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Title III. Students

Chapter 16. Access to Services

§ 16.001. Equal Access to Services

- (a) An educational institution undertaking to provide education, services, or activities to any individual within the jurisdiction or geographical boundaries of the educational institution shall provide equal opportunities to all individuals within its jurisdiction or geographical boundaries pursuant to this code.
- (b) An educational institution may not deny services to any individual eligible to participate in a school district's special education program as provided by section 29.003, but the educational institution shall provide individuals with disabilities special educational services as authorized by law or, where expressly authorized, assist in and contribute toward the provision of appropriate special educational services in cooperation with other educational institutions and other appropriate agencies, institutions, or departments.

Texas Education Code § 1.002

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

42 U.S.C. § 2000d

- (a) An officer or employee of the state or of a political subdivision of the state who is acting or purporting to act in an official capacity may not, because of a person's race, religion, color, sex, or national origin:

* * *

- (3) refuse to permit the person to use facilities open to the public and owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
- (4) refuse to permit the person to participate in a program owned, operated, or managed by or on behalf of the state or a political subdivision of the state;
- (5) refuse to grant a benefit to the person;
- (6) impose an unreasonable burden on the person;

Texas Civil Practice & Remedies Code § 106.001(a)

Dallas County Schools prohibits all discrimination, including harassment, on the basis of race, religion, color, national origin, sex, age, military status, disability, sexual orientation, gender identity, gender expression, genetic information, or on any other basis that is prohibited by applicable law. Retaliation against any person who complains of such discrimination is strictly prohibited.

Adopted 8/28/14

§ 16.002. Access for Individuals with a Disability

Subject to the provisions of this subchapter, no qualified individual with a disability¹ shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

1

Disability means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment.

- (1) (i) The phrase physical or mental impairment means –
 - (A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine;
 - (B) Any mental or psychological disorder such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- (ii) The phrase physical or mental impairment includes, but is not limited to, such contagious and noncontagious diseases and conditions as orthopedic, visual, speech and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, specific learning disabilities, HIV disease (whether symptomatic or asymptomatic), tuberculosis, drug addition, and alcoholism.
- (iii) The phrase physical or mental impairment does not include homosexuality or bisexuality.
- (2) The phrase major life activities means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.
- (3) The phrase has a record of such an impairment means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.
- (4) The phrase is regarded as having an impairment means –

(footnote continued on next page ...)

42 U.S.C. § 12132

No otherwise qualified individual with a disability in the United States, as defined in section 705(20) of this title, shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service

29 U.S.C. § 794(a)

See also 28 C.F.R. § 35.130(g).²

(... footnote continued from previous page)

- (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a public entity as constituting such a limitation;
- (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- (iii) Has none of the impairments defined in paragraph (1) of this definition but is treated by a public entity as having such an impairment.

28 C.F.R. § 35.104

²

A public entity shall not exclude or otherwise deny equal services, programs, or activities to an individual or entity because of the known disability of an individual with whom the individual or entity is known to have a relationship or association.

28 C.F.R. § 35.130(g)

Chapter 17. Student Conduct

§ 17.001. Student Safety

- (a) Dallas County Schools will attempt to ensure student safety through supervision of students while transporting students on DCS buses, and through special attention to the following:
 - (1) Maintaining a reasonably safe environment.
 - (2) Observing safe practices in the maintenance and operation of school buses.
 - (3) Providing first-aid care for students in case of accident or sudden illness.
- (b) Dallas County Schools will not transport students in buses or other vehicles that are not equipped with seat belts. Drivers are responsible for ensuring that students wear seat belts when the bus or vehicle is moving.
- (c) Procedures regarding students at risk for anaphylaxis:
 - (1) Upon notice from a client school district that a student has been identified with a food allergy at risk for anaphylaxis, DCS shall work with the district to obtain specific food allergy information related to the student.
 - (2) Upon request from a client school district, DCS shall provide a representative to participate in the development, communication, implementation, and monitoring of food allergy action plans, emergency care plans, individualized health care plans, or 504 plans, as related to transportation of a student that has been identified with a food allergy at risk for anaphylaxis.
 - (3) DCS shall take reasonable steps to reduce the risk of exposure to common food allergens on the school bus and shall provide training for transportation employees on recognition of anaphylaxis and appropriate emergency response. Following an anaphylactic event on a school bus, DCS shall review its policies and procedures regarding students at risk for anaphylaxis.
- (d) The Superintendent or his designee shall work with the principals of the districts served by DCS transportation services to develop plans and procedures for acquainting students with safe conduct, behavior, and procedures for the use of school-provided transportation, and shall provide copies of the Bus Rider Code of Conduct.
- (e) Dallas County Schools will require all districts served by DCS Network Security Services to agree in writing to comply with the Children's Internet Protection Act ("CIPA"), 47 U.S.C. § 254(l), and the Protecting Children in the 21st Century Act, Pub. L. No. 110-385, Title II, 122 Stat. 4096 (2008), and all Federal Communications Commission rules regarding these acts, including maintaining re-

quired policies and annually filing required forms to certify compliance.

See also Tex. Educ. Code § 38.0151(a).³

Adopted 11/18/04; amended 1/19/12, 11/15/12, 1/27/16

§ 17.002. Student Discipline

Students must follow the student discipline guidelines of their school district and the Bus Rider Code of Conduct any time they are on DCS property, including school buses.

Adopted 11/18/04

§ 17.003. Bus Rider Code of Conduct

- (a) The board of trustees of an independent school district shall ... adopt a student code of conduct for the district. ... In addition to establishing standards for student conduct, the student code of conduct must:

* * *

- (7) prohibit bullying, harassment,⁴ and making hit lists⁵ and ensure that district employees enforce those prohibitions; and

³

The board of trustees of each school district ... shall adopt and administer a policy for the care of students with a diagnosed food allergy at risk for anaphylaxis based on guidelines developed by the commissioner of state health services in consultation with an ad hoc committee appointed by the commissioner of state health services.

Tex. Educ. Code § 38.0151(a)

⁴

“Harassment” means threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student’s physical or emotional health or safety.

Texas Education Code § 37.001(b)(1)

⁵

“Hit list” means a list of people targeted to be harmed, using:

- (A) a firearm, as defined by Section 46.01(3), Penal Code;
- (B) a knife, as defined by Section 46.01(7), Penal Code; or

(footnote continued on next page ...)

(8) provide, as appropriate for students at each grade level, methods, including options, for:

- (A) managing students in the classroom and on school grounds;
- (B) disciplining students; and
- (C) preventing and intervening in student discipline problems, including bullying, harassment, and making hit lists.

* * *

- (c) Once the student code of conduct is promulgated, any change or amendment must be approved by the board of trustees.
- (d) Each school year, a school district shall provide parents notice of and information regarding the student code of conduct.

Texas Education Code § 37.001

A school district may not require or allow a child to stand on a school bus or passenger van that is in motion.

Texas Education Code § 34.004

- (a) Bus riding is a privilege that requires responsible behavior. Certain rules of conduct are necessary for the safety of all students who ride the bus. However, some students may choose not to conduct themselves appropriately. Students displaying the following infractions will be reported to the principal by the bus driver.
 - (1) Improper boarding/departing procedures;
 - (2) Bringing any type of weapon or other article of injurious or objectionable nature aboard the bus;
 - (3) Failure to remain seated when directed or when the bus is moving;
 - (4) Failure to wear a seat belt when directed or when the bus is moving (if the bus is equipped with seat belts);⁶

(... footnote continued from previous page)

(C) any other object to be used with intent to cause bodily harm.

Texas Education Code § 37.001(b)(2)

- (5) Refusing to obey driver or monitor or addressing driver or monitor in disrespectful manner;
- (6) Fighting, pushing, tripping or assault;
- (7) Bullying;
- (8) Harassment (threatening to cause harm or bodily injury to another student, engaging in sexually intimidating conduct, causing physical damage to the property of another student, subjecting another student to physical confinement or restraint, or maliciously taking any action that substantially harms another student's physical or emotional health or safety);
- (9) Making hit lists (lists of people targeted to be harmed, using a firearm, knife, or any other object to be used with intent to cause bodily harm);
- (10) Eating or drinking on the bus;
- (11) Extending any part of a student's body, clothing, or any other article outside a bus window;
- (12) Throwing, pitching, or shooting objects inside or out of the bus;
- (13) Lighting matches or smoking or use of tobacco products on the bus;
- (14) Spitting or littering;
- (15) Unnecessary noise;
- (16) Tampering with bus equipment or vandalism of bus property;
- (17) Rude, discourteous, or annoying conduct;
- (18) Destruction of property;
- (19) Using profanity;
- (20) Harassing or distracting the driver;

(... footnote continued from previous page)

<p>A school district shall require a student riding a bus operated by or contracted for operation by the district to wear a seat belt if the bus is equipped with seat belts for all passengers on the bus. A school district may implement a disciplinary policy to enforce the use of seat belts by students.</p>

Texas Education Code § 34.013

- (21) Possession or use of tobacco, tobacco products, drugs, abusable volatile chemicals, or alcohol;
 - (22) Public lewdness or indecent exposure;
 - (23) Making a false alarm or report or terroristic threat;
 - (24) Engaging in conduct that constitutes a felony;
 - (25) Other behavior detrimental to safety, well-being, and respect for others.
- (b) Dallas County Schools employees observing violations of this section shall report the student and incident to the appropriate school principal. Incident reports will be prepared in triplicate, with one copy to the principal, one copy to the DCS Transportation Department, and one copy to the reporting employee. Responses to incident reports will be provided to the DCS Transportation Department and to the reporting employee.

Adopted 11/18/04; amended 10/18/07, 8/28/08

§ 17.004. Refusal or Suspension of or Removal from Transportation Services

- (a) ... In addition to establishing standards for student conduct, the student code of conduct must:

* * *

- (3) outline conditions under which a student may be suspended as provided by Section 37.005;
- (4) specify that consideration will be given, as a factor in each decision concerning suspension ..., regardless of whether the decision concerns a mandatory or discretionary action, to:
 - (A) self-defense;
 - (B) intent or lack of intent at the time the student engaged in the conduct;
 - (C) a student's disciplinary history; or
 - (D) a disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct;

* * *

- (6) address the notification of a student's parent or guardian of a violation of the student code of conduct committed by the student that results in suspension ...;

* * *

- (b-1) The methods adopted under Subsection (a)(8) must provide that a student who is enrolled in a special education program under Subchapter A, Chapter 29, may not be disciplined for conduct prohibited in accordance with Subsection (a)(7) until an admission, review, and dismissal committee meeting has been held to review the conduct.

Texas Education Code §§ 37.001(a) & (b-1)

- (a) The principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under Section 37.001 as conduct for which a student may be suspended.
- (b) A suspension under this section may not exceed three school days.

Texas Education Code § 37.005

- (a) If a bus driver reasonably determines that a student's behavior interferes with the safe operation of the bus, or seriously threatens the safety of any person inside or outside the bus, and that the situation cannot be resolved in any other way, the driver may decline to transport the student.
- (1) If the bus has not yet left the student's home, school, or regular bus stop, the driver should refuse the student permission to board or instruct the student to leave the bus. The driver will promptly notify the dispatcher, who will notify the Area Director and the student's school.
 - (2) If the bus has already left the student's home, school, or regular bus stop, the driver should promptly find a safe location, stop the bus, and instruct the student to leave the bus, if safe to do so based on the severity of the situation; proximity to the student's home, school, or regular bus stop; and the student's age. The driver will promptly notify the dispatcher, who will notify the Area Director and the student's school.
 - (3) If the bus has already left the student's home, school, or regular bus stop and it is not safe to instruct the student to leave the bus, the driver should notify the dispatcher, who will request that a supervisor or other appropriate personnel be dispatched to the bus location to remove the student from the bus and transport the student to the student's home, school, or regular bus stop.
- (b) Conduct listed in paragraphs 2, 6, 7, 8, 9, 12, 13, 16, 18, 21, 22, 23, or 24 of the Bus Rider Code of Conduct, or repeated conduct listed in any other paragraph of the Bus Rider Code of Conduct, is a ground for suspension of or removal from transportation services.
- (c) If a student has committed a violation identified in paragraph (b), the Superinten-

dent or his designee may suspend the student from transportation services for a period not to exceed three school days. Oral notice of such suspension shall be given to the student's parent or guardian and to the student's home school, at least two hours before the student's next scheduled time for transportation. If the parent or guardian cannot be contacted, the suspension will begin three school days after written notice is given to the parent or guardian.

- (d) If a student has committed a violation identified in paragraph (b) that warrants a longer removal from transportation services, the Superintendent or his designee may remove the student from transportation services for more than three school days. Written notice of such removal shall be given to the student's parent or guardian and to the student's home school at least three school days before the removal is to begin. The student or the student's parent or guardian may request a conference with the Superintendent to discuss the removal. At the conference, the Superintendent may uphold, modify, or reverse the removal. If the complainant is not satisfied with the outcome of the conference, the complainant may request the Board of Trustees to review the removal. The Board of Trustees may uphold, modify, or reverse the removal. The decision of the Board of Trustees is final.
- (e) The Superintendent or his designee has discretion to determine the length of any suspension or removal. Consideration will be given to:
 - (1) the duration and severity of the misconduct;
 - (2) whether the person or property of others was harmed or endangered;
 - (3) whether the conduct interfered with the safe operation of the bus;
 - (4) whether the conduct is a violation of criminal law;
 - (5) provocation or self-defense;
 - (6) intent or lack of intent at the time the student engaged in the conduct;
 - (7) the student's disciplinary history, and
 - (8) any disability that substantially impairs the student's capacity to appreciate the wrongfulness of the student's conduct.
- (f) Any change in transportation service for a student receiving special education services must comply with transportation requirements identified in the student's Individual Education Plan (IEP) unless revised or addressed in the student's Behavioral Intervention Plan (BIP). A student receiving special education services may not be disciplined for bullying, harassment, or making hit lists until an admission, review, and dismissal committee meeting has been held to review the conduct.

- (g) All refusal or suspension of or removal from transportation services is subject to the provisions of Dallas County Schools' interlocal agreements with its client school districts. DCS administration will coordinate with school district transportation liaisons to ensure that Dallas County Schools' approach to discipline of students from each respective school district is consistent with the disciplinary approach of the school district.

Adopted 11/15/07; amended 5/20/10

§ 17.005. Property Damage by Students

Students shall not vandalize or otherwise damage or deface any property belonging to or used by Dallas County Schools. Employees shall report to the student's principal and to the DCS Transportation Department incidents of vandalism and, if known, the names of those responsible.

See also Texas Family Code § 41.001.⁷

Adopted 11/18/04

§ 17.006. No Consent Required for Recording Student Conduct

An employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

- (1) purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;
- (2) a purpose related to a cocurricular or extracurricular activity;

Texas Education Code § 26.009(b)

⁷

A parent or other person who has the duty of control and reasonable discipline of a child is liable for any property damage proximately caused by:

- (1) the negligent conduct of the child if the conduct is reasonably attributable to the negligent failure of the parent or other person to exercise that duty; or
- (2) the willful and malicious conduct of a child who is at least 10 years of age but under 18 years of age.

Texas Family Code § 41.001

§ 17.007. Prevention of Bullying

- (a) In this section, “bullying” means, subject to Subsection (b), engaging in written or verbal expression, expression through electronic means, or physical conduct that occurs on school property, at a school-sponsored or school-related activity, or in a vehicle operated by the district and that:
 - (1) has the effect or will have the effect of physically harming a student, damaging a student’s property, or placing a student in reasonable fear of harm to the student’s person or of damage to the student’s property; or
 - (2) is sufficiently severe, persistent, and pervasive enough that the action or threat creates an intimidating, threatening, or abusive educational environment for a student.
- (b) Conduct described by Subsection (a) is considered bullying if that conduct:
 - (1) exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct; and
 - (2) interferes with a student’s education or substantially disrupts the operation of a school.
- (c) The board of trustees of each school district shall adopt a policy, including any necessary procedures, concerning bullying that:
 - (1) prohibits the bullying of a student;
 - (2) prohibits retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying;
 - (3) establishes a procedure for providing notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident;
 - (4) establishes the actions a student should take to obtain assistance and intervention in response to bullying;
 - (5) sets out the available counseling options for a student who is a victim of or a witness to bullying or who engages in bullying;
 - (6) establishes procedures for reporting an incident of bullying, investigating a reported incident of bullying, and determining whether the reported incident of bullying occurred;
 - (7) prohibits the imposition of a disciplinary measure on a student who, after an investigation, is found to be a victim of bullying, on the basis of that student’s use of reasonable self-defense in response to the bullying; and

- (8) requires that discipline for bullying of a student with disabilities comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.).

Texas Education Code § 37.0832

- (a) Bullying of a student, as defined by state law, is prohibited. *See also* Policy 17.003(a)(7) (Bus Rider Code of Conduct). Prohibited bullying may take the form of expression or conduct that is reasonably perceived as being motivated either by any actual or perceived characteristic, including but not limited to race, ethnicity, color, religion, ancestry, national origin, gender, sex, sexual orientation, gender identity and expression, marital status, socio-economic background, social/family background, linguistic preference, political beliefs, or a mental, physical, or sensory disability, difference, or impairment.
- (b) Retaliation against any person, including a victim, a witness, or another person, who in good faith provides information concerning an incident of bullying is prohibited. *See also* Policy 15.001(a) regarding employees.
- (c) DCS employees observing bullying of a student shall follow the reporting procedures found in Policy 17.003(b). Upon notification of an incident of bullying, DCS shall notify the student's school district of the incident. In accordance with DCS' interlocal agreements with its client school, the school district shall provide notice of an incident of bullying to a parent or guardian of the victim and a parent or guardian of the bully within a reasonable amount of time after the incident, investigate the reported incident of bullying, and determine whether the reported incident of bullying occurred.
- (d) To obtain assistance and intervention in response to bullying, a student should timely report any concerns to the bus driver and should follow the student's school district's procedures for reporting to the appropriate school administrator.
- (e) A student who is a victim of or a witness to bullying or who engages in bullying should contact the student's school district to learn available counseling options.
- (f) DCS will not impose a disciplinary measure on a student who, after an investigation, is found and reported by the school district to be a victim of bullying, on the basis of that student's use of reasonable self-defense in response to the bullying.
- (g) Discipline for bullying of a student with disabilities must comply with applicable requirements under federal law, including the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400, *et seq.*). *See* Policy 17.004(f).

Adopted 10/20/11

Chapter 18. Student & Parent Complaints

§ 18.001. Parental Rights

Unless otherwise provided by law, the Board of Trustees, DCS administrators, and DCS employees may not limit parental rights.

See also Texas Education Code §§ 26.007(a)⁸ and 26.002.⁹

Adopted 11/18/04

§ 18.002. Student & Parent Complaint Procedure

The board of trustees of each school district shall adopt a grievance procedure under which the board shall address each complaint that the board receives concerning violation of a right guaranteed by this chapter [Chapter 26 Parental Rights and Responsibilities].

Texas Education Code § 26.011

- (a) A student or parent who has a complaint regarding a DCS employee or the operation of DCS services shall be immediately referred to the appropriate DCS supervisor and may be referred to the contracting school district, if appropriate.
- (b) Nothing in this policy shall deny an individual access to public participation at regular DCS Board meetings, in accordance with the Board's policies.

Adopted 11/18/04

8

A parent is entitled to complete access to any meeting of the board of trustees of the school district, other than a closed meeting held in compliance with Subchapters D and E, Chapter 551, Government Code.

Texas Education Code § 26.007(a)

9

In this chapter, "parent" includes a person standing in parental relation. The term does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child under a court order. Except as provided by federal law, all rights of a parent under Title 2 of this code and all educational rights under Section 151.003(a)(10), Family Code, shall be exercised by a student who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Chapter 31, Family Code, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.

Texas Education Code § 26.002

§ 18.003. Exhaustion of Remedies Required

A person may not file suit against a professional employee of a school district¹⁰ unless the person has exhausted the remedies provided by the school district for resolving the complaint.

Texas Education Code § 22.0514

¹⁰

- (a) In this subchapter, “professional employee of a school district” includes:
- (1) a superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, counselor, nurse, and teacher’s aide employed by a school district;
- * * *
- (4) a school bus driver certified in accordance with standards and qualifications adopted by the Department of Public Safety of the State of Texas;
 - (5) a member of the board of trustees of [a school district]; and
 - (6) any other person employed by a school district whose employment requires certification and the exercise of discretion.

Texas Education Code § 22.051

Chapter 19. Student Records

§ 19.001. Right of Access to Student Records

No funds shall be made available under any applicable program to any educational agency or institution which has a policy of denying, or which effectively prevents, the parents of students who are or have been in attendance at a school of such agency or at such institution, as the case may be, the right to inspect and review the education records¹¹ of their children. ... Each educational agency or institution shall establish appropriate procedures for the granting of a request by parents for access to the education records of their children within a reasonable period of time, but in no case more than forty-five days after the request has been made.

20 U.S.C. § 1232g(a)(1)(A)

11

- (4) (A) For the purposes of this section, the term “education records” means, except as may be provided otherwise in subparagraph (B), those records, files, documents, and other materials which –
- (i) contain information directly related to a student; and
 - (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.
- (B) The term “education records” does not include –
- (i) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;
 - (ii) records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purposes of law enforcement;
 - (iii) in the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person’s capacity as an employee and are not available for use for any other purpose; or
 - (iv) records on a student who is eighteen years of age or older, or is attending an institution or postsecondary education, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student’s choice.

20 U.S.C. § 1232g(a)(4)

Unless limited by court order, a parent appointed as a conservator of a child has at all times the right:

* * *

- (3) of access to medical, dental, psychological, and educational records of the child;

* * *

- (5) to consult with school officials concerning the child's welfare and educational status, including school activities;
- (6) to attend school activities;
- (7) to be designated on the child's records as a person to be notified in case of an emergency;

* * *

Texas Family Code § 153.073(A)

§ 19.002. Parent and Student Access to Student Records

A parent is entitled to access to all written records of a school district concerning the parent's child, including:

* * *

- (4) disciplinary records;
- (5) counseling records;
- (6) psychological records;

* * *

- (8) health and immunization information;
- (9) teacher and counselor evaluations; and
- (10) reports of behavioral patterns.

Texas Education Code § 26.004

No funds under any applicable program shall be made available to any State educational agency (whether or not that agency is an educational agency or institution under this section) that has a policy of denying, or effectively prevents, the parents of students the right to inspect and review the education records maintained by the State educational agency on their children who are or have been in attendance at any school of an educational agency or institution that is subject to the provisions of this section.

20 U.S.C. § 1232g(a)(1)(B)

Sec. 99.4 What are the rights of parents?

An educational agency or institution shall give full rights under the Act to either parent, unless the agency or institution has been provided with evidence that there is a court order, State statute, or legally binding document relating to such matters as divorce, separation, or custody that specifically revokes these rights.

34 C.F.R. § 99.4

Sec. 99.5 What are the rights of students?

- (a) When a student becomes an eligible student, the rights accorded to, and consent required of, parents under this part transfer from the parents to the student.
- (b) The Act and this part do not prevent educational agencies or institutions from giving students rights in addition to those given to parents.
- (c) An individual who is or has been a student at an educational institution and who applies for admission at another component of that institution does not have rights under this part with respect to records maintained by that other component, including records, maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the institution.

34 C.F.R. § 99.5

§ 19.003. Limitation on Access to Student Records

Sec. 99.30 Under what conditions is prior consent required to disclose information?

- (a) The parent or eligible student shall provide a signed and dated written consent¹² before an educational agency or institution disclosed personally identifiable information from the student's education records, except as provided in Sec. 99.31.
- (b) The written consent must:
 - (1) Specify the records that may be disclosed;
 - (2) State the purpose of the disclosure; and
 - (3) Identify the party or class of parties to whom the disclosure may be made.
- (c) When a disclosure is made under paragraph (a) of this section:
 - (1) If a parent or eligible student so requests, the educational agency or institution shall provide him or her with a copy of the records disclosed; and
 - (2) if the parent of a student who is not an eligible student so requests, the agency or institution shall provide the student with a copy of the records disclosed.

* * *

34 C.F.R. §§ 99.30(a)-(c)

Sec. 99.31 Under what conditions is prior consent not required to disclose information?

- (a) An educational agency or institution may disclose personally identifiable information from an education record of a student without the consent required by Sec. 99.30 if the disclosure meets one or more of the following conditions:

¹²

“Signed and dated written consent” under this part may include a record and signature in electronic form that –

- (1) Identifies and authenticates a particular person as the source of the electronic consent; and
- (2) Indicates such person's approval of the information contained in the electronic consent.

34 C.F.R. § 99.30(d)

- (1) (A) The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests.
 - (B) A contractor, consultant, volunteer, or other party to whom an agency or institution has outsourced institutional services or functions may be considered a school official under this paragraph provided that the outside party –
 - (1) Performs an institutional service or function for which the agency or institution would otherwise use employees;
 - (2) Is under the direct control of the agency or institution with respect to the use and maintenance of education records; and
 - (3) Is subject to the requirements of Sec. 99.33(a) governing the use and redisclosure of personally identifiable information from education records.
 - (2) The disclosure is, subject to the requirements of Sec. 99.34, to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer.
 - (3) The disclosure is, subject to the requirements of Sec. 99.35, to authorized representatives of –
 - (i) The Comptroller General of the United States;
 - (ii) The Attorney General of the United States;
 - (iii) The Secretary [of Education]; or
 - (iv) State and local educational authorities.
- * * *
- (5) (i) The disclosure is to State and local officials or authorities to whom this information is specifically –
 - (A) Allowed to be reported or disclosed pursuant to State statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the student whose records are released; or

- (B) Allowed to be reported or disclosed pursuant to State statute adopted after November 19, 1974, subject to the requirements of Sec. 99.38.

* * *

- (7) The disclosure is to accrediting organizations to carry out their accrediting functions.
- (8) The disclosure is to parents, as defined in Sec. 99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986.
- (9)
 - (i) The disclosure is to comply with a judicial order or lawfully issued subpoena.
 - (ii) The educational agency or institution may disclose information under paragraph (a)(9)(i) of this section only if the agency or institution makes a reasonable effort to notify the parent or eligible student of the order or subpoena in advance of compliance, so that the parent or eligible student may seek protective action, unless the disclosure is in compliance with –
 - (A) A Federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
 - (B) Any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
 - (C) An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.
 - (iii)
 - (A) If an educational agency or institution initiates legal action against a parent or student, the educational agency or institution may disclose to the court, without a court order or subpoena, the education records of the student that are relevant for the educational agency or institution to proceed with the legal action as plaintiff.

(B) If a parent or eligible student initiates legal action against an educational agency or institution, the educational agency or institution may disclose to the court, without a court order or subpoena, the student's education records that are relevant for the educational agency or institution to defend itself.

- (10) The disclosure is in connection with a health or safety emergency, under the conditions described in Sec. 99.36.
- (11) The disclosure is information the educational agency or institution has designated as "directory information," under the conditions described in Sec. 99.37.
- (12) The disclosure is to the parent of a student who is not an eligible student or to the student.
- (13) The disclosure, subject to the requirements in Sec. 99.39, is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed.

* * *

- (b) (1) De-identified records and information. An educational agency or institution, or a party that has received education records or information from education records under this part, may release the records or information without the consent required by Sec. 99.30 after the removal of all personally identifiable information provided that the educational agency or institution or other party has made a reasonable determination that a student's identity is not personally identifiable, whether through single or multiple releases, and taking into account other reasonably available information.
- (2) An educational agency or institution, or a party that has received education records or information from education records under this part, may release de-identified student level data from education records for the purpose of education research by attaching a code to each record that may allow the recipient to match information received from the same source, provided that –

- (i) An educational agency or institution or other party that releases de-identified data under paragraph (b)(2) of this section does not disclose any information about how it generates and assigns a record code, or that would allow a recipient to identify a student based on a record code;
 - (ii) The record code is used for no purpose other than identifying a de-identified record for purposes of education research and cannot be used to ascertain personally identifiable information about a student; and
 - (iii) The record code is not based on a student's social security number or other personal information.
- (c) An educational agency or institution must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the agency or institution discloses personally identifiable information from education records.
- (d) Paragraphs (a) and (b) of this section do not require an educational agency or institution or any other party to disclose education records or information from education records to any party except for parties under paragraph (a)(12) of this section.

34 C.F.R. § 99.31; see also 20 U.S.C. § 1232g(b)(1)

- (a) Dallas County Schools may disclose personally identifiable student information to school officials who have legitimate educational interests in such disclosure.
- (b) “School officials” consist of DCS employees (including bus drivers, monitors, dispatchers, supervisors, administrators, and support staff members), members of the DCS Board of Trustees, persons or companies with whom DCS has outsourced services or functions it would otherwise use its own employees to perform (such as attorneys, auditors, medical consultants, or therapists), parents or students serving on an official committee, and parents, students, or other volunteers assisting another school official in performing his or her tasks.
- (c) A school official has a “legitimate educational interest” if the official needs to review an education record in order to fulfill his or her professional responsibility.

*See also Texas Family Code § 153.012.*¹³

¹³

(footnote continued on next page ...)

Adopted 5/25/11

§ 19.004. Release of Student Records to Law Enforcement

- (a) A school district superintendent or the superintendent's designee may disclose information contained in a student's educational records to a juvenile justice agency, as that term is defined by Section 58.101, Family Code, if the disclosure is under an interagency agreement authorized by Section 58.0051, Family Code.¹⁴

* * *

- (c) This section does not require or authorize release of student-level information except in conformity with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g), as amended.

Texas Education Code § 37.084

(... footnote continued from previous page)

The court may order the custodian of records to delete all references in the records to the place of residence of either party appointed as a conservator of the child before the release of the records to another party appointed as a conservator.

Texas Family Code § 153.012

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- (a) Within each county, a district school superintendent and the juvenile probation department may enter into a written interagency agreement to share information about juvenile offenders. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel and the conditions under which school records are to be made available to appropriate juvenile justice agencies.
- (b) Information disclosed under this section by a school district must relate to the juvenile system's ability to serve, before adjudication, the student whose records are being released.
- (c) A juvenile justice agency official who receives educational information under this section shall certify in writing that the institution or individual receiving the personally identifiable information has agreed not to disclose it to a third party, other than another juvenile justice agency.
- (d) A juvenile justice agency that receives educational information under this section shall destroy all information when the child is no longer under the jurisdiction of a juvenile court.

Texas Family Code § 58.0051

§ 19.005. Subpoenaed Records

- (1) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a) of this section) of students without the written consent of their parents to any individual, agency, or organization, other than to the following –

* * *

- (J) (i) the entity or persons designated in a Federal grand jury subpoena, in which case the court shall order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished to the grand jury in response to the subpoena; and
- (ii) the entity or persons designated in any other subpoena issued for a law enforcement purpose, in which case the court or other issuing agency may order, for good cause shown, the educational agency or institution (and any officer, director, employee, agent, or attorney for such agency or institution) on which the subpoena is served, to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena.
- (2) No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of releasing, or providing access to, any personally identifiable information in education records other than directory information, or as is permitted under paragraph (1) of this subsection, unless –

* * *

- (B) except as provided in paragraph (1)(J), such information is furnished in compliance with judicial order, or pursuant to any lawfully issued subpoena, upon condition that parents and the students are notified of all such orders or subpoenas in advance of the compliance therewith by the educational institution or agency.

20 U.S.C. § 1232g(b)(1)(J), (b)(2)(B)

§ 19.006. Directory Information

- (a) An educational agency or institution may disclose directory information¹⁵ if it has given public notice to parents of students in attendance and eligible students in attendance at the agency or institution of:
- (1) The types of personally identifiable information that the agency or institution has designated as directory information;
 - (2) A parent's or eligible student's right to refuse to let the agency or institution designate any or all of those types of information about the student as directory information; and
 - (3) The period of time within which a parent or eligible student has to notify the agency or institution in writing that he or she does not want any or all of those types of information about the student designated as directory information.

34 C.F.R. § 99.37**§ 19.007. Destruction of Records**

The educational agency or institution, or SEA or its component shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.

34 C.F.R. § 99.10(e)

Information received by a school district under Article 15.27, Code of Criminal Procedure, may not be attached to the permanent academic file of the student who is the subject of the report. The school district shall destroy the information at the end of the school year in which the report was filed.

Texas Education Code § 37.017

¹⁵

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., undergraduate or graduate; full-time or part-time), participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors and awards received, and the most recent educational agency or institution attended.

34 C.F.R. § 99.3