prevention measures and specify whether the student is eligible for or receives special education services.

Student Health

At FFAB(LEGAL), provisions from SB 63 allow for a child to consent to his or her own immunizations in certain circumstances.

At FFB(LEGAL), SB 831 adds mental health promotion and substance abuse prevention and intervention to the list of best-practice programs regarding mental health intervention and suicide prevention. SB 460 requires each district to provide training to employees regarding these issues. If a program is chosen from the list, then the training requirements are satisfied. Adopting a local policy addressing this issue continues to be optional.

Abuse and Neglect

Multiple bills affected provisions regarding child abuse and neglect at FFG(LEGAL):

- HB 1205 revised the penalties associated with failure to report suspected child abuse and neglect.
- SB 939 requires that each district post in a public area of a school accessible to students a sign in English and Spanish that contains the Department of Family and Protective Services' phone number for reporting child abuse and neglect.
- SB 152 adds a new requirement that an employee 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 that disclosure is necessary to protect the health and safety of another child or an elderly or disabled person. This provision is also reflected at FFG(EXHIBIT).

DH(LOCAL) POLICY CONSIDERATIONS

To clarify an employee's responsibility and to comply with policy requirements, we recommend adding a statement to this local policy on employee standards of conduct requiring an employee to report child abuse and neglect as required by law.

Conduct and Discipline

Several bills also address student conduct and discipline:

- As reflected at FNCG(LEGAL), HB 1862 removed switchblade knives from the list of prohibited weapons in the Penal Code.
- At FNCI(LEGAL), SB 1114 provides that a primary or secondary student enrolled in the school can no longer commit the offense of disruption of classes. SB 393 provides that it is an exception to the application of the offense if a person was younger than 12 at the time the person engaged in the conduct. These changes are also reflected at GKA(LEGAL) for application to non-students on district premises.

- As provided at FO(LLEGAL), the student code of conduct (SCOC) must specify the circumstances under which a student may be removed from a school bus (SB 1541) or a vehicle owned or operated by a school district (SB 1114). SB 1114 also requires that the SCOC include options for managing students on a vehicle owned or operated by the district.
- FOA(LLEGAL) addresses a provision from SB 1541 allowing a bus driver to send a student to the principal in order to maintain discipline on the bus. The principal is required to respond by employing appropriate disciplinary management techniques consistent with the SCOC.

***More
Information***

For further information on these and other policy changes, refer to the policy-by-policy Explanatory Notes—customized for each district’s policies—and the policies themselves, found in your district’s localized update packet.

