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SUNRAY INDEPENDENT SCHOOL DISTRICT
BOARD STANDARD OPERATING PROCEDURES

I. DEVELOPING BOARD MEETING AGENDA

A. Who can place items on agenda? (*BE* (LOCAL))
   1. The agenda is developed by the Superintendent in consultation
      with the Board President.
   2. The Superintendent, the Board President, or any Board member
      can place items on the agenda for presentation to the Board.
   3. Complaints brought by parents/students, employees, or the public
      will not be placed on the agenda by any Board member, except in
      accordance with Board policies FNG (LOCAL), FOD (LEGAL),
      DGBA (LOCAL), and GF (LOCAL).
   4. In accordance with Board Policy, the deadline for a member to
      place an item on the agenda is four (4) calendar days before the
      meeting, except in an emergency as defined by the Texas
      Government Code.

B. Use of Consent Agenda
   1. In order to expedite Board meetings and address routine and
      reoccurring business in an efficient manner, the Board will use a
      consent agenda to the greatest extent possible. The consent agenda
      will be used to take action on items such as the following:
      a. Routine Items
      b. Annual Renewals of Region XVI and TEA Items
      c. Gifts, Donations, and Bequests
      d. Minutes of Regular and Special Board Meetings
      e. Updates of Board Policy (optional)
      f. Routine Personnel Items
      g. Routine Bid Recommendations
      h. Changes to Regular Board Meeting Date, Time and Location
         (*i.e.*, from 7:00 p.m. on the second Monday at the central
         administration office board room)
   2. If requested by a Board member, an item listed under the consent
      agenda shall be immediately withdrawn for separate discussion and
      acted upon individually.
II. MEMBER CONDUCT DURING BOARD MEETINGS (Any time four or more Board members are gathered and deliberate on school business, it is considered a meeting). See BE (LEGAL) and BEC (LEGAL).

A. Board members are expected to attend and participate in duly called meetings of the Board. Board members will come to Board meetings prepared to discuss and take action on all items on the agenda. At a minimum, each Board member is expected to have done the following prior to arrival at every Board meeting:
   1. Studied the material in the Board Packet sent to them prior to the meeting; and
   2. Resolved questions by contacting the Superintendent.

B. Board Policy BED (LOCAL) shall be used to govern patrons wishing to address the Board in open forum.

C. Board response to patrons addressing the Board: Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or act regarding any subject that is not included on the agenda posted with notice of the meeting.

D. Limit on participation: Audience participation at a Board meeting is limited to the portion of the meeting designated for that purpose (30 minutes total; 3 minutes per person). At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless recognized by the presiding officer.

E. Discussion of employee performance (Board/Audience):
   1. The Board will not entertain comments on individual District personnel in open session, unless required by law.
   2. The Board will not entertain comments on individual students in open session, unless required by law.

F. Board will use a modified version of Robert’s Rules of Order to govern meetings.
G. Discussion of motions:
   1. All deliberations will be solely related to agenda items.
   2. The Board President will insure deliberations remain germane to the agenda.
   3. Each Board member has the responsibility to ensure his/her comments remain focused on agenda items.
   4. The Board President will rule any deliberations that stray from the agenda as "out of order."
   5. The Board President will recognize Board members before they give their comments.

H. Closed Meetings (BEC (LOCAL))
   1. Board shall first convene in open meeting that has been properly posted and convened.
   2. Before entering a closed meeting, presiding officer shall publicly announce a closed meeting to be held and the provision of the Government Code under which the Board is convening in closed meeting.
   3. The Board may only enter closed meeting for items properly specified on the agenda; must provide the same specificity as for a regular agenda item.
   4. Most common reasons allowed for entering closed meeting include:
      a. Personnel (Tex. Gov’t Code § 551.074)
      b. Consultation with Attorney (Tex. Gov’t Code § 551.071)
      c. Deliberation regarding the purchase, exchange, lease or value of real property (Tex. Gov’t Code § 551.072)
      d. Student Discipline/Student Information (Tex. Gov’t Code §§ 551.082 and 551.0821)
      e. School Security (Tex. Gov’t Code § 551.076)
   5. The Board may not conduct a secret vote in closed meeting.
   6. The Board must reconvene in open session before taking any action.
   7. No Board member shall:
      a. Participate in closed meeting knowing that neither a certified agenda or recording of the closed meeting is being made (Class C Misdemeanor).
b. Call or participate in closed meeting that is not permitted by law (Class B Misdemeanor).

c. Disclose a certified agenda, unless required to do so by court order (Class C Misdemeanor).

III. VOTING

A. The Board President will vote on all action items.

B. All Board members will vote on all action items, except when there is a legal conflict of interest or a conflict that would impair the Board member’s judgment in violation of Board Member Ethics (this should only occur rarely).

C. All voting shall be by voice or show of hands and shall be recorded in the official minutes. No vote shall be by secret ballot. All votes or lack of votes should be recorded.

D. Each Board decision, even when there are dissenting votes, shall be an action by the whole Board and binding upon each member.

E. Individual members are encouraged to express their opinions during the discussion of motions, but following the vote, members shall publicly discuss only the decision of the whole Board.

IV. INDIVIDUAL BOARD MEMBER REQUEST FOR INFORMATION OR REPORT

A. All Board member requests for information must be in accordance with Board Policy BBE (LOCAL) (fiscal affairs, transactions and personnel matters).

B. The majority of the Board is required to request new reports.

C. If the Superintendent communicates to the Board prior to a regularly scheduled Board meeting (see VIII below), the Superintendent shall address therein any Board member requests for information and give a brief summary of action taken.
D. All Board member requests to Superintendent for information will be reported to the full Board in the Board Packets.

V. CITIZEN REQUEST/COMPLAINT TO INDIVIDUAL BOARD MEMBER

A. When a citizen complains to a Board member, the Board member shall:
   1. Remind the citizen of due process (FNG (LOCAL) and GF (LOCAL)) and that the Board member must remain impartial in case the situation goes before the Board.
   2. Refer citizen to appropriate person in the chain-of-command.
   3. Board members shall inform Superintendent of complaint.

VI. EMPLOYEE REQUEST/COMPLAINT TO INDIVIDUAL BOARD MEMBER

A. When an employee complains to a Board member, the Board member shall:
   1. Remind employee of the due process procedure (DGBA (LOCAL)) and remain impartial.
   2. Refer employee to appropriate person in chain-of-command.
   3. If appropriate, Board member will talk to Superintendent in a timely fashion about the complaint.

VII. BOARD MEMBER VISIT TO SCHOOL CAMPUS

A. Board members are encouraged to attend special events on campuses to represent the Board in support of school activities.

B. Board members are not to go into teacher's classrooms or campuses for the purpose of evaluation or investigation.

C. Board members will notify administration of individual visits to campuses when they are not attending a scheduled activity.
VIII. COMMUNICATIONS

A. Superintendent will communicate with all Board members via regular newsletters.

B. Superintendent will be available to confer with Board members to discuss District issues on an as needed basis, communicating critical information to all Board members in a timely fashion within context of the Open Meetings Act.

C. Board members will keep Superintendent informed of critical issues as they become aware of them.

D. Board will communicate with the community through public hearings, regular Board meetings, and publications.

E. Board members are board members only in a duly called open meeting and cannot speak in an official capacity outside the Boardroom, unless expressly authorized by Board action.

F. Every effort will be made by Board/Administrative Team to communicate effectively with each other so that decisions will be based upon the best information and facts available.

IX. SUPERINTENDENT AND BOARD EVALUATIONS

A. Evaluation of the Superintendent will be conducted in accordance with Board Policy BJCD (LOCAL). The evaluation instrument shall have been developed collaboratively between the Superintendent and Board, adopted in advance, and shall be based upon observable, job-related behavior.

B. The Board will develop and review outcome-based evaluation instruments annually for the Superintendent and regularly for the Board.

C. The Superintendent’s evaluation is confidential by law and may not be disclosed without the Superintendent’s consent. The Board’s self evaluation is a public record subject to disclosure upon request.
X. CRITERIA AND PROCESS FOR SELECTING BOARD OFFICERS

A. Selection of Board officers will be governed by Board Policy BDAA (LOCAL).

B. Officers will be elected for the position of President, Vice-President, and Secretary by the members present and voting. The Board Vice President shall automatically assume the position of President if position becomes vacant.

C. A vacancy among officers shall be filled by a majority action of the Board.

D. The Board President must have two years’ minimum Board experience. (Recommended).

E. Officers shall serve a term of one year, and may succeed themselves in office. (BDAA (LOCAL)).

XI. ROLE AND AUTHORITY OF BOARD MEMBER AND/OR BOARD OFFICERS (as set by State statute and Board Policy BBE and BDAA)

A. No Board member or officer has authority except when the Board meeting is in session.

B. No Board member can direct employees in regard to performance of their duties.

C. With regard to hiring personnel, the following shall apply:
   1. The Superintendent has sole authority to make recommendations to the Board regarding the selection of all contractual personnel.
   2. The Board delegates to the Superintendent final authority to hire noncontractual personnel on an at-will basis.
   3. The Principal must approve each teacher or staff appointment to the Principal’s campus from a pool of applicants.
   4. For community sensitive positions such as principal and coach, etc., the Superintendent may, at his discretion, ask the Board to
participate in the recruitment and selection process with the Superintendent.

D. The Board corporately has the following authority:
1. Govern and oversee the management of the District.
2. Employ and appraise, at least annually, the Superintendent.
3. Levy and collect taxes and issue bonds.
4. Adopt and file an annual budget.
5. Have District financial accounts audited by a Texas certified accountant at the conclusion of each fiscal year.
6. Publish an annual report describing the District's educational performance.
7. Receive bequests and donations.
8. Select a depository for District funds.
9. Call elections and canvass the returns.
10. Acquire and hold real and personal property in the name of the District.
11. Execute, perform, and make payments under contracts, including leases, leases with options to purchase, and installments.
12. Exercise the right of eminent domain to acquire property.
13. Adopt and periodically review Board Policy.

E. The President shall:
1. Preside at all Board meetings unless unable to attend.
2. Have the right to discuss, make motions and resolutions, and vote on all matters coming before the Board.

F. The Vice-President shall:
1. Act in the capacity of the President in the absence of the President.
2. Become President only if a vacancy occurs in that position.

G. The Secretary shall:
1. Be responsible for accurate recording of Board meetings.
2. Ensure that notices of Board meetings are posted and sent as required by law.
3. In the absence of the President and Vice-President, call the meeting to order and act as presiding officer.
4. Sign or countersign documents as directed by action of the Board.
5. Review any filings required by law (Political Action Committee Notice).
XII. SUPERINTENDENT’S ROLE AND AUTHORITY

A. The role of the Superintendent shall be the educational leader and chief executive officer of the District.

B. The authority and duties of the Superintendent include:
   1. Assuming administrative responsibility and leadership for the planning, operation, supervision, and evaluation of the education programs, services, and facilities of the District and for the annual performance appraisal of the District’s staff.
   2. Assuming administrative responsibility and leadership for the assignment and evaluation of all personnel of the District other than the Superintendent and making recommendations regarding the selection of such personnel.
   3. Initiating the termination or suspension of an employee or the nonrenewal of an employee’s term contract.
   4. Managing the day-to-day operations of the District as its administrative manager.
   5. Preparing and submitting to the Board a proposed budget.
   6. Preparing recommendations for policies to be adopted by the Board and the implementation of adopted policies.
   7. Provide leadership for the attainment of student performance in the District based upon the state’s academic excellence indicators and other indicators as may be adopted by the State Board or local Board.
   8. Prepare Board agendas and meeting materials in cooperation with the Board President.
   9. Accurately prepare and submit in a timely manner any and all reports required by TEA, federal and state agencies, the Board, and courts of law.
   10. Direct and supervise all financial accounting and ensure that funds are expended legally, in accordance with the approved budget, and controlled effectively. See CAA (LOCAL), FINANCIAL ETHICS.
   11. Ensure District compliance with all applicable state and federal requirements.
   12. Develop, evaluate and revise annually the District Improvement Plan, with the assistance of the District Improvement Team.
XIII. MEDIA INQUIRIES TO THE BOARD

A. On issues before the Board, the Board President and the Superintendent shall be the official spokespersons for the District to the media.

B. All Board members who receive calls from the media should refer them to the Superintendent or the Board President, as appropriate.

XIV. ANONYMOUS PHONE CALLS

The Board encourages input; however, anonymous calls or letters should not usually receive Board attention, discussion, or response and will not result in directives to the administration.

XV. RESPONSE TO SIGNED LETTERS

Typically, only signed letters will be forwarded to the Superintendent, who will respond and send a copy to the full Board.

XVI. ANNUAL BOARD ORIENTATION AND REORIENTATION

A. These Board Operating Procedures will be reviewed and updated annually at a Regular June, July or August Board meeting, unless deferred until a later meeting date with the Board’s approval.

B. Board Policy BBF(LOCAL), Board Member Ethics, will also be reviewed annually when the Board reviews the Board Operating Procedures.

C. The current Board Member Ethics are:
   
   EQUITY IN ATTITUDE
   • I will be fair, just, and impartial in all my decisions and actions.
   • I will accord others the respect I wish for myself.
   • I will encourage expressions of different opinions and listen with an open mind to others’ ideas.

   TRUSTWORTHINESS IN STEWARDSHIP
   • I will be accountable to the public by representing District policies, programs, priorities, and progress accurately.
• I will be responsive to the community by seeking its involvement in District affairs and by communicating its priorities and concerns.
• I will work to ensure prudent and accountable use of District resources.
• I will make no personal promise or take private action that may compromise my performance or my responsibilities.

HONOR IN CONDUCT
• I will tell the truth.
• I will share my views while working for consensus.
• I will respect the majority decision as the decision of the Board.
• I will base my decisions on fact rather than supposition, opinion, or public favor.

INTEGRITY OF CHARACTER
• I will refuse to surrender judgment to any individual or group at the expense of the District as a whole.
• I will consistently uphold all applicable laws, rules, policies, and governance procedures.
• I will not disclose information that is confidential by law or that will needlessly harm the District if disclosed.

COMMITMENT TO SERVICE
• I will focus my attention on fulfilling the Board's responsibilities of goal setting, policymaking, and evaluation.
• I will diligently prepare for and attend Board meetings.
• I will avoid personal involvement in activities the Board has delegated to the Superintendent.
• I will seek continuing education that will enhance my ability to fulfill my duties effectively.

STUDENT-CENTERED FOCUS
• I will be continuously guided by what is best for all students of the District.
APPENDIX “A”
BOARD POLICIES

Commonly Referenced Board Policy
BBD (EXHIBIT)
BBE (LOCAL)
BBF (LOCAL)
BDAA (LOCAL)
BE (LOCAL)
BE (LEGAL)
BEC (LEGAL)
BED (LOCAL)
BJCD (LOCAL)
CAA (LOCAL)
DGBA (LOCAL)
FNG (LOCAL)
FOD (LEGAL)
GF (LOCAL)
Framework for School Board Development

Preamble: The Board is the educational policy-making body for the District. To effectively meet the challenges of public education, the Board and the Superintendent must function together as a leadership team. Each leadership team must annually assess its development needs as a corporate body and individually to gain an understanding of the vision, structure, accountability, advocacy, and unity needed to provide educational programs and services that ensure the equity and excellence in performance of all students. The Framework for School Board Development has been approved by the State Board of Education to provide the critical areas of development for all public school boards.

1. Vision — The Board ensures creation of a shared vision that promotes enhanced student achievement.
   - The Board keeps the District focus on the educational welfare of all children.
   - The Board adopts a shared vision based on community beliefs to guide local education.
   - The Board ensures that the vision supports the state’s mission, objectives, and goals for education established by law and/or rule.
   - The Board ensures that the District’s vision expresses the present and future needs of the children and community.
   - The Board uses the vision to assess the importance of individual issues that come before the Board and demonstrates its commitment to the vision by using the vision to guide all Board deliberations, decisions, and actions.
   - Individual Board members should not have individual agendas separate and apart from the shared vision.

2. Structure — The Board provides guidance and direction for accomplishing the vision.
   - The Board recognizes the respective roles of the legislature, the State Board of Education, the Texas Education Agency, and the local Board in the governance of the District.
   - The Board fulfills the statutory duties of the local Board and upholds all laws, rules, ethical procedures, and court orders pertaining to schools and school employees.
   - The Board focuses its actions on policy making, planning, and evaluation, and restricts its involvement in management to the responsibility of oversight.
   - The Board adopts a planning and decision-making process consistent with state law and/or rule that uses participation, information, research, and evaluation to help achieve the District’s vision.
   - The Board ensures that the District’s planning and decision-making process enables all segments of the community, parents, and professional staff to contribute meaningfully to achieving the District’s vision.
The Board develops and adopts policies that provide guidance for accomplishing the District's vision, mission, and goals.

The Board adopts a budget that incorporates sound business and fiscal practices and provides resources to achieve the District's vision, mission, and goals.

The Board adopts goals, approves student performance objectives, and establishes policies that provide a well-balanced curriculum resulting in improved student learning.

The Board approves goals, policies, and programs that ensure a safe and disciplined environment conducive to learning.

The Board oversees the management of the District by employing the Superintendent and evaluating the Superintendent's performance in providing education leadership, managing daily operations, and performing all duties assigned by law and/or rule and in support of the District's vision.

The Board adopts policies and standards for hiring, assigning, appraising, terminating, and compensating District personnel in compliance with state laws and rules.

3. Accountability — The Board measures and communicates how well the vision is being accomplished.

The Board ensures progress toward achievement of District goals through a systematic, timely, and comprehensive review of reports prepared by or at the direction of the Superintendent.

The Board monitors the effectiveness and efficiency of instructional programs by reviewing reports prepared by or at the direction of the Superintendent and directs the Superintendent to make modifications that promote maximum achievement for all students.

The Board ensures that appropriate assessments are used to measure achievement of all students.

The Board reports District progress to parents and community in compliance with state laws and regulations.

The Board reviews District policies for effective support of the District's vision, mission, and goals.

The Board reviews the efficiency and effectiveness of District operations and use of resources in supporting the District's vision, mission, and goals.

The Board evaluates the Superintendent's performance annually in compliance with state laws and regulations.

The Board annually evaluates its own performance in fulfilling the Board's duties and responsibilities, and the Board's ability to work with the Superintendent as a team.
4. Advocacy — The Board promotes the vision.
   - The Board demonstrates its commitment to the shared vision, mission, and goals by clearly communicating them to the Superintendent, the staff, and community.
   - The Board ensures an effective two-way communication system between the District and its students, parents, employees, media, and the community.
   - The Board builds partnerships with community, business, and governmental leaders to influence and expand educational opportunities and meet the needs of students.
   - The Board supports children by establishing partnerships between the District, parents, business leaders, and other community members as an integral part of the District’s educational program.
   - The Board leads in recognizing the achievements of students, staff, and others in education.
   - The Board promotes school board service as a meaningful way to make long-term contributions to the local community and society.
   - The Board provides input and feedback to the legislature, State Board of Education, and the Texas Education Agency regarding proposed changes to ensure maximum effectiveness and benefit to the schoolchildren in the District.

5. Unity — The Board works with the Superintendent to lead the District toward the vision.
   - The Board ensures that its members understand and respect the need to function as a team in governing and overseeing the management of the District.
   - The Board develops skills in teamwork, problem solving, and decision making.
   - The Board establishes and follows local policies, procedures, and ethical standards governing the conduct and operations of the Board.
   - The Board understands and adheres to laws and local policies regarding the Board’s responsibility to set policy and the Superintendent’s responsibility to manage the District and to direct employees in District and campus matters.
   - The Board recognizes the leadership role of the Board President and adheres to law and local policies regarding the duties and responsibilities of the Board President and other officers.
   - The Board adopts and adheres to established policies and procedures for receiving and addressing ideas and concerns from students, parents, employees, and the community.
   - The Board makes decisions as a whole only at properly called meetings and recognizes that individual members have no authority to take individual action in policy or District and campus administrative matters.
• The Board supports decisions of the majority after honoring the right of individual members to express opposing viewpoints and vote their convictions.

*Adopted by the State Board of Education, January 1996, as authorized by 19 TAC 61.1; revised July 2012.*
Board Authority

The Board has final authority to determine and interpret the policies that govern the schools and, subject to the mandates and limits imposed by state and federal authorities, has complete and full control of the District. Board action shall be taken only in meetings that comply with the Open Meetings Act. [See BE(LEGAL)]

Transacting Business

When a proposal is presented to the Board, the Board shall hold a discussion and reach a decision. Although there may be dissenting votes, which are a matter of public record, each Board decision shall be an action by the whole Board binding upon each member.

Individual Authority for Committing the Board

Board members as individuals shall not exercise authority over the District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue. [See BDAA]

Individual Access to Information

An individual Board member, acting in his or her official capacity, shall have the right to seek information pertaining to District fiscal affairs, business transactions, governance, and personnel matters, including information that properly may be withheld from members of the public in accordance with the Public Information Chapter of the Government Code. [See GBA]

Limitations

If a Board member is not acting in his or her official capacity, the Board member has no greater right to District records than a member of the public.

An individual Board member shall not have access to confidential student records unless the member is acting in his or her official capacity and has a legitimate educational interest in the records in accordance with policy FL.

A Board member who is denied access to a record under this provision may ask the Board to determine whether the record should be provided or may file a request under the Public Information Act. [See GBAA]

Requests for Records

An individual Board member shall seek access to records or request copies of records from the Superintendent or other designated custodian of records, who shall respond within the time frames required by law. When a custodian of records other than the Superintendent provides access to records or copies of records to an individual Board member, the provider shall inform the Superintendent of the records provided.

In accordance with law, the District shall track and report any requests under this provision, including the cost of responding to one
or more requests by any individual Board member for 200 or more pages of material in a 90-day period.

Requests for Reports

No individual Board member shall direct or require District employees to prepare reports derived from an analysis of information in existing District records or to create a new record compiled from information in existing District records. Directives to the Superintendent or other custodian of records regarding the preparation of reports shall be by Board action.

Confidentiality

At the time a Board member is provided access to confidential records or to reports compiled from such records, the Superintendent or other District employee shall advise the Board member of the responsibility to comply with confidentiality requirements.

Referring Complaints

If employees, parents, students, or other members of the public bring concerns or complaints to an individual Board member, he or she shall refer them to the Superintendent or another appropriate administrator, who shall proceed according to the applicable complaint policy. [See (LOCAL) policies at DGBA, FNG, and GF]

When the concern or complaint directly pertains to the Board's own actions or policy, for which there is no administrative remedy, the Board member may request that the issue be placed on the agenda.

Visits to District Facilities

A Board member shall adhere to any posted requirements for visitors to first report to the main office of a District facility, including a school campus. Visits during the school or business day shall not be permitted if their duration or frequency interferes with the delivery of instruction or District operations. [See also GKC]
BOARD MEETINGS

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)

Definitions

"Meeting" means a deliberation among a quorum of a board, or between a quorum of the board and another person, during which public business or public policy over which the board has supervision or control is discussed or considered, or during which the board takes formal action. "Meeting" also means a gathering:

1. That is conducted by a board or for which a board is responsible;
2. At which a quorum of members of a board is present;
3. That has been called by a board; and
4. At which board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of a district, about the public business or public policy over which the board has supervision or control.

Gov't Code 551.001(4)

A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar internet application in compliance with Government Code 551.006. Gov't Code 551.006 [See BBI(LEGAL)]

"Deliberation"

"Deliberation" means a verbal exchange during a meeting among a quorum of a board, or between a quorum of a board and another person, concerning any issue within the jurisdiction of the board or any public business. Gov't Code 551.001(2)

"Recording"

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. Gov't Code 551.001(7)

"Videoconference Call"

"Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex au-
dio and video signals transmitted over a telephone network, a data
network, or the Internet. Gov’t Code 551.001(8)

Social Function,
Convention, or
Candidate Event

The term "meeting" does not include the gathering of a quorum of a
board at a social function unrelated to the public business that is
conducted by the board, the attendance by a quorum of the board
at a regional, state, or national convention or workshop, ceremonial
event, or press conference, or the attendance by a quorum of a
board at a candidate forum, appearance, or debate to inform the
electorate, if formal action is not taken and any discussion of public
business is incidental to the social function, convention, workshop,
ceremonial event, press conference, forum, appearance, or de-
bate. Gov’t Code 551.001(4)

Legislative
Committee or
Agency Meeting

The attendance by a quorum of a board at a meeting of a commit-
tee or agency of the legislature is not considered to be a meeting
of a board if the deliberations at the meeting by the board mem-
bers consist only of publicly testifying, publicly commenting, and
publicly responding to a question asked by a member of the legis-
lative committee or agency. Gov’t Code 551.0035(b)

Superintendent
Participation

A board shall provide a superintendent an opportunity to present at
a meeting an oral or written recommendation to the board on any
item that is voted on by the board at the meeting. Education Code
11.051(a-t)

Open to Public

Every meeting of a board shall be open to the public. A board may,
however, exclude a witness from a hearing during the examination
of another witness in a matter being investigated and may enter
into a closed meeting, as provided by law. Gov’t Code 551.002,
.084, Ch. 551, Subch. D [See BDB and BEC]

Parental Access

A parent, as defined in Education Code 26.002, is entitled to com-
plete access to any meeting of a board, other than a closed meeting
held in compliance with the Open Meetings Act. Education
Code 26.007(a)

Recording

All or any part of an open meeting may be recorded by any person
in attendance by means of a recorder, video camera, or any other
means of aural or visual reproduction. A board may adopt reason-
able rules to maintain order at a meeting, including rules related to
the location of recording equipment and the manner in which the
recording is conducted. These rules shall not prevent or unreason-
ably impair a person from exercising the right to record a meeting
that is open to the public. Gov’t Code 551.023

Minutes

A board shall prepare and keep minutes or make a recording of
each open meeting. The minutes shall state the subject matter of
each deliberation and indicate each vote, order, decision, or other action taken. Gov't Code 551.021

Board Member Attendance
The minutes or recording, as applicable, of a regular or special meeting of a board must reflect each member's attendance at or absence from the meeting. Education Code 11.0621

Availability
The minutes and recording are public records and shall be available for public inspection and copying on request to a superintendent or designee. Gov't Code 551.022; Education Code 11.0621

Notice Required
A board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. Gov't Code 551.041

Continued Meeting
If a board recesses an open meeting to the following regular business day, the board is not required to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, a board continues the meeting to another day, the board must give the required written notice of the meeting continued to that other day. Gov't Code 551.0411(a)

Inquiry During Meeting
If a member of the public or of a board inquires at a meeting about a subject for which notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. Gov't Code 551.042

Location
A board must hold each public meeting within the boundaries of the district, except:

1. As otherwise required by law; or

2. To hold a joint meeting with another district or with another governmental entity if the boundaries of the governmental entity are in whole or in part within the boundaries of the district.

Education Code 26.007(b)

Time of Notice and Accessibility
Notice of a board meeting shall be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. That notice or a notice posted at another board-designated place shall at all times be readily accessible to the public for at least 72 hours before the scheduled time of the meeting. Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W. 2d 762 (Tex. 1991)
If a district is required to post notice of a meeting on the Internet, the district satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

A district must still comply with the duty to physically post the notice in the central administration office and if the district makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

*Gov't Code 551.043(b)*

**Internet Posting**

If a district maintains an Internet website, in addition to the other place at which notice is required to be posted, a board must also concurrently post notice of a meeting on the Internet website.

A district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also, concurrently with the notice, post on the district’s Internet website the agenda for a board meeting, if the agenda differs from the posted notice.

The validity of a posting of a district that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the district.

*Gov't Code 551.056*

**Specificity of Agenda / Notice**

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to a superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what a board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986); *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176 (Tex. App.—Corpus Christi 1990, writ denied); *Atty. Gen. Ops. M-494* (1969), *H-419* (1974), *H-662* (1975), *H-1045* (1977)

The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to a board by employees or staff members. *Atty. Gen. Op. JC-169* (2000)
The subject of a report or update by district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Attty. Gen. Op. GA-668 (2008)*

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added to an agenda posted in accordance with law is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation. A board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a district’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address a situation described by this subsection must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

*Gov’t Code 551.045*

A board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If a board is unable to convene the open meeting within those 72 hours, the board may subsequently convene the meeting only if the board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of a board to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;

2. Power failure, transportation failure, or interruption of communication facilities;

3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b), (c)

Special Notice to News Media

A district shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the district for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, a board president shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. Gov't Code 551.047, .052

Quorum

A majority of a board (e.g., four members of a seven-member board or five members of a nine-member board, regardless of the number of vacancies) constitutes a quorum for meetings of the board. Gov't Code 551.001(6), 311.013(b)

Disaster

Notwithstanding any other law, a quorum is not required for a board to act if:

1. The district's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

2. A majority of the members of the board are unable to be present at a board meeting as a result of the disaster.

Gov't Code 418.1102

Secret Ballot


Meeting by Telephone Conference Call

A board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the board is difficult or impossible, or if the meeting is held by an advisory board.

Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

Notice

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify
as the location of the meeting, the location where meetings of the governmental body are usually held.

Recording

The conference call meeting shall be recorded and made available to the public.

Gov't Code 551.125

Meeting by Videoconference Call

A board member or district employee may participate remotely in a board meeting by means of a videoconference call if the video and audio feed of the board member’s or employee’s participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A board member who participates in a meeting by videoconference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The board may continue the meeting only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified at Multiple Counties, below. Gov't Code 551.001(b), .127(a-1)-(a-3)

Quorum

A meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting, except as provided at Multiple Counties, below.

Multiple Counties

A meeting of a board of a district that extends into three or more counties may be held by videoconference call only if the board member presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

Notice

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the board will be physically present and specify the intent to have a quorum present at that location; the notice of a meeting held by videoconference call described above at Multiple Counties must specify as a location of the meeting the location where the board member presiding over the meeting will be physically present and specify the intent to have that member present at that location.

Gov't Code 551.127(b)-(e)

Quality of Audio and Video Signals

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the
public at the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The location specified in the notice, and each remote location from which a member of the board participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The audio and video signals perceptible by members of the public at the location of the meeting described by the notice and at each remote location from which a member participates must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)-(j); 1 TAC 209.10-.11

A board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

A board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a board member is not participating in the meeting from a remote location.

Gov't Code 551.127(g), (k)

A board for a district that has a student enrollment of 10,000 or more shall make a video and audio recording of reasonable quality of each:

1. Regularly scheduled open meeting that is not a work session or a special called meeting; and

2. Open meeting that is a work session or special called meeting at which the board votes on any matter or allows public comment or testimony.

The board shall make available an archived copy of the video and audio recording of each meeting on the Internet not later than seven days after the date the recording was made. The board shall
maintain the archived recording on the Internet for not less than two years after the date the recording was first made available. A board is exempt from the requirements in this paragraph if the board’s failure to make the required recording available is the result of a catastrophe, as defined by Government Code 551.0411 [see Catastrophe, above], or a technical breakdown. Following a catastrophe or breakdown, the board must make all reasonable efforts to make the required recording available in a timely manner.

The board may make the archived recording available on an existing Internet site, including a publicly accessible video-sharing or social networking site. The board is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site.

A district that maintains an Internet site shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

A board may broadcast a regularly scheduled open meeting on television.

Gov't Code 551.128(b-1)–(b-6)

Internet Broadcast

A board that is not subject to the provisions above at Video and Audio Recording of Meeting may broadcast an open meeting over the Internet. If a board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. A board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the board is required to post under the Open Meetings Act. Gov't Code 551.128(b), (c)

Attorney Consultation

A board may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the board or a private consultation with its attorney in a closed meeting of the board. [See BEC]

Each part of a public consultation by a board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

Exception

This does not apply to a consultation with an attorney who is an employee of a district. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by a district, is an employee of the district.

Gov't Code 551.129
Hearing-Impaired Persons

In a proceeding before a board in which the legal rights, duties, or privileges of a party are to be determined by the board after an adjudicative hearing, the board shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov't Code 558.001, .003
Meeting Place and Time
The notice for a Board meeting shall reflect the date, time, and location of the meeting.

Regular Meetings
Regular meetings of the Board shall normally be held on the second Monday of each month at 7:00 p.m. When determined necessary and for the convenience of Board members, the Board President may change the date, time, or location of a regular meeting with proper notice.

Special or Emergency Meetings
The Board President shall call special meetings at the Board President's discretion or on request by two members of the Board.

The Board President shall call an emergency meeting when it is determined by the Board President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.

Agenda
Deadline
The deadline for submitting items for inclusion on the agenda is the fourth calendar day before regular meetings and the fourth calendar day before special meetings.

Preparation
In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any Board member may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all topics that have been timely submitted by a Board member.

Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the Board President's approval. In reviewing the preliminary agenda, the Board President shall ensure that any topics the Board or individual Board members have requested to be addressed are either on that agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not have authority to remove from the agenda a subject requested by a Board member without that Board member's specific authorization.

Notice to Members
Members of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least two hours prior to the time of an emergency meeting.

Closed Meeting
Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, in accordance with law.

The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BEC]
Order of Business
The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members.

Rules of Order
The Board shall observe the parliamentary procedures as found in Robert's Rules of Order, Newly Revised, except as otherwise provided in Board procedural rules or by law. Procedural rules may be suspended at any Board meeting by majority vote of the members present.

Voting
Voting shall be by voice vote or show of hands, as directed by the Board President. Any member may abstain from voting, and a member's vote or failure to vote shall be recorded upon that member's request. [See BDAA(LOCAL) for the Board President's voting rights]

Consent Agenda
When the agenda is prepared, the Board President shall determine items, if any, that qualify to be placed on the consent agenda. A consent agenda shall include items of a routine and/or recurring nature grouped together under one action item. For each item listed as part of a consent agenda, the Board shall be furnished with background material. All such items shall be acted upon by one vote without separate discussion, unless a Board member requests that an item be withdrawn for individual consideration. The remaining items shall be adopted under a single motion and vote.

Minutes
Board action shall be carefully recorded by the Board Secretary or clerk; when approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the Board President and the Board Secretary.

The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.

Discussions and Limitation
Discussions shall be addressed to the Board President and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Board President shall halt discussion that does not apply to the business before the Board.

The Board President shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Board President shall not interfere with debate so long as members wish to address themselves to an item under consideration.
Exceptions for Closed Meetings

Attorney Consultation
A board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov't Code 551.071* [See BE for permissible methods of communication for attorney consultations]

Real Property
A board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the board's position in negotiations with a third person. *Gov't Code 551.072*

Prospective Gift
A board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to a district if deliberation in an open meeting would have a detrimental effect on the board's position in negotiations with a third person. *Gov't Code 551.073*

Personnel Matters
A board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, a board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*

The closed meeting exception for personnel matters does not apply when a board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when a board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

Employee-Employee Complaints
A board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a district employee by another employee and the complaint or charge directly results in the need for a hearing. However, a board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov't Code 551.082*

Student Discipline
A board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, a board may not conduct a closed meeting for this purpose if the
child's parent or guardian makes a written request for an open hearing. Gov't Code 551.082.

A board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed a district that the directory information should not be released without prior consent. [See FL]

This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

Gov't Code 551.0821

A board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

1. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or

2. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

Gov't Code 551.0785

A board is not required to conduct an open meeting to deliberate:

1. The deployment, or specific occasions for implementation, of security personnel or devices; or

2. A security audit.

Gov't Code 551.076

A board is not required to conduct an open meeting to deliberate:

1. Security assessments or deployments relating to information resources technology;

2. Network security information as described by Government Code 2059.055(b); or

3. The deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

Gov't Code 551.089
A board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. Education Code 39.030(a)

A board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175-418.182, relating to Homeland Security. However, a board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. Gov't Code 418.183(f)

A board is not required to conduct an open meeting:

1. To discuss or deliberate regarding commercial or financial information that the board has received from a business prospect that the board seeks to have locate, stay, or expand in or near a district and with which the board is conducting economic development negotiations; or

2. To deliberate the offer of a financial or other incentive to such a business prospect.

Gov't Code 551.087

If a closed meeting is allowed, a board shall not conduct the closed meeting unless a quorum of the board first convenes in an open meeting for which proper notice has been given [see BE] and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. Gov't Code 551.101

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. Gov't Code 551.102 [See BE]

A board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation with a district's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. Gov't Code 551.103

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire,
film, electronic storage drive, or other medium now existing or later developed. Gov't Code 551.001(7)

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of a board. Zamora v. Edgewood Indep. Sch. Dist., 592 S.W.2d 649 (Tex. App.—San Antonio, 1979, writ ref'd n.r.e.)

Preservation

A board shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the board shall preserve the certified agenda or recording while the action is pending. Gov't Code 551.104(a)

Public Access

A certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. Gov't Code 551.104(b), (c)

Prohibitions

No board member shall participate in a closed meeting knowing that neither a certified agenda nor a recording of the closed meeting is being made. Gov't Code 551.145

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public. Gov't Code 551.146

No board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. Gov't Code 551.144(a)

Affirmative Defense

It is an affirmative defense to prosecution under Subsection 551.144(a) that a board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the board's attorney. Gov't Code 551.144(c)
Limit on Participation

Audience participation at a Board meeting is limited to the public comment portion of the meeting designated for that purpose. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.

Public Comment

At regular meetings the Board shall allot time to hear persons who desire to make comments to the Board. Persons who wish to participate in this portion of the meeting shall sign up with the presiding officer or designee before the meeting begins and shall indicate the topic about which they wish to speak.

No presentation shall exceed three minutes. Delegations of more than five persons shall appoint one person to present their views before the Board.

Board's Response

Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.

Complaints and Concerns

The presiding officer or designee shall determine whether a person addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the person shall be referred to the appropriate policy (see list below) to seek resolution:

- Employee complaints: DGBA
- Student or parent complaints: FNG
- Public complaints: GF

Disruption

The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any person continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the person removed from the meeting.
The instrument used to evaluate the Superintendent shall be based on the Superintendent’s job description [see BJA(LOCAL)] and performance goals and shall be adopted by the Board.

Written Evaluation

The Board shall prepare a written evaluation of the Superintendent at annual or more frequent intervals.

The Board shall furnish the Superintendent with a copy of the completed evaluation and shall discuss its conclusions with the Superintendent in closed meeting.

Objectives

The Board shall strive to accomplish the following objectives in conducting the Superintendent’s written evaluation:

1. Clarify to the Superintendent his or her role, as seen by the Board.

2. Clarify to Board members the Superintendent’s role, according to the Board’s written criteria, as expressed in the Superintendent’s job description and the District’s goals and objectives.

3. Foster an early understanding among new Board members of the evaluation process and the Superintendent’s current performance objectives and priorities.

4. Develop and sustain a harmonious working relationship between the Board and the Superintendent.

5. Ensure administrative leadership for excellence in the District.

Informal Evaluation

The Board may at any time conduct and communicate oral evaluations to augment its written evaluations.
All Trustees, employees, vendors, contractors, agents, consultants, volunteers, and any other parties who are involved in the District's financial transactions shall act with integrity and diligence in duties involving the District's fiscal resources.

**Note:** See the following policies and/or administrative regulations regarding conflicts of interest, ethics, and financial oversight:

- Code of ethics:
  - for Board members—BBF
  - for employees—DH
- Financial conflicts of interest:
  - for public officials—BBFA
  - for all employees—DBD
  - for vendors—CHE
- Compliance with state and federal grant and award requirements: CB, CBB
- Financial conflicts and gifts and gratuities regarding federal funds: CB, CBB
- Systems for monitoring the District’s investment program: CDA
- Budget planning and evaluation: CE
- Compliance with accounting regulations: CFC
- Activity fund management: CFD
- Criminal history record information for employees: DBAA, DC
- Disciplinary action for fraud by employees: DCD, DCE, and DF series

**Fraud and Financial Impropriety**

**Definition**

The District prohibits fraud and financial impropriety, as defined below, in the actions of its Trustees, employees, vendors, contractors, agents, consultants, volunteers, and others seeking or maintaining a business relationship with the District.

Fraud and financial impropriety shall include but not be limited to:

1. Forgery or unauthorized alteration of any document or account belonging to the District.
2. Forgery or unauthorized alteration of a check, bank draft, or any other financial document.

3. Misappropriation of funds, securities, supplies, or other District assets, including employee time.

4. Impropropriety in the handling of money or reporting of District financial transactions.

5. Profiteering as a result of insider knowledge of District information or activities.

6. Unauthorized disclosure of confidential or proprietary information to outside parties.

7. Unauthorized disclosure of investment activities engaged in or contemplated by the District.

8. Accepting or seeking anything of material value from contractors, vendors, or other persons providing services or materials to the District, except as otherwise permitted by law or District policy. [See CB, DBD]

9. Inappropriately destroying, removing, or using records, furniture, fixtures, or equipment.

10. Failure to provide financial records required by federal, state, or local entities.

11. Failure to disclose conflicts of interest as required by law or District policy.

12. Any other dishonest act regarding the finances of the District.

13. Failure to comply with requirements imposed by law, the awarding agency, or a pass-through entity for state and federal awards.

Financial Controls and Oversight

Each employee who supervises or prepares District financial reports or transactions shall set an example of honest and ethical behavior and shall actively monitor his or her area of responsibility for fraud and financial impropriety.

Fraud Prevention

The Superintendent or designee shall maintain a system of internal controls to deter and monitor for fraud or financial impropriety in the District.

Reports

Any person who suspects fraud or financial impropriety in the District shall report the suspicions immediately to a person with authority to investigate the suspicions, including any supervisor, the Superintendent or designee, the Board President, or local law enforcement.
Reports of suspected fraud or financial impropriety shall be treated as confidential to the extent permitted by law. Limited disclosure may be necessary to complete a full investigation or to comply with law. All employees involved in an investigation shall be advised to keep information about the investigation confidential.

Protection from Retaliation

Neither the Board nor any District employee shall unlawfully retaliate against a person who in good faith reports perceived fraud or financial impropriety. [See DG]

Fraud Investigations

In coordination with legal counsel and other internal or external departments or agencies, as appropriate, the Superintendent, Board President, or a designee shall promptly investigate reports of potential fraud or financial impropriety.

Response

If an investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall promptly inform the Board of the report, the investigation, and any responsive action taken or recommended by the administration.

If an employee is found to have committed fraud or financial impropriety, the Superintendent or designee shall take or recommend appropriate disciplinary action, which may include termination of employment. If a contractor or vendor is found to have committed fraud or financial impropriety, the District shall take appropriate action, which may include cancellation of the District's relationship with the contractor or vendor.

When circumstances warrant, the Board, Superintendent, or designee may refer matters to appropriate law enforcement or regulatory authorities. In cases involving monetary loss to the District, the District may seek to recover lost or misappropriated funds.

The final disposition of the matter and any decision to file a criminal complaint or to refer the matter to the appropriate law enforcement or regulatory agency for independent investigation shall be made in consultation with legal counsel.

Federal Awards Disclosure

The District shall disclose, in a timely manner in writing to the federal awarding agency or pass-through entity, all violations of federal criminal law involving fraud, bribery, or gratuity violations potentially affecting a federal grant award. [See CBB]

Analysis of Fraud

After any investigation substantiates a report of fraud or financial impropriety, the Superintendent or designee shall analyze conditions or factors that may have contributed to the fraudulent or improper activity. The Superintendent or designee shall ensure that appropriate administrative procedures are developed and implemented to prevent future misconduct. These measures shall be presented to the Board for review.
Complaints

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

Other Complaint Processes

Employee complaints shall be filed in accordance with this policy, except as required by the policies listed below. Some of these policies require appeals to be submitted in accordance with DGBA after the relevant complaint process:

1. Complaints alleging discrimination, including violations of Title IX (gender), Title VII (sex, race, color, religion, national origin), ADEA (age), or Section 504 (disability), shall be submitted in accordance with DIA.

2. Complaints alleging certain forms of harassment, including harassment by a supervisor and violation of Title VII, shall be submitted in accordance with DIA.

3. Complaints concerning retaliation relating to discrimination and harassment shall be submitted in accordance with DIA.

4. Complaints concerning instructional resources shall be submitted in accordance with EF.

5. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.

6. Complaints concerning the proposed nonrenewal of a term contract issued under Chapter 21 of the Education Code shall be submitted in accordance with DFBB.

7. Complaints concerning the proposed termination or suspension without pay of an employee on a probationary, term, or continuing contract issued under Chapter 21 of the Education Code during the contract term shall be submitted in accordance with DFAA, DFBA, or DFCA.

Notice to Employees

The District shall inform employees of this policy through appropriate District publications.

Guiding Principles

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.

Formal Process

An employee may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, employees are encouraged to seek informal resolution of their concerns. An employee 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 an employee for bringing a concern or complaint.

Whistleblower Complaints

Whistleblower complaints shall be filed within the time specified by law and may be made to the Superintendent or designee beginning at Level Two. 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]

Complaints Against Supervisors

Complaints alleging a violation of law by a supervisor may be made to the Superintendent or designee. Complaint forms alleging a violation of law by the Superintendent may be submitted directly to the Board or designee.

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 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 District business days, unless otherwise noted. In calculating time lines under this policy, the day a document is filed is "day zero." The following business day is "day one."

Representative

"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.

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.

Consolidating Complaints

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.

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.

Untimely Filings

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the employee, at any point during the complaint process. The employee may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.
Complaint and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the employee does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the employee unless the employee did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refilled with all the required information if the refiling is within the designated time for filing.

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.

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 only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

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 immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the employee within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.
Absent extenuating circumstances, the administrator shall provide the employee 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.

If the employee did not receive the relief requested at Level One or if the time for a response has expired, the employee 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 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 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 employee 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 employee 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.

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DGBA(LOCAL)-A
Recordings of the Level One and Level Two conferences, if any, shall be maintained with the Level One and Level Two records.

If the employee did not receive the relief requested at Level Two or if the time for a response has expired, the employee 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 response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the employee 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 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 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 employee 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 employee 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 employee or the employee's representative, any presentation from the administration, and questions from the Board 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.
In this policy, the terms "complaint" and "grievance" shall have the same meaning.

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 resources shall be submitted in accordance with EF.

11. Complaints concerning a commissioned peace officer who is an employee of the District shall be submitted in accordance with CKE.
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.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

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, except by mutual written consent.

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 email 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 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 email 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 business days. In calculating timelines under this policy, the day a document is filed is "day zero." The following business 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

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the student or parent, at any point during the complaint process. The student or parent may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the
level at which the complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Costs Incurred

Each party shall pay its own costs incurred in the course of the complaint.

Complaint and Appeal Forms

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint 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.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refilled with all the required information if the refiling is within the designated time for filing.

Complaint forms must be filed:

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

2. With the lowest level administrator who has the authority to remedy the alleged problem.

In most circumstances, students and parents shall file Level One complaints with the campus principal.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

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 immediately forward the complaint form to the appropriate administrator.

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.

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.

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 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 response or, if no response was received, within ten days of the Level Two response deadline.

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 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.
### Students Younger Than Ten

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

### Overage Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

### Mandatory Expulsion

**School Related**

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];

2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or

3. Commits a drug- or alcohol-related offense described at *Education Code 37.006(a)(2)(C) or (D)*, if that conduct is punishable as a felony.

*Education Code 37.007(a)*

### Exception

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

1. At an approved target range facility that is not located on a school campus; and

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

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored...
shooting sports competition or a shooting sports educational activity.

_Education Code 37.007(k), (l)_

**Retaliation**

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. _Education Code 37.007(d)_

**Federal Firearms Offense**

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student's regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

**Exception**

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

**Provision of Educational Services**

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

_20 U.S.C. 7961; Education Code 37.007(e)_

**Definitions**

- **“School”**
  
  “School” means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. _20 U.S.C. 7961(f)_

- **“Firearm”**
  
  “Firearm” means:
  
  1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
  2. The frame or receiver of any such weapon;
  3. Any firearm muffler or firearm silencer; or
  4. Any destructive device. “Destructive device” means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile hav-
ing an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.


A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terrorist threat under Penal Code 22.07.

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school’s real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
   a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
   b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
   c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.


3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053.

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)
Conduct Within 300 Feet of School

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see Mandatory Expulsion—School Related, above]; or

2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see Federal Firearm Provision, above].

Retaliation Against School Employee or Volunteer

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. Education Code 37.007(d)

Conduct Against Another Student

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. Education Code 37.007(b)(4)

Bullying

A student may be removed from class and expelled if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;

2. Incites violence against a student through group bullying; or

3. Releases or threatens to release intimate visual material of a minor or student who is 18 years of age or older without the student’s consent.

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

“Bullying” has the meaning assigned by Education Code 37.0832. [See FFI]

“Intimate Visual Material” has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052
A district may use its discretion to expel a student who has engaged in conduct that contains the elements of criminal mischief, as defined in the Penal Code, if the conduct is punishable as a felony. Regardless of whether the student is expelled, a district shall refer the student to the authorized officer of the juvenile court. *Education Code 37.007(f)*

A student may be expelled if the student engages in conduct that contains the elements of the offense of breach of computer security under Penal Code 33.02 if:

1. The conduct involves accessing a computer, computer network, or computer system owned by or operated on behalf of a school district; and
2. The student knowingly alters, damages, or deletes school district property or information; or commits a breach of any other computer, computer network, or computer system.

*Education Code 37.007(b)(5)*

A student placed in a DAEP who engages in documented serious misbehavior while on the DAEP campus despite documented behavioral interventions may be removed from class and expelled.

"Serious misbehavior" means:

1. Deliberate violent behavior that poses a direct threat to the health or safety of others;
2. Extortion, meaning the gaining of money or other property by force or threat;
3. Conduct that constitutes coercion, as defined by Penal Code 1.07; or
4. Conduct that constitutes the offense of:
   a. Public lewdness under Penal Code 21.07;
   b. Indecent exposure under Penal Code 21.08;
   c. Criminal mischief under Penal Code 28.03;
   d. Personal hazing under Penal Code 37.152; or
   e. Harassment, under Penal Code 42.07(a)(1), of a student or district employee.

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

*Education Code 37.007(c), .010(b)*
A district may expel a student who attends school in the district if:

1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and

2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

*Education Code 37.007(f)*

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)].

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.
Mitigating Factors

Before ordering the expulsion of a student, the board or the board’s designee must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student’s disciplinary history, and whether the student has a disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the student’s conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action.

*Education Code 37.009(f)*

Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

Beyond One Year

The period of expulsion may not exceed one year unless a district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.009(h)*

Notice of Expulsion Order

A board or its designee shall deliver a copy of the order expelling the student to the student and the student’s parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. *Education Code 37.009(g)–(h)*

To Parent or Guardian

Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district’s possession pertaining to the identity of the child and the child’s address; the name and address of the child’s parent, guardian, or custodian; the names and addresses of any witnesses; and the child’s present whereabouts; and
2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

*Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)*
In a county that operates a JJAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board’s designated representative. The notification shall be made not later than two business days following a board’s determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child’s duty to continue attending a district’s educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. Family Code 52.041

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student’s parent or guardian as provided by state or federal law. An educator’s certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.007(g)*

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(f)*

If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

A decision by a board’s designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student’s inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*
Restrictions on Court Orders

A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

Exception

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

_Education Code 37.010(c)_

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

A district may provide the program or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

_Education Code 37.011(l)_

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

1. The district's DAEP.

2. A contracted placement with another school district, an open-enrollment charter school, an institution of higher education, an adult literacy council, or a community organization that can provide an educational program that allows the student to complete the credits required for high school graduation.

An educational placement other than a district's DAEP is subject to the educational and certification requirements applicable to an
open-enrollment charter school under Education Code Chapter 12, Subchapter D.

*Education Code 37.011(a-3)–(a-5)*

On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher’s consent. The teacher may not be coerced to consent.

*Education Code 37.010(f)*

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

*Education Code 37.010(g)*

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.010(g-1)*

**Note:** See FOF for provisions concerning expulsion of students with disabilities.
Students Younger Than Ten

A student younger than ten years of age shall not be expelled but shall be placed in a disciplinary alternative education program (DAEP). *Education Code 37.007(e)(2), (h)*

Overage Students

A person who is 21 years of age or older and is admitted by a district for the purpose of completing the requirements for a diploma is not eligible for placement in a juvenile justice alternative education program (JJAEP) if the person engages in conduct that would require or authorize such placement for a student under the age of 21. If the student engages in such conduct, a district shall revoke the student's admission. *Education Code 25.001(b-1)*

Mandatory Expulsion

School Related

A student shall be expelled if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

1. Engages in conduct that contains the elements of the offense of unlawfully carrying weapons under Penal Code 46.02 or elements of an offense relating to prohibited weapons under Penal Code 46.05 [see FNCG];

2. Engages in conduct that contains the elements of the offense of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit murder or capital murder, indecency with a child, aggravated kidnapping, aggravated robbery, manslaughter, criminally negligent homicide, or continuous sexual abuse of a young child or children, as those offenses are defined in the Penal Code; or

3. Commits a drug- or alcohol-related offense described at Education Code 37.006(a)(2)(C) or (D), if that conduct is punishable as a felony.

*Education Code 37.007(a)*

Exception

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

1. At an approved target range facility that is not located on a school campus; and

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

This section does not authorize a student to bring a firearm on school property to participate in or prepare for a school-sponsored
shooting sports competition or a shooting sports educational activity.

_Education Code 37.007(k), (l)_

**Retaliation**

A district shall expel a student who engages in conduct that contains the elements of any offense listed above against any district employee or volunteer in retaliation for or as a result of the person’s employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off of school property. _Education Code 37.007(d)_

**Federal Firearms Offense**

In accordance with the Gun-Free Schools Act, a district shall expel a student who brings a firearm, as defined by federal law, to school. The student must be expelled from the student’s regular campus for a period of at least one year, except that the superintendent may modify in writing the length of expulsion in the case of an individual student.

**Exception**

This provision shall not apply to a firearm that is lawfully stored inside a locked vehicle on school property, or if it is for activities approved and authorized by the district and the district adopts appropriate safeguards to ensure student safety. [See also GKA].

**Provision of Educational Services**

A district or other local educational agency shall provide educational services to an expelled student in a DAEP if the student is younger than ten years of age on the date of expulsion. A district or other local educational agency may provide educational services to an expelled student who is ten years of age or older in a DAEP.

_20 U.S.C. 7961; Education Code 37.007(e)_

**Definitions**

For purposes of this provision:

“School” means any setting that is under the control and supervision of a district for the purpose of student activities approved and authorized by the district. _20 U.S.C. 7961(f)_

“Firearm” means:

1. Any weapon (including a starter gun), which will or is designed to or which may readily be converted to expel a projectile by the action of an explosive;
2. The frame or receiver of any such weapon;
3. Any firearm muffler or firearm silencer; or
4. Any destructive device. “Destructive device” means any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile hav-
ing an explosive or incendiary charge of more than one-quarter ounce, mine, or device similar to any of the preceding described devices. It also means any type of weapon (other than a shotgun shell or a shotgun that is generally recognized as particularly suitable for sporting purposes) by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, and which has any barrel with a bore of more than one-half inch in diameter; and any combination of parts either designed or intended for use in converting any device into a destructive device as described in this item, and from which a destructive device may be readily assembled.


A student may be expelled if the student engages in conduct involving a public school that contains the elements of the offense of false alarm or report under Penal Code 42.06, or terroristic threat under Penal Code 22.07.

A student may be expelled if the student, while on or within 300 feet of school property, as measured from any point on the school’s real property boundary line, or while attending a school-sponsored or school-related activity on or off of school property:

1. Sells, gives, or delivers to another person, or possesses, uses, or is under the influence of any amount of:
   a. Marijuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. section 801 et seq.; or
   b. A dangerous drug, as defined by Chapter 483, Health and Safety Code; or
   c. An alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code.


3. Engages in conduct that contains the elements of an offense under Penal Code 22.01(a)(1) against a school district employee, or a volunteer as defined by Education Code 22.053.

4. Engages in conduct that contains the elements of the offense of deadly conduct under Penal Code 22.05.

Education Code 37.007(b)(1)–(2)
Conduct Within 300 Feet of School

Subject to the mandatory expulsion requirement for retaliation, a student may be expelled if the student, while within 300 feet of school property, as measured from any point on the school's real property boundary line, engages in the following conduct:

1. Any conduct for which expulsion would have been mandatory under Education Code 37.007(a) [see Mandatory Expulsion—School Related, above]; or

2. Possession of a firearm, as defined by 18 U.S.C. sec. 921 [see Federal Firearm Provision, above].

Retaliaton Against School Employee or Volunteer

A student may be expelled if the student engages in an assault, under Penal Code 22.01(a)(1), on an employee or volunteer in retaliation for or as a result of the person's employment or association with a district, without regard to whether the conduct occurs on or off school property or while attending a school-sponsored or school-related activity on or off school property. Education Code 37.007(d)

Conduct Against Another Student

A student may be expelled if the student engages in conduct against another student that contains the elements of the offenses of aggravated assault, sexual assault, aggravated sexual assault, arson, murder, capital murder, criminal attempt to commit capital murder, or aggravated robbery, without regard to whether the conduct occurs on or off of school property or while attending a school-sponsored or school-related activity on or off of school property. Education Code 37.007(b)(4)

Bullying

A student may be removed from class and expelled if the student:

1. Engages in bullying that encourages a student to commit or attempt to commit suicide;

2. Incites violence against a student through group bullying; or

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

Nothing in this provision exempts a school from reporting a finding of intimate visual material of a minor.

Definitions

"Bullying" has the meaning assigned by Education Code 37.0832. [See FFI]

"Intimate Visual Material" has the meaning assigned by Civil Practice and Remedies Code 98B.001.

Education Code 37.0052
<table>
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<tr>
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1. The student engages in conduct for which expulsion would have been mandatory if the conduct had occurred on district property or while attending a district-sponsored or district-related activity; and

2. The student engages in that conduct on the property of another district or while attending a school-sponsored or school-related activity of another district in this state.

**Education Code 37.007(i)**

Before a student may be expelled, a board or its designee shall provide the student a hearing at which the student is afforded appropriate due process as required by the federal constitution and which the student's parent or guardian is invited, in writing, to attend. *Education Code 37.009(f)*

The minimum procedural requirements necessary to satisfy due process depend upon the circumstances and the interests of the parties involved. Federal due process requires notice and some opportunity for hearing.

**Notice**

The notice should contain a statement of the specific charges and grounds that, if proven, would justify expulsion. In some cases, the student should be given the names of the witnesses against him or her and an oral or written report on the facts to which each witness testifies.

**Hearing**

The rights of the student may properly be determined upon the hearsay evidence of school administrators who investigate disciplinary infractions.

[See also *Brewer v. Austin Indep. Sch. Dist.*, 779 F.2d 260 (5th Cir. 1985); *Keough v. Tate County Bd. of Educ.*, 748 F.2d 1077 (5th Cir. 1984); *McClain v. Lafayette County Sch. Bd. of Educ.*, 673 F.2d 106 (5th Cir. 1982); *Tasby v. Estes*, 643 F.2d 1103 (5th Cir. 1981); *Boykins v. Fairfield Bd. of Educ.*, 492 F.2d 697 (5th Cir. 1974), cert. denied, 420 US 962 (1975); *Dixon v. Alabama State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)]

**Representative**

At the hearing, the student is entitled to be represented by the student's parent, guardian, or another adult who can provide guidance to the student and who is not an employee of the district. If a district makes a good-faith effort to inform the student and the student's parent or guardian of the time and place of the hearing, the district may hold the hearing regardless of whether the student, the student's parent or guardian, or another adult representing the student attends.
Mitigating Factors

Before ordering the expulsion of a student, the board or the board’s designee must consider whether the student acted in self-defense, the intent or lack of intent at the time the student engaged in the conduct, the student’s disciplinary history, and whether the student has a disability that substantially impairs the student’s capacity to appreciate the wrongfulness of the student’s conduct, regardless of whether the decision of the board concerns a mandatory or discretionary action.

*Education Code 37.009(f)*

Term of Expulsion

If the period of expulsion is inconsistent with the guidelines on length of expulsion in the Student Code of Conduct, the order must give notice of the inconsistency.

Beyond One Year

The period of expulsion may not exceed one year unless a district determines that:

1. The student is a threat to the safety of other students or to district employees; or

2. Extended placement is in the best interest of the student.

*Education Code 37.009(h)*

Notice of Expulsion Order

A board or its designee shall deliver a copy of the order expelling the student to the student and the student’s parent or guardian. After such notification, the parent or guardian shall provide adequate supervision for the student during the period of expulsion. *Education Code 37.009(g)–(h)*

To Parent or Guardian

To Court

Not later than the second business day after the date an expulsion hearing is held, a board or its designee shall deliver a copy of the expulsion order and any information required under Family Code 52.04 to the authorized officer of the juvenile court in the county in which the student resides.

Family Code 52.04 requires the following information from a referring entity that is not a law enforcement agency or has not taken the child into custody:

1. All information in a district’s possession pertaining to the identity of the child and the child’s address; the name and address of the child’s parent, guardian, or custodian; the names and addresses of any witnesses; and the child’s present whereabouts; and

2. A complete statement of the circumstances of the alleged delinquent conduct or conduct indicating a need for supervision.

*Education Code 37.010(a); Family Code 52.04(a), .041(a)–(b)*
To Juvenile Board

In a county that operates a JUAEP [see FODA], no student shall be expelled without written notification by a board or its designee to the juvenile board’s designated representative. The notification shall be made not later than two business days following a board’s determination that the student is to be expelled. Failure to timely notify the designated representative shall result in the child's duty to continue attending a district’s educational program, which shall be provided to that child until such time as the notification to the designated representative is properly made. *Family Code 52.041*

To Staff

In addition to providing any notice required under Code of Criminal Procedure 15.27 [see GRA], a district shall inform each educator who has responsibility for, or is under the direction and supervision of an educator who has responsibility for, the instruction of a student who has engaged in expellable conduct.

Each educator shall keep the information confidential from any person not entitled to the information, except that the educator may share the information with the student's parent or guardian as provided by state or federal law. An educator’s certificate may be suspended or revoked for intentional failure to keep such information confidential.

*Education Code 37.007(g)*

Completion of Proceeding Upon Withdrawal

If a student withdraws from a district before an order for expulsion is entered, the principal or board, as appropriate, may complete the proceedings and enter an order. If the student subsequently enrolls in the district during the same or subsequent school year, the district may enforce the order at that time except for any period of the expulsion that has been served by the student in another district that honored the order. If the principal or board fails to enter an order after the student withdraws, the next district in which the student enrolls may complete the proceedings and enter an order. *Education Code 37.009(i)*

Additional Proceedings

If, during the term of expulsion, a student engages in additional conduct for which placement in a DAEP or expulsion is required or permitted, additional proceedings may be conducted and the principal or board, as appropriate, may enter an additional order. *Education Code 37.009(j)*

Appeals

A decision by a board’s designee to expel a student may be appealed to the board. If the hearing is not before the board directly, the results and findings of the hearing should be presented in a report open to the student’s inspection. *Education Code 37.009(f); Dixon v. Alabama State Bd. of Educ., 294 F.2d 150 (5th Cir. 1961), cert. denied, 368 U.S. 930 (1961)*
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A court may not order an expelled student to attend a regular classroom, a regular campus, or a district DAEP as a condition of probation.

Exception

A court may order a student to attend a regular classroom, a regular campus, or a district DAEP if the district has entered into a memorandum of understanding (MOU) with the juvenile board for the county in which the district's central administrative office is located, concerning the juvenile probation department's role in supervising and providing other support services for students in DAEPs.

*Education Code 37.010(c)*

District Responsibility for Expelled Student

In a county that operates a JJAEP, a district is responsible for providing an immediate educational program to a student who engages in behavior for which expulsion is permitted but not required under Education Code 37.007, but who is not eligible for admission into the JJAEP in accordance with an MOU. [See FODA]

A district may provide the program or the district may contract with a county juvenile board, a private provider, or one or more other school districts to provide the program.

*Education Code 37.011(f)*

Certain Districts

This provision applies to a district located in a county considered to be a county with a population of 125,000 or less because it has a population of more than 200,000 and less than 220,000; has five or more school districts located wholly within the county's boundaries; and has located in the county a JJAEP that, on May 1, 2011, served fewer than 15 students. A qualifying district shall provide educational services to a student who is expelled from school. The district is entitled to count the student in the district's average daily attendance for purposes of receipt of state funds under the Foundation School Program. An educational placement under this section may include:

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On the recommendation of the placement review committee, or on its own initiative, a district may readmit an expelled student while the student is completing any court disposition requirements.

After an expelled student has successfully completed any court disposition requirements, including conditions of a deferred prosecution, or conditions required by the prosecutor or probation department, a district may not refuse to admit the student if the student meets the requirements for admission. [See FD] A district may place the student in a DAEP.

The student may not be returned to the classroom of the teacher under whose supervision the offense occurred without that teacher's consent. The teacher may not be coerced to consent.

_Education Code 37.010(f)_

If a student has been expelled from another school district, the expelling district shall provide to a district in which the student enrolls a copy of the expulsion order and the referral to the authorized officer of the juvenile court. A district in which the student enrolls may continue the expulsion under the terms of the order, may place the student in a DAEP for the period specified by the expulsion order, or may allow the student to attend regular classes without completing the period of expulsion.

A district may take any of the above actions if the student was expelled by a district in another state if:

1. The out-of-state district provides a copy of the expulsion order; and
2. The grounds for the expulsion are also grounds for expulsion in the district in which the student is enrolling.

_Education Code 37.010(g)_

If the student was expelled for more than one year and the enrolling district continues the expulsion or places the student in a DAEP, the aggregate period of expulsion or placement may not exceed one year unless the district determines that:

1. The student is a threat to the safety of other students or to district employees; or
2. Extended placement is in the best interest of the student.

*Education Code 37.010(g-1)*

**Note:** See FOF for provisions concerning expulsion of students with disabilities.
Complaints

In this policy, the terms "complaint" and "grievance" shall have the same meaning.

Other Complaint Processes

Complaints by members of the public 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 GF after the relevant complaint process:

1. Complaints concerning instructional resources shall be filed in accordance with EF.

2. Complaints concerning a commissioned peace officer who is an employee of the District shall be filed in accordance with CKE.

Complaints regarding refusal of entry to or ejection from District property based on Education Code 37.105 shall be filed in accordance with this policy. However, the timelines shall be adjusted as necessary to permit the complainant to address the Board in person within 90 days of filing the initial complaint, unless the complaint is resolved before the Board considers it. [See GKA(LEGAL)]

Guiding Principles

Informal Process

The Board encourages the public to discuss concerns with an 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.

Formal Process

An individual may initiate the formal process described below by timely filing a written complaint form.

Even after initiating the formal complaint process, individuals are encouraged to seek informal resolution of their concerns. An individual 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 individual for bringing a concern or complaint.

General Provisions

Filing

Complaint forms and appeal notices may be filed by hand-delivery, by electronic communication, including email 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 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 individual fails to appear at a scheduled conference, the District may hold the conference and issue a decision in the individual's absence.

Response

At Levels One and Two, "response" shall mean a written communication to the individual from the appropriate administrator. Responses may be hand-delivered, sent by electronic communication to the individual's email address of record, or sent by U.S. Mail to the individual'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 business days. In calculating timelines under this policy, the day a document is filed is "day zero." The following business day is "day one."

Representative

"Representative" shall mean any person who or organization that is designated by an individual to represent the individual in the complaint process.

The individual may designate a representative through written notice to the District at any level of this process. If the individual 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. An individual 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

All time limits shall be strictly followed unless modified by mutual written consent.

If a complaint form or appeal notice is not timely filed, the complaint may be dismissed, on written notice to the individual, at any point during the complaint process. The individual may appeal the dismissal by seeking review in writing within ten days from the date of the written dismissal notice, starting at the level at which the
complaint was dismissed. Such appeal shall be limited to the issue of timeliness.

Each party shall pay its own costs incurred in the course of the complaint.

Complaints and appeals under this policy shall be submitted in writing on a form provided by the District.

Copies of any documents that support the complaint should be attached to the complaint form. If the individual does not have copies of these documents, they may be presented at the Level One conference. After the Level One conference, no new documents may be submitted by the individual unless the individual did not know the documents existed before the Level One conference.

A complaint or appeal form that is incomplete in any material aspect may be dismissed but may be refilled with all the required information if the refiling is within the designated time for filing.

Complaint forms must be filed:

1. Within 15 days of the date the individual 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.

If the only administrator who has authority to remedy the alleged problem is the Superintendent or designee, the complaint may begin at Level Two following the procedure, including deadlines, for filing the complaint form at Level One.

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 immediately forward the complaint form to the appropriate administrator.

The appropriate administrator shall investigate as necessary and schedule a conference with the individual within ten days after receipt of the written complaint. The administrator may set reasonable time limits for the conference.

Absent extenuating circumstances, the administrator shall provide the individual 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.
Level Two

If the individual did not receive the relief requested at Level One or if the time for a response has expired, he or she 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 individual 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 individual 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 individual 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.

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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 individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she 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 response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the individual 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 individual 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 individual 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 individual 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 individual or his or her representative, any presentation from the administration, and questions from the Board 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.
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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 individual did not receive the relief requested at Level Two or if the time for a response has expired, he or she 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 response or, if no response was received, within ten days of the Level Two response deadline.

The Superintendent or designee shall inform the individual 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 individual may request a copy of the Level Two record.

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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 individual 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 individual 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 individual or his or her representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.
Sunray ISD
171902
PUBLIC COMPLAINTS

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.
SUNRAY ISD
BOARD MEMBER TRAINING
SUPPLEMENTAL MATERIAL

I. BOARD ROLES & RESPONSIBILITIES V. ADMINISTRATION’S ROLES AND RESPONSIBILITIES

A. Board roles and duties are set out by the Texas Education Code, Chapter 11, Subchapter D.

1. General Duties:
   a. "The trustees of an independent school district constitute a body corporate and in the name of the district may acquire and hold real and personal property, sue and be sued and receive bequests and donations or other money or funds coming legally into their hands." § 11.151(a).
   b. "The trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. All powers and duties nonspecifically delegated by statute to the agency or to the State Board of Education are reserved for the trustees, . . . ." § 11.151(b).
   c. All rights and titles of school property, whether real or personal, vest with the trustees or their successors in office. § 11.151(c).
   d. The trustees may adopt rules and bylaws necessary to carry out their powers and duties. § 11.151(d).

2. Other Duties and Responsibilities:
   a. § 11.152 – Levy and Collect Taxes and Issue Bonds
   b. § 11.153 – Sale of Minerals on Land Belonging to District
   c. § 11.154 – Board May Authorize the Sale of District Property Other Than Minerals
   d. § 11.154(1) – Board May Authorize Donation of Surplus Property to Municipality, County or Non-Profit Organization
   e. § 11.155 – District, Through Trustees, May Acquire the Fee Simple Title of Real Property Through the Right of Eminent Domain
   f. § 11.156 – Board of Trustees May Accept Donations by Any Person or Entity
   g. § 11.157 – Trustees May Contract with a Public or Private Entity to Provide Educational Services
   h. § 11.158 – Trustees May Require Payment of Fees for Use Of District Materials, Membership in Student
The Superintendent or designee shall inform the individual 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 individual 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.
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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 individual 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 individual 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 individual or his or her representative, any presentation from the administration, and questions from the Board 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.
Organizations, Security Deposits, Personal Use Items (Student Publications, Class Rings, Annals, Graduation Announcements), Student Health Insurance, Instrument Rental, Parking, Driver’s Ed., etc.

i. § 11.160 – Trustees May Change the Name of the ISD

j. § 11.162 – Trustees May Adopt Policy to Require Students to Wear School Uniforms

k. § 11.163 – Employment Policy – Any employment policy adopted by the Board must provide that (i) the superintendent has the sole authority to make recommendations to the Board regarding selection of all personnel other than the superintendent (although the board may delegate the final authority for those decisions to the superintendent); and, (ii) each principal must approve each teacher or staff appointment to the principal’s campus. The trustees may accept or reject the superintendent’s recommendations regarding the selection of district personnel. However, if the board rejects the superintendent’s recommendation, the superintendent shall make alternative recommendations until the board accepts a recommendation.*

B. Superintendent’s Duties.

1. The superintendent is the educational leader and chief executive officer of the school district. § 11.201.

2. Enumerated Duties:
   a. Chief administrator for planning, operation, supervision and evaluation of the district’s education programs, services and facilities and annual appraisal of the district’s performance.
   b. Assignment and evaluation of all personnel of the district, other than the superintendent.
   c. Recommend selection of district personnel, other than the superintendent.
   d. Initiates termination or suspension of district personnel or the nonrenewal of employees’ term contracts.
   e. Manages day-to-day operations of the district as its administrative manager.
   f. Prepares and submits proposed budget to board of trustees;
   g. Prepares recommendation for policies to be adopted by the board and oversees implementation of adopted policies.
   h. Development of appropriate administrative regulations regarding implementation of district policies.

* The Board may not come up with its own recommendation regarding district personnel, other than the superintendent’s. It must rely solely on the recommendations of the superintendent.
i. Provides leadership for obtaining student performance in the district.

j. Organizes district central administration.

k. Performs any other duties assigned by the board of trustees.

C. Role and Duties of Principal.

1. The principal is the instructional leader of the school. § 11.202(a).

2. Enumerated duties of the principal – set out in § 11.202(b) of the Texas Education Code:
   a. Approve all teacher and staff appointments for the principal’s campus.
   b. Set specific education objectives for the principal’s campus.
   c. Develop budget for principal’s campus.
   d. Assume administrative responsibility and instructional leadership for student discipline at principal’s campus.
   e. Assign, evaluate and promote campus personnel.
   f. Make recommendations to the superintendent regarding termination, suspension or nonrenewal of term contracts for employees assigned to principal’s campus.

II. BOARD ROLE IN RELATION TO SUPERINTENDENT’S DUTIES

A. Management of the District.

1. The board oversees the management of the district by employing a superintendent and evaluating the superintendent’s performance in providing educational leadership, managing daily operations, and performing all duties assigned by law. See Subchapter D of the Texas Education Code.

   **Bottom Line:** The trustee’s job is to monitor the work of the district’s manager, the superintendent; i.e., trustees make sure the superintendent is doing his or her job.

2. The board insures progress toward the achievement of district goals through a systemic, timely and comprehensive review of reports prepared by the superintendent.

3. The board reviews the efficiency and effectiveness of district operations and use of its resources.

   **Bottom Line:** The board’s job is to make sure that efficient management is happening. That doesn’t mean the board should review every
management decision by the superintendent, but the trustees should be in the information loop.

5. The board and superintendent must work together to decide which operations are most important to the district so as to merit board oversight; i.e., transportation, facilities management, food service, etc.

6. The board should set appropriate performance standards; i.e., goals for the superintendent for each operations area. Appropriate standards should be developed by the board and the superintendent.

7. Suggested governance guidelines:
   a. Decide which operations are most important to the district and how the board will oversee the superintendent’s management of them.
   b. Decide, as a group, what information or report would be most useful to ensure that operations are being properly managed.
   c. Develop a plan with the superintendent to review 2 or 3 new operation areas per year.
   d. Make sure performance standards are in place for major areas of operation.
   e. Review those standards.
   f. Determine whether those standards are relevant to your communities’ values.
   g. Ask other districts about their standards they use to measure desired results in operation areas.
   h. Institutionalize/formalize standards and measures so that areas will continue to be monitored, regardless of changes in personnel.
   i. Monitor progress by using agreed upon standards and reports.
   j. Establish and annual board agenda to schedule periodic reports on operation areas at the appropriate times of year.
   k. Evaluate your superintendent’s success based on the standards and operations management, rather than on individual management decisions. Ask questions about how performance is monitored to ensure that standards are being met.
   l. Ask for data about systems and performance that shows how standards are being met.
   m. Look for opportunities for improvement rather than blame when reviewing standards and reports.
   n. Don’t ask too much too quickly – be patient and watch for improvement over time.†

Bottom line: The Board’s job is to develop goals (expectations) for the district and to implement policies (guidelines) regarding how those goals can be achieved. In turn, the Superintendent develops the plan to meet those goals and implements that plan.

† Laura Bloemker, A Trained Eye: Having A System in Place Strengthens Board Oversight Function, Texas Lonestar, May 2002, at p. 22.
so that goals are achieved. In addition, it is the superintendent’s job to make regular progress reports to the board and, in turn, the board must evaluate and assess the superintendent based on the information he relays and to determine if the superintendent is achieving the goals the board has set. Neither the board or the superintendent work in a vacuum; each must rely on the other for advice and oversight to see that the other’s roles are properly executed.

B. **Collaboration Between Board and Superintendent.**

Legislature recognized potential for tension between Board and superintendents, and implemented statutes to clarify its intent. §§ 11.1511 and 11.1512.

**§ 11.1511. Specific Powers and Duties of Board**

(a) In addition to powers and duties under Section 11.151 or other law, the board of trustees of an independent school district has the powers and duties provided by Subsection (b).

(b) The board shall:

1. seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community;
2. adopt a vision statement and comprehensive goals for the district and the superintendent and monitor progress toward those goals;
3. establish performance goals for the district concerning:
   A. the academic and fiscal performance indicators under Subchapters C, D, and J, Chapter 39; and
   B. any performance indicators adopted by the district;
4. ensure that the superintendent:
   A. is accountable for achieving performance results;
   B. recognizes performance accomplishments; and
   C. takes action as necessary to meet performance goals;
5. adopt a policy to establish a district- and campus-level planning and decision-making process as required under Section 11.251;
6. publish an annual educational performance report as required under Section 39.306;
7. adopt an annual budget for the district as required under Section 44.004;
8. adopt a tax rate each fiscal year as required under Section 26.05, Tax Code;
(9) monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records;
(10) ensure that district fiscal accounts are audited annually as required under Section 44.008;
(11) publish an end-of-year financial report for distribution to the community;
(12) conduct elections as required by law;
(13) by rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint;
(14) make decisions relating to terminating the employment of district employees employed under a contract to which Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies; and
(15) carry out other powers and duties as provided by this code or other law.

(c) The board may:
(1) issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Sections 45.001 and 45.003;
(2) levy, assess, and collect an annual ad valorem tax for maintenance and operation of the district as authorized under Sections 45.002 and 45.003;
(3) employ a person to assess or collect the district's taxes as authorized under Section 45.231; and
(4) enter into contracts as authorized under this code or other law and delegate contractual authority to the superintendent as appropriate.

§ 11.1512. Collaboration between Board and Superintendent

(a) In relation to the superintendent of the school district, the board of trustees of the district has the powers and duties specified by Sections 11.1511(b) and (c). The superintendent shall, on a day-to-day basis, ensure the implementation of the policies created by the board.

(b) The board of trustees and the superintendent shall work together to:

(1) advocate for the high achievement of all district students;
(2) create and support connections with community organizations to provide community-wide support for the high achievement of all district students;
(3) provide educational leadership for the district, including leadership in developing the district vision statement and long-range educational plan;
(4) establish district-wide policies and annual goals that are tied directly to the district's vision statement and long-range educational plan;
(5) support the professional development of principals, teachers, and other staff; and
(6) periodically evaluate board and superintendent leadership, governance, and teamwork.

III. TEXAS OPEN GOVERNANCE

A. Open Meetings Act.

1. Under the Texas Government Code, a “meeting” means, “a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action. § 551.0014(a).

2. A “closed meeting” is a meeting to which the public does not have access. § 551.0011.

3. “Deliberation” means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business. § 551.0012.

4. A school district board of trustees qualifies as a governmental body.

5. “Quorum” means a majority of a governmental body. Generally, 4 members of a 7 member school board.†
   a. Once a quorum is present, the vote necessary to pass a motion is a majority of those present and voting, excluding abstentions. That is an effective vote is a majority of the votes actually cast, not a majority of the quorum present.
   b. Vacancies on the board do not reduce the number required for a quorum in order for the board to take valid action.
   c. Abstentions do not count as votes, i.e., an affirmative vote of 3 of the 5 voting trustees on a 7 member board would be sufficient to take action on the district’s behalf, where 2 of the members abstained.

† A quorum is a majority of the authorized membership, not the actual membership at any given time.
6. Every regular, special or called meeting of a governmental body shall be open to the public, except for the provided exceptions stated in the Government Code. § 551.002.

7. "Notice" of a meeting must be posted in a place readily accessible to the general public at all times for at least 72 hours before a scheduled time of the meeting. § 551.043.
   a. A school district must post "notice" of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district. § 551.051.
   b. A board does not have to repost a meeting notice if it only recesses a meeting. However, it must reconvene the following day.

Exception — a school district may hold an emergency meeting with as little as 2 hours notice if an emergency or an urgent public necessity exists that requires immediate action by the district due to (i) an imminent threat to public health and safety; or, (ii) a reasonably unforeseen situation. § 551.051. A governmental body must identify the emergency or urgent public necessity in the notice.

9. All voting for district action must take place in an "open meeting." No voting can take place in closed session.

10. No voting by proxy is allowed; all votes cast for possible board action must be done by persons present at the meeting. This includes secret ballots or straw pulls. No voting of any kind may be taken in closed meeting.

11. What to look out for:
   a. Inadvertently having a school board meeting by having a quorum present at one place where one member of the board speaks or there is deliberation on an item of public concern.

      Suggestions: Be careful of having a quorum present at any one time and don’t talk about school business outside the context of a public meeting.

B. Frequently Asked Questions re Meetings In General.

1. Is a district required to allow public comment or open forum section at regular board meetings?
   Answer: No, the district is not required to have an open forum in any particular way. However, under the Texas Constitution, Article I, Section 27, a district must provide parents, students, employees or the general public an opportunity to have their complaints heard by those persons in a
position of authority. It can be done a regular meeting or at a special meeting called for that particular purpose.

2. Can a board restrict public comments at its meetings?
   Answer: Yes, a board may place reasonable restraints on the number, length and frequency of presentations, so long as it does not unfairly discriminate based on viewpoint.

3. Is there a criminal sanction for disrupting a board meeting?
   Answer: Yes, it is a criminal offense for a person to intentionally prevent or disrupt a lawful meeting or to substantially obstruct or interfere with the meeting by physical action or by verbal utterance. Tex. Pen. Code § 42.05.

4. Can the board respond to questions or comments from speakers during public comment?
   Answer: Only in a limited way. The board is not authorized to discuss or act on any public comment that is not on the Agenda. If a member of the public inquires about a subject when notice has not been given, the board can only give factual information, refer to policy or deliberate as to whether to place that subject on a future Agenda.\(^\d\)

5. What can a board do when a public speaker makes personal attacks about a specific school district employee during public comments section of a meeting?
   Answer: TASB policies contain local grievance procedures that usually state complaints about district personnel will be held in closed session unless requested to be held in open session by the person being complained about. See, e.g., Policy DGBA (LEGAL) and (LOCAL) — Employee Complaints/Grievances. However there is no requirement under TOMA for a board to move into closed meetings to hear public complaints about an employee. Further, any restrictions regarding time, place and manner should be uniformly applied according to your policy in order to negate any first amendment issues.

C. Frequently Asked Questions re Closed Meetings.

1. Are there any exceptions to the requirement that meetings be held in open session?
   Answer: Yes. Texas Government Code sets forth specific exceptions to the Open Meetings Act, which include:
   a. § 551.071 Consultation with Attorney – the board of trustees may consult with an attorney when it seeks advice about pending or contemplated litigation or a settlement offer or any matter which

\(^\d\) If the public comment is about an item already on the Agenda, the board may be authorized to respond substantively to those comments.
would invoke the attorney/client privilege. I.e., “strictly legal
matters.”

b. § 551.072 Deliberation Regarding Real Property – the board may
deliberate the purchase, exchange, lease or value of real property if
open deliberations would be a detriment.

c. § 551.073 Deliberations Regarding a Prospective Gift
d. § 551.074 Personnel Matters – the board does not have to conduct
an open meeting to deliberate the appointment, evaluation or
reassignment of duties, discipline or dismissal of a public officer or
employee or to hear a complaint or charge against an officer or
employee.**

e. § 551.076 Deliberations Regarding Security Devices
f. § 551.082 School Children; School District Employees;
Disciplinary Matter or Complaint - board does not have to
deliberate in open meeting a case involving discipline of a public
school child or any case where one employee complains about
another employee.***

2. Does TOMA require that the board go into closed meeting if the subject
matter fits one of the TOMA exceptions?
Answer: No, TOMA does not require the board to go into closed meeting
on any matter. If the subject falls within one of the limited exceptions,
those exceptions are permissive not mandatory and they may be discussed
in open session of the board so chooses.

3. May a person who is the subject of a grievance demand that the complaint
be heard in closed meeting?
Answer: No, under TOMA, the person’s only right is to have such a
complaint heard in open meeting, not closed. TOMA permits a closed
meeting to deliberate on complaints against an employee or public official.
It does not require one. See TEX. GOV. CODE § 551.074(a). Similarly,
TOMA allows closed meetings on a matter involving student discipline or
complaints brought by one employee against another. TEX. GOV. CODE §
551.082. However, an open meeting is required if the parent, student or
employee against whom the complaint is brought makes a written request
for such complaint to be heard in open hearing. § 551.082(b).

4. How can a board identify which party has the right to demand an open
meeting under TOMA when the complaint asserts multiple issues?
Answer: Try to separate those issues so that the board can hear matters
separately. If it is not possible, hear all matters in open meetings.

** If an employee who is the subject of a complaint requests, in writing, that the complaint be heard in open session, the board may not deliberate in closed.
*** If the person who is the subject of the complaint requests that the meeting be held in open session, the board may not hear the complaint in closed session.
Statutory right to request an open hearing outweighs any other parties’ or even the board’s preference to hear a matter in closed meeting.

**Exception No. 1: student discipline v. employees.** When a parent complains about a discipline matter by a district employee, the parent may request an open meeting while the teacher does not. If the board is unable to separate these issues, the district should honor the parent’s request for an open meeting and the employee has no corresponding right to be heard in closed session.

**Exception No. 2: personnel v. employee.** A teacher may demand an open meeting hearing regarding her complaint about the principal or superintendent while the administrator would prefer it being closed. If the complaint about the administrator is connected to the employee’s grievance, the better practice is to hold the meeting in open session.

**5.** If the Board hears a complaint in open meeting, may it deliberate in closed session?

**Answer:** If a request for an open hearing is made, both the hearing and the board’s deliberations must be in open session.

**Exception:** A governmental body may be able to deliberate into closed meeting over the objection of the subject employee in order to consult with its attorney about a pending lawsuit filed by the employee.

**6.** Who can attend a closed session once one is called?

**Answer:** The board may invite anyone it chooses to attend its closed meeting. Note that if closed session is closed under the attorney consultation exception, the board may exclude any individual whose presence would prevent privileged communications between the board and its attorney.

### D. Frequently Asked Questions re Closed Meetings Records.

1. **Does a board of trustees have to keep minutes of its closed session?**

**Answer:** The board must either keep a certified agenda or make a tape recording of the proceeding of each closed meeting. The presiding officer must certify an agenda kept under this provision and the certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken and announcement by the presiding officer with regard to the beginning and the end of the closed meeting.

2. **May the board release a copy of closed meeting records to a member of the public?**

**Answer:** No. An individual, corporation or partnership that knowingly discloses a certified agenda or tape recording of a closed meeting may be guilty of a Class B misdemeanor. *Tex. Gov. Code § 551.146.*
3. How long must a governmental body preserve the certified agenda or tape recording?
   Answer: The records of a closed meeting must be kept for at least 2 years after the date of the meeting. If any action involving that meeting is brought within that period, the board must preserve the certified agenda or tape recording while the action is pending.

4. May current board members review closed meeting records?
   Answer: The current trustees who attended a closed meeting may review the certified agenda or tape recording of that meeting. Also, current members who did not attend may also review the certified agenda or tape recording. Although a board member may review the record, he or she is not authorized to obtain a copy of the tape or certified agenda.‡

5. May parents of students review closed meeting records?
   Answer: Possibly. Members of the public are not generally entitled to review a tape recording or certified agenda. However, if the closed meeting discussed a student, it may be considered an educational record under the Family Educational Rights and Privacy Act (FERPA). This federal law may preempt inconsistent provisions of the Texas Open Meetings Act.

6. May a grievant review closed meeting records?
   Answer: Generally, a grievant is not entitled to review a tape recording or certified agenda of a closed meeting, but the records may be released to the Commissioner of Education upon an appeal. TEX. ED. CODE § 7.057(c).

7. May a person attending a meeting make his own record or tape recording?
   Answer: If the meeting is held in open session, yes. § 551.023 of the Government Code permits recording by means of video camera or tape recorder, but the board may adopt reasonable rules to maintain order regarding location of recording equipment and in the manner in which the recording is conducted.

E. Frequently Asked Questions re Disclosure of Confidential Information.

1. Are there any criminal sanctions if a person talks about what occurred in a closed meeting?
   Answer: The Texas Open Meetings Act does not provide for criminal sanctions, but a board member’s disclosure of confidential information at any time may have serious civil or other criminal consequences, including:
   a. defamation — a board member who repeats false information discussed in closed meeting could be held individually liable for false statements that injure a third person’s reputation;

   ‡ Former board members may not review the tape recording or certified agenda once they have left office.
b. code of ethics – a board member who reveals information discussed at a closed meeting may be violating the board’s own code of ethics policy and operating procedures – see, for example, BBF (LOCAL);

c. fiduciary duty – a trustee may owe common law fiduciary obligation to act in the district’s best interest, including protecting its confidential information; and,

d. misuse of official information – a trustee who releases “official” information may violate Texas Penal Code § 39.06.‡‡

IV. MISCELLANEOUS

A. Personnel Matters.

1. The Superintendent is charged with the ultimate duty of making any and all recommendations concerning the employment of district personnel. In this regard, the board of trustees may accept or reject the superintendent’s recommendation. However, the board may not act on its own regarding personnel matters without a recommendation for the superintendent. If such board action is not supported by a superintendent recommendation, then it is potentially void. See TEX. ED. CODE § 11.163(b).

2. The board should take care to follow the proper chain of command. District policy requires that employee complaints or grievances be heard through a quasi-formal procedure involving Level 1, 2 and 3 grievances. This policy is in place to allow resolution of any conflict at the lowest possible level and to insure that the board can properly sit in judgment should it be the ultimate arbiter at a Level 3 grievance.

‡‡ Disclosure of confidential information discussed in a closed meeting also undermines the district’s ability to act. If the district’s interest is best served by having a meeting in closed session, that interest is compromised if board members or other invitees disclose that information to the general public.
APPENDIX

1. Board v. Superintendent Responsibilities
2. Board/Superintendent Promises
3. Addressing Public Concerns
4. The “Rules for Operating Effectively”
5. The Board’s Relationship with Other District Employees
6. The Board and Superintendent Relationship: Does our Board Measure Up?
7. Governance Integrity-Based System of Texas
8. Sample Team of 8 Self-Evaluation
**BOARD V. SUPERINTENDENT RESPONSIBILITIES**

<table>
<thead>
<tr>
<th>Board</th>
<th>Superintendent</th>
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<tbody>
<tr>
<td>1. To select a competent, established educational leader as superintendent.</td>
<td>1. To administer effectively and provide the professional, educational leadership necessary.</td>
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<tr>
<td>2. To serve as a policy-making body.</td>
<td>2. To recommend sound policy and implement these policies by formulating and enforcing rules and regulations.</td>
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<tr>
<td>3. To allow the superintendent to administer the schools.</td>
<td>3. To make board policy effective through efficient administration.</td>
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<tr>
<td>4. To exercise sound judgment in business affairs of the school corporation.</td>
<td>4. To keep the board informed on financial matters, do sound long-range planning, and keep current expenditures within the approved budget.</td>
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<tr>
<td>5. To deal always in an ethical, honest, straightforward, open-and-above board manner with the superintendent and community.</td>
<td>5. To deal always in an honest, professional, straightforward, open-and-above manner with the board, the staff, and the community.</td>
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<tr>
<td>6. To provide within budget limitation necessary personnel.</td>
<td>6. To present personnel needs to the board.</td>
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<td>7. To approve an organizational pattern for the administration.</td>
<td>7. To make assignments for each position with the board’s authorization.</td>
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<td>8. To take legal action required by law.</td>
<td>8. To recommend to the board all action required by law.</td>
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<tr>
<td>9. To examine and approve an annual budget.</td>
<td>9. To recommend an annual budget with necessary supporting data.</td>
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<tr>
<td>10. To function as a board rather than as individuals.</td>
<td>10. To deal with the board as a whole rather than with individual members.</td>
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<tr>
<td>11. To carry on communications with staff members through the superintendent. BOE members should refrain from direct communications with school staff.</td>
<td>11. To see that the staff can have necessary communication through the superintendent with the board.</td>
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<tr>
<td>12. To hold the superintendent accountable for results.</td>
<td>12. To accept responsibility for results.</td>
</tr>
<tr>
<td>13. To remember that schools exist for the benefit of the students and the community.</td>
<td>13. To remember that schools exist for the benefit of the students and the community.</td>
</tr>
<tr>
<td>14. To act only on the recommendation of the superintendent in matters of employment or dismissal of school personnel.</td>
<td>14. To make recommendations to the board regarding employment and dismissal of school personnel.</td>
</tr>
<tr>
<td>15. To refer all complaints to the superintendent and discuss them only at a regular meeting after failure of administrative resolution.</td>
<td>15. To investigate all complaints received and seek administrative solution.</td>
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</tbody>
</table>

**Timeline:**

**Ongoing**

**Courtesy of Gadsden Independent School District, Sunland Park, N.M.**

Appendix - 1
Board/Superintendent Promises

1. The superintendent will, as a general practice, provide information requested by an individual board member to all members of the school board.

2. Board members and the superintendent will praise in public, criticize in private.

3. The superintendent will provide leadership in identifying issues that need to be addressed.

4. The superintendent will provide timely information, rationale, and recommendations on issues considered by the school board.

5. The board, individual members, and the superintendent will make every reasonable effort to protect the integrity and promote the positive image of the district and one another.

6. The board, individual members, and the superintendent will keep confidential information confidential.

Courtesy of Rangely Re-4 School District, Rangely, Colo.
Addressing Public Concerns

The board agrees to handle public concerns in the following manner:

- Listen to the individual's concern.
- Explain that the board and administration have a process for handling concerns.
- Determine if the individual has discussed the issue with the person responsible.
- Express appreciation to the individual for voicing the concern.
- Affirm the desire to reach a satisfactory solution.
- Encourage the individual to follow the established process.
- Assure the individual that the superintendent will be informed.
- If appropriate, ask the individual to report back on the progress or resolution of the concern.
- Communicate the concern to the superintendent.

Note: The board of education should be the last resort for resolving the concerns of individuals. The superintendent and his staff should attempt to resolve patron concerns.

Courtesy of Rangely Re-4 School District, Rangely, Colo.
THE “RULES FOR OPERATING EFFECTIVELY”

- Hold regular board workshops to focus on board roles and relationships with the superintendent.
- Clearly define your mission and goals, and stick to them.
- See yourself as a member of the team, not an individual.
- Set policy and direction, don’t manage the district.
- “Break bread together” on a regular basis and while doing so, do not talk about school district business. Getting to know each other on a personal/human level is an important BOE/superintendent activity.
- Don’t be a “go between” for others. Tell people how to follow the district’s policies and procedures.
- Attend training sessions put on by your state’s school boards association.
- Look at the long-term needs of the school district, not the short term.
- Read your meeting agenda in advance of meetings. Ask questions of the superintendent before the meeting, so staff can be prepared. Never play “Stump the Staff.”
- Try, unless you have a major philosophical/moral objection, to vote with the majority.
- Set reasonable expectations. Overnight change does not happen in the real world.
- Gain an understanding of “school system cultures.” A school system has a very different culture and is foreign to most non-educators.
- Attend school functions and be seen with the superintendent and other members of the administrative staff. People need to perceive you as a team.
- Publicly and privately compliment your superintendent and other members of the administrative staff. They work hard and are rarely appreciated.
- Never criticize a staff member in public.
- Set fair and reasonable compensation levels for the administrative staff. They do not have a union, and you will be watched to see how you treat those staff members who are not “protected.” (Note: Good administrators are becoming difficult to find. Don’t lose good ones over a couple thousand dollars. That is false economy.)
- Try to avoid giving policy statements in public. Tell people that you are just one member of the board and that policy decisions are ones the entire board will need to decide.
- Conduct well-ordered meetings that control chaos. Don’t allow anyone to be uncivil. The board’s president has the responsibility to control the meeting and prevent rambling discussion.

*Courtesy of Mother Lode Union School District, Placerville, Calif.*

Appendix - 4
THE BOARD'S RELATIONSHIP WITH OTHER DISTRICT EMPLOYEES

Key to any smooth-running school district is a proper relationship between board members and district employees.

A poor understanding of this connection, or a lack of commitment to making it work, often causes a crisis of authority in the district.

In practice, the board has only one employee — the superintendent. The board hires this individual and then gives him complete authority for all personnel matters: hiring and firing (typically subject to board approval), evaluating and supervising, disciplining and praising.

Staff must know who gives the orders and to whom they ultimately should report, who is accountable to whom and who is responsible for what.

To do this, the board develops and abides by a chain of command that looks like this at the school-site level:

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<tbody>
<tr>
<td>1.</td>
<td>Who delivers instruction?</td>
<td>Teachers</td>
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<td>2.</td>
<td>Who manages teachers?</td>
<td>Principals</td>
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<td>3.</td>
<td>Who manages principals?</td>
<td>The superintendent</td>
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<tr>
<td>4.</td>
<td>Who manages the superintendent?</td>
<td>The full board</td>
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The administrator cannot manage the district with any authority or confidence when a board ignores the chain of command. And yes, when even one board member ignores the chain of command, the full board has failed in this area and sets a dangerous precedent.

Boards generally do a good job of supporting the chain of command. But, as an example, how do you handle it when an employee of the district comes to you with a complaint?

It's not unusual for employees to take a concern directly to a board member—after all, they may be friends or neighbors. Many staff members know board members personally, and when they have a burning desire to get something off their chest, they will approach a board member. If board members attempt to resolve their concerns, they make their superintendent the odd man out.

A board member's job at this point is to point out to the staff member that the board supports its chain of command, and to urge the employee to seek a resolution with his or her immediate supervisor.
The Board and Superintendent Relationship: Does Our Board Measure Up?

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<tr>
<th></th>
<th>Is High</th>
<th>Is Satisfactory</th>
<th>Needs Improvement</th>
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<tbody>
<tr>
<td>1. The extent to which our board acts as a policy maker.</td>
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<td>2. The extent to which our board makes provisions in policy for compliance with its mandate from the state.</td>
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<td>3. The degree to which the board delegates to its superintendent the responsibility for administering board policy and implementing board decisions.</td>
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<td>4. The ability of the board and individual board members to avoid dealing with the district's day-to-day operational matters.</td>
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<td>5. The manner in which methods are provided for the board to make policy.</td>
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<td>6. The provision of time and resources to work on policy development.</td>
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<td>7. The extent of community involvement in policy development.</td>
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<td>8. The amount of administration and staff participation in policy development.</td>
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<td>9. The procedures for communicating policy to staff, students and the public.</td>
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<td>10. The provision for periodic evaluation and review of board policies.</td>
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<td>11. The manner in which board members abide by board decisions and do not individually make decisions (or commitments) on the board's behalf.</td>
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<td>12. The degree to which the board is willing to defend staff members from unwarranted criticism.</td>
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<td>13. The written policy the board has developed to guide the superintendent's actions.</td>
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<td>14. The degree to which the board understands the role of the superintendent.</td>
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<tr>
<td>15. The procedure for obtaining superintendent advice and recommendation.</td>
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<tr>
<td>16. The procedure for managing disagreements between the board and superintendent.</td>
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<tr>
<td>17. The working relationship between the board and superintendent.</td>
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<tr>
<td>18. The procedures the board uses to hear employee and citizen concerns and complaints.</td>
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<tr>
<td>19. The methods the board uses to encourage mutual respect and trust between the board and staff.</td>
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</table>
GOVERNANCE INTEGRITY-BASED SYSTEM OF TEXAS

School Year
County District #
District Name

Check the appropriate Box Below

<table>
<thead>
<tr>
<th>INDICATORS</th>
<th>YES</th>
<th>NO</th>
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<tbody>
<tr>
<td>1. Our district has not experienced a superintendent contract buyout within the last three years.</td>
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<tr>
<td>2. Our district has not had three or more superintendents within the last five years.</td>
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<td>3. Our board does not have difficulty establishing a quorum.</td>
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<td>4. Our district has policies in place that are practiced to prevent micro-management.</td>
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<td>5. Our district has policies in place that are practiced to determine chain of command.</td>
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<td>6. Our board does not have an established pattern of 4-3 votes on most action agenda items.</td>
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<td>7. Our board focuses attention (and is evidenced in minutes) on goal setting, policy making and evaluation.</td>
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<td>8. Our board is in complete compliance with all required board training.</td>
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<td>9. Our board meetings can best be described as highly professional and respectful board meetings.</td>
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<td>10. Our board and superintendent have clear and defined roles that are followed.</td>
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<tr>
<td>11. Our board rarely spends time with Level Three Grievances.</td>
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<tr>
<td>12. Our board assesses their performance annually and this is documented in the minutes.</td>
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<tr>
<td>13. Our board has established &quot;board goals&quot; apart and separate from organizational goals.</td>
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<tr>
<td>14. Our board practices honoring one another as team members by practicing confidentiality, equality in input, active listening, and avoiding personal agendas.</td>
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<tr>
<td>15. Our board meetings follow Robert's Rules of Order at all times.</td>
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<tr>
<td>16. Our board could be best described as a productive team.</td>
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<tr>
<td>17. Our board implements TASB's Texas Code of Ethics for board members and it is evidenced in all behavior.</td>
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<tr>
<td>18. Our board members are student focused and agenda minutes reflect such behavior.</td>
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<tr>
<td>19. Our board has no formal complaint on file with TEA within the last three years.</td>
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</tbody>
</table>

Determination of Rating

Did the district answer NO to Indicator number 1?
If so, the district's rating is Substandard Achievement.

Determine the Rating by Applicable Range for the Number of Indicators Answered NO:

- 0-1 Superior Achievement
- 2-3 Standard Achievement
- 4 or more Substandard Achievement

Appendix - 7
Team of 8 Self-Study

The position of School Trustee is an honored place of service in Texas. The dedication and sacrifice of individuals willing to work at the political grass roots level to positively impact the future for the children of this Great State deserve our heartfelt gratitude.

This instrument is designed to assist the Team of 8 in improving their level of service to their communities and their effectiveness working as a Team with the superintendent. A committed, informed, and involved team generally results in an effective organization.

SCALE: (4) Always . The member consistently observes this behavior.  
(3) Often . The member observes this behavior with some frequency.  
(2) Seldom . The member observes this behavior only on occasion.  
(1) Never . The member has not observed this behavior.

Please rate EACH domain item based on your score of the Team of Eight. Use the SCALE above by scoring 4, 3, 2, or 1, or a fraction thereof (Ex. 3.5). Descriptors are under each domain to assist in making an assessment of the domain.

Confidentiality: All information is anonymous and retained by the Team of 8.

******************************************************************************

DOMAIN: COMMITMENT  

Your Score _____

1. The Team of 8 exhibits a commitment to fulfilling the legal and moral obligations of public officials.
2. The Team of 8 exhibits a commitment of time and resources necessary to fulfill the requirements of an effective team.
3. The Team of 8 exhibits an equitable commitment to the welfare of all the children of the district.
4. The Team of 8 exhibits a commitment to a fair and equitable representation of the taxpayers of the district.
5. The Team of 8 exhibits a commitment to the appropriate support of the different programs of the district.
6. The Team of 8 exhibits a commitment to integrity and honesty in dealing with the affairs of the district.

DOMAIN: GOVERNANCE (POLICY)  

Your Score _____

7. The Team of 8 engages in open discussion of Local Policy and initiates changes at appropriate times.
8. The Team of 8 displays knowledge of the major policies of the district.

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1
9. There is an on-going effort to educate the Team of 8 of the local policies.

10. The Team of 8 is actively involved in establishing the Vision/Mission Statement (destination) for the district.

11. The Team of 8 is familiar with the Vision/Mission Statement of the district.

12. The Team of 8 is actively involved in setting the goals of the district.

13. The Team of 8 can name some of the goals of the district.

14. The Team of 8 is actively engaged in articulating and promoting the core values that are to be taught to the students and practiced by the employees of the district.

15. Most discussions of action items at board meetings link to the impact on the vision, goals, and core values of the district.

**DOMAIN: GOVERNANCE (SEPARATION OF POWERS)  Your Score _____**

16. The Team of 8 is knowledgeable of the roles and responsibilities of the board.

17. The Team of 8 is knowledgeable of the roles and responsibilities of the superintendent.

18. The Team of 8 respects the separation of powers and duties between the board and superintendent.

19. The Team of 8 follows the local policy on handling parent/patron complaints.

20. The Team of 8 follows the local policy on handling employee complaints.

21. The Team of 8 follows the local policy on communicating with district employees.

**DOMAIN: BOARD MEETINGS  Your Score _____**

22. The Team of 8 thoroughly reviews meeting materials before the meeting and is prepared to contribute to the discussion, deliberation and decisions of the board.

23. The Team of 8 respects the ethical requirements of confidentiality of sensitive information.

24. Each member of the Team of 8 is treated in a respectful manner by one another.

25. The Team of 8 is respectful, not resentful, of the differences of opinion between members and the superintendent.

26. The climate of the meetings allows each team member to state different viewpoints, ask pertinent questions, and vote his or her conviction without fear of reprisal.

27. The board meetings are conducted in a well-organized and professional manner.

28. The presiding officer exerts the proper amount of control during the board meetings.
29. Individuals who present concerns or complaints at the board meetings are treated with respect.

30. Each board member honestly weighs action items needing board approval and votes independently of other board members... i.e., there are no voting blocs on the board.

**DOMAIN: OVERSIGHT OF MANAGEMENT**

Your Score ______

31. The board annually provides an open, honest, and constructive evaluation of the performance of the superintendent.

32. The board has clearly stated/written expectations of the superintendent for reporting on progress of annual goals set by the board.

33. Each board member communicates in the proper manner with the superintendent.

34. The board has a good working knowledge of the financial structure of the district.

35. The board has a good working knowledge of the personnel functions of the district, including; recruiting, hiring, compensating, promoting, disciplining and dismissal of employees.

36. The board has a good working knowledge of the curriculum and instruction function of the district.

37. The board has a good working knowledge of the daily operation of the district.

**DOMAIN: TEAM DEVELOPMENT**

Your Score ______

38. The Team of 8 annually engages in an evaluation of their effectiveness.

39. The Team of 8 annually works toward improvement of its effectiveness and operation.

40. Each member of the team annually fulfills his or her legal requirements for training.

41. Each member of the team is dedicated to improving the effectiveness of the board to govern and oversee the management of the district.

**OVERALL RATING:**

Your Score ______

42. Overall, this team is:

   ______ A very committed, informed and effective team.
   ______ A good team in need of minor improvements.
   ______ An average team in need of improvements.
   ______ A below average team struggling to meet their obligation.

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