

Vantage Points

A Board Member's Guide to Update 87

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 significantly more detailed, district-specific Explanatory Notes and the policies within the localized update packet.

PLEASE NOTE: This Update 87 **Vantage Points** and the Localized Update 87 packet may not be considered as legal advice and are not intended as a substitute for the advice of a board's own legal counsel.

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.

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Update 87 is the second of two post-legislative updates and incorporates changes in law from the 81st Legislative Session that were not covered in Update 86. Among the issues addressed at Update 87 are accountability, required reports and Web postings, tax rates and bonds, safety and security, employee resignations and nonrenewals, drug-free workplace requirements, and interlocal cooperation contracts.

Accountability

At Update 87, we have added to the policy manual new codes addressing accountability, including policy codes AIA, Accreditation and Performance Indicators; AIB, Performance Reporting; AIC, Investigations and Sanctions; and AID, Federal Accountability Standards. Much of the content of these new policies was revised by HB 3 and moved from other codes in the manual. For specific revisions, see the explanatory notes included with your district's update packet.

Throughout the manual, also as a result of HB 3, references to "academic excellence indicators" have been replaced with "student achievement indicators."

Required Reports and Postings

BR(LEGAL) has been redeveloped and now provides a list of required reports that a district must publish or distribute, while the new code BRB(LEGAL) lists items a district is required to post on its Web site. Please note that these lists are not all-inclusive.

District Funds and Purchasing Posting of Budget

HB 3 includes a new requirement that each district post its final approved budget on its Web site and make the budget available on the Web site for three years after adoption. See CE(LEGAL).

Tax Rates and Bonds

A number of legislative changes affect policy provisions regarding tax rates and bonds:

- HB 3646 permits a district, beginning with the 2010 tax year, to adopt a tax rate based on estimated property values rather than wait for a certified appraisal roll. See CCG(LEGAL) and CE(LEGAL).
- HB 2291 revised the wording of the motion to adopt an ordinance to set a tax rate that exceeds the effective tax rate. See CCG(LEGAL).
- HB 1257 expanded the provisions governing installment tax payments by owners of real property located in a disaster area. The same bill also expands the homestead exemption for homes damaged in a disaster. See CCG(LEGAL).

- HB 3613 entitles disabled veterans with a 100 percent disability rating to an exemption from taxation for the total appraised value of the residence homestead. See CCG(LEGAL).
- HB 3646 affected provisions regarding bond issues, as well, giving districts the authority to raise funds through bonds and assess ad valorem taxes in an amount sufficient to pay the principal and interest on the bonds as *or before* the bonds become due; prompting changes regarding guarantee of bonds by the permanent school fund; and creating a bond credit enhancement program. See CCA(LEGAL).

**Appraisal
Review Boards**

Included at CCH(LEGAL), a provision from HB 3611 allows the boards of directors of two or more adjoining appraisal review boards to enter into an inter-local contract for the operation of a consolidated appraisal review board.

**Financial
Accountability**

As reflected at CFA(LEGAL) and CFC(LEGAL), we have added provisions related to a new financial accountability requirement from HB 3. TEA will develop a review process to determine the future financial solvency of each school district and will develop a system for districts to submit relevant information electronically.

**Use of District
Funds and
Resources**

HB 1720 and SB 2085 clarify that an officer or employee must *knowingly* use district funds for political advertising in order for such use to constitute a misuse of public funds. The bills also prohibit the use of district funds for any communication about a measure that the officer or employee knows is false and is likely to influence voting. A district can now request an advance written advisory opinion from the Texas Ethics Commission stating whether the district's communication complies with these prohibitions. See CCA(LEGAL).

HB 3646 created an exception to the provision prohibiting a district from using its employees, property, or resources for improvements to real property not owned or leased by the district. A district may now contribute funds to the design, improvement, or construction of an instructional facility or stadium owned by or under the control of an institution of higher education if the district is permitted to use the facility. See CE(LEGAL) and CX(LEGAL).

**Electronic Bids
and Proposals**

CH(LOCAL) POLICY CONSIDERATIONS:

In accordance with HB 987 and as reflected at CH(LEGAL) in Update 86, districts are now permitted to receive electronic bids or proposals in the purchasing process. If the board chooses this option, the board must adopt rules to ensure that the bids or proposals are secure and remain unopened

until the appropriate time. We now have text available upon request for inclusion at CH(LOCAL), CVA(LOCAL), and CVB(LOCAL) for districts that wish to take advantage of this new law.

Safety and Security

Safety and security issues are addressed at Update 87 as indicated below:

- We have created a new policy at CK(LEGAL) to address safety and security in general. The policy requires each district to establish a safety and security committee, in accordance with HB 1831.
- A provision requiring a district to conduct a security audit has been moved from CKC(LEGAL) to CK(LEGAL) and has been expanded by HB 1831 to cover safety issues in addition to security issues.
- A district's emergency operations plan (EOP) must now include exercises to prepare students for emergencies and must ensure coordination with the Texas Department of State Health Services. See CKC(LEGAL).
- At CK(LEGAL) and CKC(LEGAL), we have also added provisions regarding disclosure of safety and security documents.
- Finally, HB 2004 requires a district that owns, licenses, or maintains computerized data with sensitive personal information to provide notice to affected individuals in case of a breach of the security system. See CQ(LEGAL).

Motor Vehicle Stops

In accordance with HB 3389, we have updated CKE(LEGAL) to revise the list of information that must be included in a peace officer's report of a traffic stop and to reflect that motor vehicle stop reporting requirements no longer apply to stops of pedestrians. The bill also imposes new reporting requirements for district police departments and establishes a new civil penalty for intentionally failing to submit reports.

Employees

Nonrenewal

DFBB(LOCAL) POLICY CONSIDERATIONS:

HB 3 made several changes to accountability interventions and sanctions, prompting recommended revisions to this local policy. The Commissioner may now order repurposing of a previously reconstituted campus in specific circumstances. With certain exceptions, neither the principal nor a teacher

employed at the campus in the school year immediately preceding the repurposing of the campus can be retained at the campus. The law allows a district to reassign to another position in the district an educator who has not been retained under the repurposing provisions. When reassignment of the educator is not appropriate, the district may decide to pursue nonrenewal. We have revised the reasons for nonrenewal listed in the policy to permit nonrenewal of an employee who is not retained at a repurposed campus.

Other recommended changes to the policy reflect common district practice:

- Since most districts comply with the requirement to give notice of proposed *renewal* by providing a teacher with a copy of the contract for the following school year, we have deleted the requirement that the superintendent deliver written notice of proposed *renewal* to an employee by hand or certified mail, return receipt requested, not later than the 45th day before the last day of instruction required in the contract.
- Regarding nonrenewal hearings, we have replaced the term “board president” with “presiding officer” to accommodate those instances when someone other than the board president is presiding over the hearing.

Resignations

DFE(LLEGAL) has been revised based on a recent Commissioner decision, which determined that a resignation submitted by an educator before the penalty-free resignation date cannot be rejected by a district. In addition, such a “unilateral resignation,” which does not require acceptance by the district, is effective upon filing with the district, and the educator cannot revoke the resignation once it is submitted.

We have also added to DFE(LLEGAL) two previous Commissioner decisions addressing sanctions for abandonment of contract. These decisions clarify that a district indicates consent once it accepts a resignation and may no longer pursue sanctions against an educator for abandonment of a contract.

DFE(LOCAL) POLICY CONSIDERATIONS:

For consistency with the changes at DFE(LLEGAL), this local policy has been restructured to distinguish between unilateral and all other resignations. We have revised the text to specify that the superintendent is authorized to “receive” rather than “accept” a contract employee’s resignation effective at the

end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. Such resignations are automatically accepted upon receipt.

The policy continues to reflect the superintendent's authority to accept other resignations or submit them to the board in order for the district to pursue sanctions. We have recommended deletion of a sentence specifying that acceptance of a resignation submitted after the penalty-free resignation date is contingent on finding a suitable replacement. The removal of this sentence allows the superintendent to consider a variety of factors in deciding whether to accept such a resignation without limiting the decision to this single factor.

The provision requiring board consent for withdrawal of an accepted resignation remains unchanged. Please make sure this reflects district practice, since some districts may allow the superintendent, rather than the board, to approve the withdrawal of a previously accepted resignation.

Salary Reduction Agreements

HB 3480 permits a district to enter into a salary reduction agreement with an employee in certain circumstances even if the qualified investment product in which the employee wishes to invest is not eligible under TRS rules. See CRG(LEGAL).

Drug-Free Workplace

Update 87 incorporates several changes addressing drug-free workplace requirements:

- At DH(LEGAL), we have updated the text to clarify that only districts that receive a *direct* federal grant must comply with the federal Drug-Free Workplace Act.
- Also at DH(LEGAL), we have deleted a repealed state law requiring a district to adopt a policy for eliminating drug and alcohol abuse.
- DI(EXHIBIT) has been revised to serve as the required notice under the federal Drug-Free Workplace Act.

DI(LOCAL) POLICY CONSIDERATIONS:

As a result of the changes made at DH(LEGAL), we have updated language regarding the district's drug-free awareness program in this local policy.

Students

**ADA/Section 504
Coordinators**

FB(LOCAL) AND FFH(LOCAL) POLICY CONSIDERATIONS:

We have expanded the responsibilities of the Section 504 coordinator in both of these local policies to also include responsibilities related to compliance with Title II of the Americans with Disabilities Act (ADA) of 1990. This recommended revision is based on input from the U.S. Department of Education, Office for Civil Rights (OCR). ADA regulations require each district with 50 or more employees to list the individual who will serve as the district's Title II coordinator for students. Although districts with fewer than 50 employees are not required by law to list a Title II coordinator, we recommend that they do so as a practical matter in order to assist the district in complying with Title II.

**Health and
Wellness**

Several changes at Update 87 address student health issues, including the addition at FFAF(LEGAL) of existing statutory details regarding diabetes management. Other student health and wellness issues affect local policies, as mentioned below.

**Administering
Medication**

FFAC(LOCAL) POLICY CONSIDERATIONS:

Recommended changes at this code apply only to districts that do not purchase nonprescription medication to administer to students. For those districts, we recommend adding an affirmative statement to this local policy on medical treatment to reflect that practice.

Immunization

FFAB(LOCAL) POLICY CONSIDERATIONS:

For districts with a local policy at this code, we recommend this local policy on immunizations be deleted. The Texas Guide to School Health Programs, published by the Texas Department of State Health Services, provides guidance on immunization requirements.

Conduct

Legislative changes addressing criminal activity in schools are included in Update 87 as follows:

- HB 2187 expands the Penal Code felony offense of coercing, soliciting, or inducing a child to join a gang to include threats to a member of the child's family. See FNCC(LEGAL).
- HB 2086 requires the student handbook to include information on gang-free zones. See FNCC(LEGAL).
- HB 2467 expands drug-free zones, in which a criminal offense is enhanced, to include playgrounds. See FNCF(LEGAL).

Transfers

Eligibility for a student to receive a public education grant (PEG) was amended by HB 3 to include a student who was assigned to attend a campus that failed to achieve an acceptable performance rating at any time in the preceding three years. See FDAA(LEGAL). Similar eligibility standards are reflected at FDB(LEGAL) regarding intradistrict transfers for students in unacceptable schools.

Curriculum

Study of Religion

At EMI(LEGAL) we have added provisions, effective for the 2009–10 school year, addressing elective courses on the study of religion. We have also added a 2008 attorney general opinion, GA-657, explaining when a district is required to offer such a course.

Driver Education

HB 339 and HB 2730 require a district to consider offering a driver education and traffic safety course during each school year. If a district does offer the course, the district may charge a fee for the course or contract with a licensed driver education school. See EEL(LEGAL) and EHAD(LEGAL).

Distance Learning

At EHDE(LEGAL) we have added detail from the Education Code on the state virtual school network.

Relations with Other Entities

We have incorporated legislative changes and reorganized provisions throughout the GR series of policies concerning relations with governmental entities, as outlined below:

- SB 1003 requires a district to report to the Office of Federal-State Relations district contracts with a federal-level governmental relations consultant. This requirement has been added at GR(LEGAL).
- Also added at GR(LEGAL) is a recent attorney general opinion, GA-697, stating that a home rule city may enforce its reasonable land development regulations against a school district for the purposes of aesthetics and the maintenance of property values.

- GRB(LEGAL), formerly subtitled County Governmental Authorities, has been renamed Interlocal Cooperation Contracts to reflect the code's new focus. The policy now houses information on interlocal contracts with other governmental entities and includes a reference to requirements at Government Code, Chapter 791, applicable to such contracts.
- At GRC(LEGAL), we have added an existing Government Code provision regarding emergency assistance to and from other local governments.

Facilities

Reflected at CX(LEGAL), if a district enters into a contract with a corporation, city, or state university or college for the use of a stadium or other athletic facility owned by or under the control of the other entity, the contract may not exceed a term of 75 years.

Miscellaneous

Update 87 also includes a variety of other changes:

- At BF(LEGAL), we have added an existing statutory provision regarding continuing a waiver from the Commissioner of Education beyond the initial three-year term of the waiver.
- HB 3646 deleted Education Code, Chapter 21, Subchapter N, which required district- and campus-level planning and decision-making committees to develop and approve a campus incentive plan. We have therefore deleted that material at BQA(LEGAL) and BQB(LEGAL).
- We have added an existing statutory provision stating that a document evaluating the performance of a superintendent is confidential. See BJCD(LEGAL).
- The criminal offense of receiving commissions, rebates, gifts, favors, or services related to the purchase of textbooks was expanded by HB 4294 to include electronic textbooks, instructional materials, and technological equipment. See BBFB(LEGAL).

More Information

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