

# Vantage Points

## A Board Member's Guide to Update 97

**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](mailto:policy.service@tasb.org), or call us at 800-580-7529 or 512-467-0222.

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Update 97 addresses several recent amendments to the Texas Administrative Code regarding instructional materials, the Texas Virtual School Network (TxVSN), state assessments, and communicable diseases. While many of these rule changes may be affected by the 83rd Texas Legislative Session, the update reflects the Administrative Code text currently in effect in an effort to maintain the manual with current law. Any changes resulting from the 83rd Legislature will be addressed in future updates. Other changes at Update 97 incorporate federal laws, including a provision from the Fostering Connections to Success and Increasing Adoptions Act, provisions from the recently enacted Uninterrupted Scholars Act of 2013, and new Family and Medical Leave Act (FMLA) rules.

## **Instruction**

### **Instructional Materials**

Changes throughout CMD(LEGAL) at this update reflect amendments to the Administrative Code, effective July 2012, regarding instructional materials care and accounting. The text provides that a district must code its instructional materials allotment as revenue and determine a value for the instructional materials in the district's inventory, since these materials are considered assets. Changes to the text also clarify that instructional materials must be certified prior to the beginning of each school year in a format approved by the Commissioner, and the certifications must be ratified by the board in a public meeting. Details have also been added regarding the procedures for selling or disposing of instructional materials and technological equipment.

### **TxVSN**

New Administrative Code rules regarding the Texas Virtual School Network (TxVSN), effective February 27, 2013, prompted extensive revisions to EHDE(LEGAL). Included in the revisions are new provisions addressing student enrollment in, advancement through, and withdrawal from TxVSN courses, as well as provisions clarifying the fees that may be charged to students.

### **State Assessments**

Amendments to the Administrative Code, effective March 14, 2013, are also reflected at EKB(LEGAL) regarding state assessments, including clarification that a student in grades 3–8 may not be administered the state assessment for his or her enrolled grade level if the student is enrolled in an above-grade-level course. In that case, the student would only be administered the state assessment for the course in which he or she is enrolled. Provisions are also included concerning end-of-course (EOC) assessments for students earning credit by examination or participating in distance learning, including correspondence courses, or in dual credit courses.

At EKBA(LEGAL), provisions on state assessments for English language learners have been revised as a result of Administrative Code changes effective December 22, 2011, and March 27, 2013. The text has been adjusted

throughout to reflect the terminology in the state rules, which use both “English language learner” and “student of limited English proficiency” (LEP) interchangeably, and the subtitle for this code—now “English Language Learners/LEP Students”—has been similarly updated. Changes to the policy also clarify and expand on statutory provisions, including state testing requirements for English language learners and the limited circumstances under which English language learners or LEP students could be exempted from those requirements.

## **Student Issues**

### **Students in Foster Care**

From the federal Fostering Connections to Success and Increasing Adoptions Act of 2008—addressing educational stability for students in foster care, specifically when there are changes in foster placement—a provision has been added at FD(LEGAL) requiring the Department of Family and Protective Services to coordinate with the district to ensure that a child remains in the school in which he or she is enrolled at the time of each foster placement, if that is in the child’s best interest.

### **Student Records**

At FL(LEGAL), two items have been added to the list of people to whom the district may release personally identifiable student information without parental consent: (1) the Secretary of Agriculture or representatives from the Food and Nutrition Service, for purposes related to programs authorized under the National School Lunch Act or the Child Nutrition Act, and (2) caseworkers or other state or local child welfare agency representatives, when the agency has responsibility for the care and protection of the student. The latter comes as a result of amendments to the Family Educational Rights and Privacy Act (FERPA) from the Uninterrupted Scholars Act of 2013, effective January 14, 2013.

Also from the Uninterrupted Scholars Act is a new provision at FL(LEGAL) that permits the district to release subpoenaed records without notifying a student’s parent if the court order is issued as a result of proceedings involving child abuse and neglect or dependency and the parent is a party to those proceedings.

## **Transportation**

### ***CNA(LOCAL) POLICY CONSIDERATIONS***

At Update 97, we have made recommended revisions regarding whether the district provides transportation to students for whom the district does not receive state transportation funds, for districts that have this policy and currently address this topic. For districts that do permit those students to use district transportation, that use continues to be subject to time and space limitations and any applicable administrative regulations. Any fees must be

approved by the board. For districts that do not provide transportation to those students, recommended revisions clarify that there are exceptions required by law, such as for students with disabilities and homeless students.

For districts that request funding to transport students who live in hazardous areas within two miles of their school, text is recommended to meet requirements from the TEA Transportation Allotment Handbook that the district have board policy identifying the hazardous conditions, as well as the specific hazardous areas. The recommended policy language requires the board to annually adopt a resolution describing the hazardous conditions and areas so that these descriptions, which could change, do not need to be included in the board-adopted policy. Districts that apply for this funding through TEA but do not address the issue at CNA(LOCAL) are encouraged to contact their TASB policy consultant for assistance.

For districts that currently address bus stops in this policy, the information is better suited to the student handbook and administrative regulations and is recommended for deletion from this local policy.

**Communicable Diseases**

To more accurately reflect Administrative Code rules, provisions on excluding students from attendance for communicable conditions and diseases have been revised at FFAD(LEGAL).

**Employee Issues**

**Criminal History Checks**

***DBAA(LOCAL) POLICY CONSIDERATIONS***

This local policy is recommended for inclusion in the district's policy manual to address updated guidance issued by the Equal Employment Opportunity Commission (EEOC) in April 2012 regarding the role of arrest and conviction records in employment decisions. The guidance indicates that, even if state law or local policy requires automatic exclusion from employment for a particular offense, a district may not refuse to hire a person who has been convicted of an offense listed in state law or local policy unless the district has determined that its decision is job-related and consistent with business necessity.

The recommended policy text explains the offenses that would disqualify a person from employment and provides that the district will make an individualized assessment of criminal history record information when determining a person's eligibility for employment in a specific position.

**Contract Termination**

At DFAB(EXHIBIT), there is a new recommended form for documenting the district’s method of delivery—including a required attempt at hand delivery—of the board’s notice of termination of an employee’s probationary contract at the end of the contract period.

**FMLA**

Based on revised Department of Labor rules published on February 5, 2013, changes at DECA(LEGAL), concerning family and medical leave, deal primarily with military members, including a new option allowing qualifying exigency leave for parental care when the care is necessitated by the military member’s, i.e., employee’s, covered active duty.

**Other Employment Policies**

***DMC(LOCAL) POLICY CONSIDERATIONS***  
For districts that have professional development provisions at this code based on the concepts of the Texas Teacher Career Ladder, which the legislature abolished in 1993, we recommend deletion of this local policy from the district’s policy manual.

***DPB(LOCAL) POLICY CONSIDERATIONS***  
This local policy addressing substitute teachers is also recommended for deletion from the district’s policy manual, as it no longer matches the practices of many districts and contains administrative details not necessary for inclusion in board policy.

**Workers’ Compensation Benefits**

At CRE(LEGAL), an existing statutory provision has been added that would let a board choose to cover board members and paid election workers as employees for purposes of workers’ compensation.

**Media Relations**

***GBBA(LOCAL) POLICY CONSIDERATIONS***  
For districts that have a local policy at this code regarding relations with the news media, we recommend revisions to the text for clarity, as well as addition of a new provision designating the superintendent as the district’s official spokesperson during a crisis situation, and deletion of obsolete text regarding the broadcast of school events.

**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.