

January 26, 2023

Dear Attorney General,

My name is Johnny Taylor and I am the Mayor of Kress, Texas. I would like to explain the importance of the Open Records request that I have submitted to the City of Tulia. I have also reached out to TEA and the Governor's Office of Texas. I have included that information also. I am concerned there is a coverup or a sweeping under the carpet situation going on. I am very concerned for my community. If you read the email back from the County Attorney on the 10<sup>th</sup> of January he claims there are no documents on what I asked for therefor there is no open record request response. He also claims the On January 12<sup>th</sup> the Sheriff claims it is still under investigation with Texas Rangers and FBI. Both can not be accurate. The county attorney states in his email that "any documents was probably sent to the TPD because there did not appear to be a crime". How could that comment be made two days before the Sheriff reports it is an open investigation by Texas Rangers and FBI. Can be watched at <https://www.youtube.com/watch?app=desktop&v=IEGVjEqvhbg> As you watch this video, the second person taking (Mike Goss) lost the school board election when I ran for Mayor on the need for change. Two positions were up and two positions were changed. This was a display of intimidation and an attempt to shut me up. Mike Goss stated that I have criminal convictions and that is not accurate information. I do not have ANY.

This is the message that was sent to the Governor's office of Texas.

My name is Johnny Taylor and the Mayor of Kress Texas. I was newly elected in May of 2022. We are going through a forensic audit after finding concerns when I took over. I submitted a complaint to TEA about alleged misconduct of a substitute teacher with a student today 1/14/2023. The superintendent did not report the situation to the school board and I do not believe she submitted it to TEA either. This teacher was also a police officer at Tulia Tx that was released from his duties over this situation. This teacher was also a former police officer of the City of Kress. His wife is on the school board and was also the City Secretary before I took office and is a subject of the forensic audit that is almost finished. You signed into law SB 7 Pass the Trash Law but who enforces when the school district doesn't report the alleged conduct to TEA? I reported this issue to Swisher County Sheriff and he states he forwarded this on to the Texas Rangers and FBI. As of 1/10/2023 the Sheriff stated it was an ongoing investigation with Texas Rangers and FBI however the County Attorney has stated a crime does not appear to have taken place when I requested an open record request on all documents and reports made. I was told by the Tulia Police Chief that there was not an ongoing investigation. I am concerned for my community because so many are afraid of retaliation from the school. Any help would be appreciated.

Governor's Office response is included. I am still waiting on a response from TEA. I also provided the complaint to TEA. The City Forensic Audit is expecting to finish up before the end of February 2023. I also provided a transcript of the call to the Tulia Police Chief.

A handwritten signature in black ink, appearing to read "Johnny Taylor", is written over a horizontal line.

Johnny Taylor

Mayor

BRYAN J. GUYMON  
Phone: 806.669.6851  
Fax Number: 806.669.0440  
www.uwlaw.com  
Bryan.Guymon@uwlaw.com

# UNDERWOOD

PHYSICAL ADDRESS:  
120 W. Kingsmill Ave., Suite 505  
Pampa, Texas 79065  
MAILING ADDRESS:  
P.O. Box 662  
Pampa, Texas 79066-0662

January 20, 2023

Mayor Johnny Taylor  
204 W. 6<sup>th</sup>  
Kress, TX 79052

via [jmact1970@gmail.com](mailto:jmact1970@gmail.com)

**Re: Public Information Request to the City of Tulia**

Dear Mr. Taylor:

My name is Bryan J. Guymon with the Underwood Law Firm and we represent the City of Tulia (the "City"). The City has received your request for "1. Any complaints against Benjamin Rojas filed by (a) private citizens and (b) other officers (c) Swisher County Sheriff department (d) Kress ISD in the time Benjamin Rojas worked with the Tulia Police Department; 2. the final determination of such complaints; 3. letters advising of any disciplinary action related thereto; and 4. any referrals to other law enforcement agencies to investigate these complaints; 5. information relating to disciplinary action that has been taken by the department against Benjamin Rojas, including but not limited to the dates of such disciplinary action; the punishment assessed; all factual details giving rise to the disciplinary action; and any written findings regarding the reasons for the action taken; 6. information relating to the reason that the department dismissed Benjamin Rojas. 7. Copies of the resignation letter if Benjamin Rojas Resigned. 8. Any documents or files that were provided by Kress ISD related to complaints or investigations."

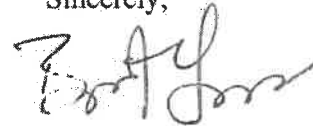
While the City has released some of the requested information to you that is attached to this letter, other information may be excepted from disclosure under the applicable provisions of the Act. As such, the City has written to the Texas Attorney General asking for a decision. Please see the enclosed letter the City has written to the Texas Attorney General.

If you wish to submit an opinion as to this matter, you may write to the Attorney General at the following address:

Office of the Attorney General  
Open Records Division  
P. O. Box 12548  
Austin, TX 78711-2548

Thank you for your consideration in this matter.

Sincerely,



Bryan J. Guymon

cc: Honorable Greg Abbott, Attorney General  
Enclosures

Paul Brown (via email)  
BJ Potts (via email)  
Slater Elza (of the firm)

## TEXAS PUBLIC INFORMATION ACT INFORMATION REQUEST FORM

For guidance regarding your rights as a requestor and the public information procedures adopted by this governmental body, you may review the governmental body's notice required under section 552.205 of the Government Code. You can find additional Public Information Act resources on the Office of the Attorney General's website at <http://www.texasattorneygeneral.gov/open-government>.

### Requestor Contact Information

First Name: Mayor Johnny Last Name: Taylor  
Company/Organization:  
Mailing Address: 204 W 6th  
City: Kress State: Tx Zip Code: 79052  
E-mail Address: [jmact1970@gmail.com](mailto:jmact1970@gmail.com) Phone Number: 8069945051  
Preferred Manner of Written Communication: E-mail

### Description of the Information Requested

(Note: Describe the information as precisely as you can.)

See attached document.

**Date Range (optional):** From: 4/1/2022 to: 1/6/2023

Under the Public Information Act, some categories of information do not have to be released. Exceptions to disclosure fall into two general categories: 1) mandatory exceptions that make information confidential and require a governmental body to withhold information, and 2) discretionary exceptions that allow but do not require a governmental body to withhold information. You may find information about mandatory and discretionary exceptions [HERE](#).

In most instances, a governmental body is required to request a decision from the Attorney General in order to withhold information from a requestor. However, a requestor may permit a governmental body to redact information without requesting an Attorney General decision. You are not required to agree to the redaction of any information responsive to your request, but doing so may streamline the handling of your request. If you agree to redactions in this request, then you may request the redacted information in a future information request.

- Do you agree to the redaction of information that is subject to mandatory exceptions, provided such redactions are clearly labeled on the information you received? Yes
- Do you agree to the redaction of information that is subject to discretionary exceptions, provided such redactions are clearly labeled on the information you receive? Yes

### INFORMATION PREFERENCES:

- How would you like to have the information provided? Copies
- If available, do you wish to receive an electronic copy of the information? Yes

**Please Note:** If the information requested is unclear or if a large amount of information is requested you may be contacted to discuss clarifying or narrowing your request. There may be charges associated with production of the requested information. You may find more information regarding the charges under the Public Information Act [HERE](#).

I am requesting Open Records on Benjamin Rojas.

1. Any complaints against Benjamin Rojas filed by (a) private citizens and (b) other officers (c) Swisher County Sheriff department (d) Kress ISD in the time Benjamin Rojas worked with the Tulia Police Department;
2. the final determination of such complaints;
3. letters advising of any disciplinary action related thereto: and
4. any referrals to other law enforcement agencies to investigate these complaints;
5. information relating to disciplinary action that has been taken by the department against Benjamin Rojas, including but not limited to the dates of such disciplinary action; the punishment assessed; all factual details giving rise to the disciplinary action; and any written findings regarding the reasons for the action taken;
6. information relating to the reason that the department dismissed Benjamin Rojas.
7. Copies of the resignation letter if Benjamin Rojas Resigned.
8. Any documents or files that were provided by Kress ISD related to complaints or investigations.





and No. 208. I have attached that decision for easy reference. There are several others also. I understand there are no open investigations at this time. I would have sent this to Kyle; however his new email is not on the County website yet. I will be very easy to deal with if you have any questions please feel free to call me. This information is not and will not be used to shine a negative light on the Swisher County Sheriff's Department in any way. I was very impressed how the situation was handled and with the urgency that was committed to it. Thank you for your time. Look forward to working with Swisher County in the future. Swisher County has been very generous to Kress Tx.

Johnny Taylor

Mayor

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**4 attachments**

-  **Open Records Request of Benjamin Rojas to Swisher County Sheriff's Dept.docx**  
14K
-  **ord19780208.pdf**  
220K
-  **ord19820350.pdf**  
217K
-  **Public-Information-Request-Form-10-01-19.pdf**  
218K

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**BJ Potts** <bpotts@tulia-tx.gov>  
To: Johnny Taylor <jmact1970@gmail.com>

Mon, Jan 9, 2023 at 11:04 AM

Good morning Mr. Taylor,

I will get this processed in a timely manner and get returned to you.

Regards,

*BJ Potts*

*City Manager*

*City of Tulia, Texas*

*(806) 995-3547 office*

*(806) 994-6957 cell*

*bpotts@tulia-tx.gov*



Johnny Taylor <jmact1970@gmail.com>

### Open Records Request

9 messages

Johnny Taylor <jmact1970@gmail.com>  
To: "bpotts@tulia-tx.gov" <bpotts@tulia-tx.gov>

Fri, Jan 6, 2023 at 10:38 PM

*Sent to  
city of Tulia*

I am Johnny Taylor and the Mayor of Kress Texas. I am requesting an Open Records Request with the attached documents. It seems to be a very simple open records request according to a previous Open Records Decision No. 350 and No. 208. I have attached that decision for easy reference. There are several others also. I understand there are no open investigations at this time. I would have sent this to Chief Brown; however his new email is not on the city website yet. I am extremely happy for the advancement of Chief Brown. He seems to be a great addition to your city and wish him well. I will be very easy to deal with if you have any questions please feel free to call me. This information is not and will not be used to shine a negative light on the City of Tulia Police Department in any way. I was very impressed how the situation was handled and with the urgency that was committed to it. Thank you for your time. Look forward to working with the City of Tulia in the future.

Johnny Taylor

Mayor

#### 4 attachments

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218K

Johnny Taylor <jmact1970@gmail.com>  
To: "swisherca@swisher-tx.org" <swisherca@swisher-tx.org>

Fri, Jan 6, 2023 at 10:53 PM

*Sent to  
Swisher County*

I am Johnny Taylor and the Mayor of Kress Texas. I am requesting an Open Records Request with the attached documents. It seems to be a very simple open records request according to a previous Open Records Decision No. 350





[Quoted text hidden]

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**Johnny Taylor** <jmact1970@gmail.com>  
To: BJ Potts <bpotts@tulia-tx.gov>

Mon, Jan 9, 2023 at 11:05 AM

Thank you sir. I greatly appreciate you! Have a blessed day.

[Quoted text hidden]

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**Mike Criswell** <swisherca@swisher-tx.org>  
To: Johnny Taylor <jmact1970@gmail.com>  
Cc: Amy McAtee <A.McAtee@swisher-tx.org>

Mon, Jan 9, 2023 at 2:57 PM

Mr. Taylor

Swisher County does not handle personnel files for Tulia PD officers. Therefore, most if not all of your request should be addressed to Tulia Police Department because we would not have any documents responsive to your request. I can check with our Sheriff to see if he has copies of any complaints that he has referred to TPD. In my opinion, your request is too vague for us to determine what documents you are requesting and from which agency. Can you revise your request to specify what is requested from the Swisher County Sheriff?

Mike Criswell

Swisher County Attorney

[Quoted text hidden]

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**Johnny Taylor** <jmact1970@gmail.com>  
To: Mike Criswell <swisherca@swisher-tx.org>  
Cc: Amy McAtee <A.McAtee@swisher-tx.org>

Mon, Jan 9, 2023 at 3:43 PM

Sir, I reread this Open Record Request again and I feel it is as detailed as possible. Please respond to each request as it is written. I also sent a request slightly different to Tulia also. I made a complaint with Kyle verbally by phone about Benjamin Rojas. I am requesting the rest of the information as requested please. I understand that Ben Rojas also helped the county outside of Tulia. I want documents on any and all complaints investigated by Swisher county about Benjamin Rojas. I hope this helps sir. Thank you and have a blessed day sir.

[Quoted text hidden]

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**Mike Criswell** <swisherca@swisher-tx.org>  
To: Johnny Taylor <jmact1970@gmail.com>  
Cc: Amy McAtee <A.McAtee@swisher-tx.org>

Tue, Jan 10, 2023 at 2:18 PM

Instead of a date range, you just said while he was at the PD. I do not know those dates and your request is not specific. Requesting all documents is also not specific. However, I have asked the Sheriff and he has informed me that he has no documents that are responsive to your request. It is my understanding that any documentation was probably sent to the TPD because there did not appear to be a crime and it might be relevant to the PD but not to the Swisher County Sheriff.

[Quoted text hidden]

Thu, Jan 12, 2023 at 10:51 PM

**Johnny Taylor** <jmact1970@gmail.com>  
To: Mike Criswell <swisherca@swisher-tx.org>  
Cc: Amy McAtee <A.McAtee@swisher-tx.org>

This is concerning to me because the Sheriff stood up at the School Board meeting tonight 1/12/23 and stated that he referred the complaint to the Texas Rangers and FBI and it was an ongoing investigation. Thank you for your time. I greatly appreciate your help on this matter. I will wait to hear from the City of Tulia.

[Quoted text hidden]

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**Johnny Taylor** <jmact1970@gmail.com>  
To: Mike Criswell <swisherca@swisher-tx.org>  
Cc: Amy McAtee <A.McAtee@swisher-tx.org>

Mon, Jan 23, 2023 at 10:24 AM

I am requesting in open records a copy of a trespass warning I, Johnny Taylor, received from Swisher County Sheriff's Department while performing my Duties as the Mayor of Kress Texas on July 15, 2022 about 4pm. I was looking into an aggressive dog that bit a neighbor. Pictures of this bite is in my possession. Thank you for your time. Please email a copy of the document to my email address.

[Quoted text hidden]



# The Attorney General of Texas

October 17, 1978

L. HILL  
City General

Court Building  
12548  
TX. 75711  
2501

Commerce, Suite 200  
TX. 75202  
-8844

Borta Ave., Suite 100  
TX. 75205  
-3484

St. Suite 610  
TX. 77002

Midway, Suite 312  
TX. 75401  
-6238

Tenth, Suite F  
TX. 75201  
2-4547

In Plaza, Suite 400  
Donk, TX. 75205  
5-4191

Equal Opportunity  
Active Action Employer

Honorable Lee E. Holt  
City Attorney  
City Hall  
Dallas, Texas 75201

Open Records Decision No. 208

Re: Whether the names of police officers who were the subject of complaints and the names of individuals filing those complaints are public under the Open Records Act.

Dear Mr. Holt:

You have received a request under the Texas Open Records Act, article 6252-17a, V.T.C.S., for the names of persons who have made formal complaints against police officers to the police department's internal affairs division, the names of the officers who were the subjects of the complaints, and the disposition of the matter by the department. You advise that the police department makes information public concerning the fact and nature of complaints and the disposition, but does not disclose the name of the complainant or the officer. It is the city's position that the names are excepted from required disclosure under one or more of the following exceptions: section 3(a)(1), 3(a)(2), 3(a)(3), and 3(a)(8). You request our decision pursuant to section 7 of the Act as to whether those exceptions are applicable to this information.

You contend that a complainant's identity is excepted under section 3(a)(1) by the informer's privilege. This might be applicable if the complainant's identity were not disclosed to the officer complained against. The major consideration in preserving an informant's anonymity is to protect him from fear of retaliation by the party on whom he informed. See *Roviaro v. United States*, 353 U.S. 53, 60 (1957); VIII Wigmore on Evidence § 2374(2), at 766 (McNaughton Rev. 1961). See also Open Records Decision Nos. 183 (1978); 176, 172, 156 (1977); 49 (1974). However, the request here is for the name of the person making a formal complaint, and you explain that the Police Department's procedure is to present a copy of the signed complaint to the officer for response. We note that this is consistent with the requirement of article 6252-20, V.T.C.S., that a copy of any complaint against a law enforcement officer be presented to him. You point out that where the complaint is an internal one, the officer's supervisor may notify him by letter

of the allegations against him. This protects the identity of an officer who informs on a superior. In such cases, we believe that the supervisor's letter constitutes the "formal complaint" within the scope of the request here, and that the identity of an informant unknown to the officer complained of may still be protected. The informer's privilege is not applicable to formal complaints routinely made available to the officer complained of.

You contend that the identity of a complainant is excepted from required disclosure under section 3(a)(8), which excepts

records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement. . . .

Even if a citizen's complaint were to result in a criminal charge against the officer, the basic facts including the name of the complainant, the identity of the accused, and the nature of the complaint are public. Houston Chronicle Publishing Co. v. City of Houston, 531 S.W.2d 177 (Tex. Civ. App. — Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 538 S.W.2d 559 (Tex. 1976). We do not believe that this exception applies to the information requested.

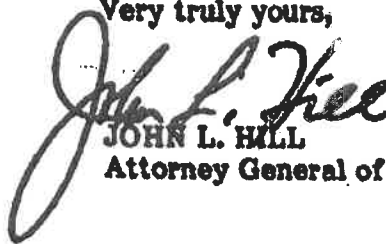
You contend that the identity of the police officer complained against is excepted from required disclosure under section 3(a)(2), which excepts "information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . ." You also contend that the information is excepted by the privacy concept under section 3(a)(1).

Our prior decisions establish that the details of the investigation and the internal recommendations as to action to be taken are excepted from required public disclosure. Open Records Decision Nos. 181 (1977); 106 (1975). Open Records Decision No. 106 (1975) dealt with a citizen's complaint about the conduct of Department of Public Safety officers. We said that disclosure of the department's final action in the matter was clearly warranted, and not excepted from required disclosure under section 3(a)(2). In this case, the requestor seeks essentially the same information: the name of the complainant, the officer complained against, and the department's disposition of the matter. It is our decision that this information is not excepted from disclosure under section 3(a)(2). We do not believe that the fact that a citizen made a complaint against a particular police officer, and the disposition of that complaint, is within either the constitutional or the tort right of privacy. See Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 (Tex. 1976). The public's interest in the activities of their police departments is substantial. See New York Times v. Sullivan, 376 U.S. 254 (1964); City of Phoenix v. Peterson, 482 P.2d 829 (Ariz. App. 1966); Jensen v. Schiffman, 544 P.2d 1048 (Or. App. 1976); Turner v. Reed, 538 P.2d 373 (Or. App. 1975). The information requested is not excepted from public disclosure under either a 3(a)(1) or 3(a)(2) invasion of privacy concept.

You contend that the information is excepted under section 3(a)(3) as information relating to litigation to which the city or an officer may be a party. There is no showing that litigation is pending or reasonably anticipated in any particular instance as to which information is requested. We have said that a "mere chance of litigation" is not sufficient to make the 3(a)(3) exception applicable. Open Records Decision Nos. 178 (1977); 139 (1976); 80 (1975); 29, 27 (1974). Even if litigation were pending, we do not believe the exception would apply to the basic factual information requested here. In Open Records Decision No. 139 (1976), we considered a request for the names of complainants, nature of complaint, and results of investigations of the complaints filed with a city's affirmative action office. We said that we did not believe that disclosure of the fact of such a complaint by a particular person could in any way compromise the city's position in later litigation. We believe this decision is applicable here.


It is our decision that the names of complainants who filed formal complaints with the police department's internal affairs division, the name of the officer who is the subject of the complaint, and the final disposition of the complaint by the city police department is public information and is required to be disclosed. The information is not excepted under section 3(a)(1), 3(a)(2), 3(a)(3), or 3(a)(8).

Very truly yours,



JOHN L. HILL  
Attorney General of Texas

APPROVED:

  
DAVID M. KENDALL, First Assistant  
C. ROBERT HEATH, Chairman  
Opinion Committee

jsn



# The Attorney General of Texas

December 31, 1982

MARK WHITE  
Attorney General

Supreme Court Building  
P. O. Box 12548  
Austin, TX. 78711-2548  
512/475-2501  
Telex 910/874-1367  
Telecopier 512/475-0266

Honorable Kathryn J. Whitmire  
Mayor of the City of Houston  
P. O. Box 1562  
Houston, Texas 77251

Open Records Decision No. 350

Re: Complaints against Houston  
police officers and resulting  
internal investigation

Dear Ms. Whitmire:

You have requested our decision under the Open Records Act, article 6252-17a, V.T.C.S., as to whether information about complaints filed against Houston police officers and information regarding the resulting internal investigations are available to the public. The specific information requested consists of the following:

1. sworn complaints against police officers filed by (a) private citizens and (b) other officers since 1977;
2. written responses of the officers to such complaints;
3. the final determination of such complaints;
4. letters advising of any disciplinary action related thereto; and
5. details of any lawsuit filed by or against the Houston Police Department as a result of such complaints.

You suggest that some or all of this material is excepted from disclosure by one or more of the following exceptions:

- (1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;
- (2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

1607 Main St., Suite 1400  
Dallas, TX. 75201-4709  
214/742-8944

4824 Alberta Ave., Suite 160  
El Paso, TX. 79905-2793  
915/533-3484

1220 Dallas Ave., Suite 202  
Houston, TX. 77002-6986  
713/650-0666

806 Broadway, Suite 312  
Lubbock, TX. 79401-3479  
806/747-5238

4309 N. Tenth, Suite B  
McAllen, TX. 78501-1685  
512/682-4547

200 Main Plaza, Suite 400  
San Antonio, TX. 78205-2797  
512/225-4191

An Equal Opportunity/  
Affirmative Action Employer

provided, however, that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

....

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies that deal with the detection and investigation of crime and the internal records and notations of such law enforcement agencies which are maintained for internal use in matters relating to law enforcement;

....

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than one in litigation with the agency.

A similar request was the subject of Open Records Decision No. 208 (1978). In that decision, this office said that the names of complainants who had filed formal complaints with a police department's internal affairs division, the names of the officers who were the subjects of such complaints, and the final disposition of the complaints constituted public information.

As to the first request here, we believe that, in general, copies of the complaints, as well as the names of complainants, are available to the public. Open Records Decision No. 315 (1982). Certain information contained therein might be excepted by section 3(a)(1), if disclosure would contravene constitutional or common law privacy, but such determinations would have to be made on a case-by-case basis. See Open Records Decision Nos. 318 (1982); 273 (1981); 257 (1980). If a lawsuit has been filed as a result of the complaint or if litigation is reasonably anticipated, the complaint may be withheld during the pendency of the litigation. See Open Records Decision Nos. 289; 288 (1981). The same result would obtain as to the officer's written response to a complaint. Some material contained therein might be excepted by constitutional or common law privacy under section 3(a)(1), or by section 3(a)(3), but individual determinations would be necessary in these instances.

A complaint filed by one officer against another and any response filed by the subject of a complaint are excepted under section 3(a)(11) to the extent they contain advice, opinion, and recommendations. Open Records Decision Nos. 315 (1982); 298 (1981). A basic factual narrative of events is not excepted by section 3(a)(11).

As to the final determination of the complaint and letters advising of disciplinary action, we believe that such material is available under the rationale of Open Records Decision No. 208 (1978). In our opinion, release of such information would not constitute a "clearly unwarranted invasion of personal privacy" under section 3(a)(2). See Open Records Decision No. 316 (1982).

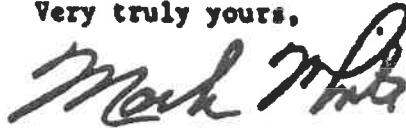
Details of lawsuits filed by or against the Houston Police Department are excepted from disclosure by section 3(a)(3) so long as litigation is pending or reasonably anticipated. Open Records Decision No. 289 (1981). Whether particular litigation is reasonably anticipated must be determined on a case-by-case basis. When litigation has been concluded, section 3(a)(3) no longer acts to except material related thereto.

We must add a note about section 3(a)(8). If a complaint which might result in criminal charges is under active investigation, most of the material may be withheld under section 3(a)(8) during the pendency of the investigation and prosecution. See Open Records Decision Nos. 252 (1980); 127 (1976). If no criminal prosecution results, we do not believe that section 3(a)(8) in general acts to except material relating to complaints against police officers. Open Records Decision No. 315 (1982). In certain instances, however, the Houston Police Department may determine that the release of specific information related thereto "will unduly interfere with law enforcement and crime prevention." Ex parte Pruitt, 551 S.W.2d 706,



710 (Tex. 1977); Open Records Decision Nos. 313 (1982); 297 (1981).  
In such cases, the department may seek to withhold the particular  
information about which such a determination has been made.

Very truly yours,



MARK WHITE  
Attorney General of Texas

JOHN W. FAINTER, JR.  
First Assistant Attorney General

RICHARD E. GRAY III  
Executive Assistant Attorney General

Prepared by Rick Gilpin  
Assistant Attorney General

APPROVED:  
OPINION COMMITTEE

· Susan L. Garrison, Chairman  
Jon Bible  
Rick Gilpin  
Jim Moellinger



Johnny Taylor &lt;jmact1970@gmail.com&gt;

**Public Information Request**

2 messages

**Lynette S. Dean** <Lynette.Dean@uwlaw.com>

Fri, Jan 20, 2023 at 1:49 PM

To: "jmact1970@gmail.com" &lt;jmact1970@gmail.com&gt;

Cc: "Bryan J. Guymon" &lt;Bryan.Guymon@uwlaw.com&gt;, Slater Elza &lt;Slater.Elza@uwlaw.com&gt;, Paul Brown &lt;p.brown@tuliapd.org&gt;, "bpotts@tulias-tx.gov" &lt;bpotts@tulias-tx.gov&gt;

Good afternoon,

Attached please find our firm's response to your Public Information Request to the City of Tulia.

Sincerely,



UWLAW.COM

*Lynette Dean**Legal Assistant to Bryan Guymon**120 W. Kingsmill Ave., Suite 505**P.O. Box 662**Pampa, TX 79066**O 806.669.6851 F 806.669.0440*

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 **20230120\_UNDERWOOD.pdf**  
1965K**Johnny Taylor** <jmact1970@gmail.com>

Fri, Jan 20, 2023 at 6:18 PM

To: "Lynette S. Dean" &lt;Lynette.Dean@uwlaw.com&gt;

Cc: "Bryan J. Guymon" &lt;Bryan.Guymon@uwlaw.com&gt;, Paul Brown &lt;p.brown@tuliapd.org&gt;, Slater Elza &lt;Slater.Elza@uwlaw.com&gt;, "bpotts@tulias-tx.gov" &lt;bpotts@tulias-tx.gov&gt;

Thank you very much for your email. Did the opinions from the Attorney General that I submitted not answer the question if a police officer disciplinary record was available to the public? This officer is alleged of sending inappropriate texts to

students. It has been established from your Police Chief that policy was broke on this situation at the school of Kress ISD. According to the Chief of Police it was also referred to the Texas Rangers and FBI. So public interest is definitely established.

Johnny Taylor  
Mayor/ community member  
[Quoted text hidden]

**Criminal Justice Information Services  
Security Awareness Training**



This is to certify that

**BENJAMIN ROJAS**

has successfully completed the

**Level 2 Security Awareness Certification**

4/18/2022

Certification Date



4/19/2024

Expiration Date



**Amarillo College**  
**Criminal Justice Programs**  
**Certificate of Completion**

This is to certify that

***Benjamin Rojas***

has successfully completed this 7-hour course in

**Child Sexual Abuse: The Perpetrator Perspective**

CPE#188-501

and is awarded 0.7 Continuing Education Units  
at Amarillo, Texas  
this 26th day of April, 2022.

TCOLE Credit Provided

TJJD Pending

Amarillo College is approved by the State Board of Educator Certification as a provider of Continuing Professional Education (CPE)

As an accredited community college, Amarillo College provides 6 credit hours for this program for those licensed by the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas State Board of Social Worker Examiners.

*Eric Wallace*

Director, Criminal Justice

*Andrea Murray*

Dean, Technical Education

*Russell Sperry Hart*

President

This instructional program represented by this certificate was provided in accordance with the criteria and standards of the Southern Association of Colleges and Schools and the National Task Force on the Continuing Education Unit.

In Equal Opportunity Community College  
P.O. Box 147 Amarillo, Texas 79108



**Amarillo College**



# Certificate of Participation

This is to certify that

**Officer Benjamin Rojas**

Has successfully completed  
Course of Study in Narcan Training and Administration.  
Along with Addiction and Overdose Training on  
November 2, 2022

11/02/2022

Date

Mia Hunter, RN, BSN / Isabell Villarreal, BA, CHW

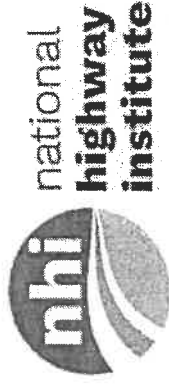
PRESENTED BY:



Community Opioid Rural  
Education TEAM



US Department of Transportation  
Federal Highway Administration



# CERTIFICATE OF TRAINING

## Benjamin Rojas

*has participated in*

NHI Course No. FHWA-NHI-133119

Safe and Effective Use of Law Enforcement Personnel in Work Zones -  
WEB-BASED

Hosted by: **National Highway Institute**

*Location:* *Web-Based Course*

*Hours of Instruction:* *2 hours*

*Date:* 8/27/2022

Thomas Hartman

Thomas Hartman, Director  
National Highway Institute

# PANHANDLE REGIONAL LAW ENFORCEMENT ACADEMY

SPONSORED BY

Panhandle Regional Planning Commission

CERTIFIED BY

Texas Commission on Law Enforcement  
at Amarillo College

issues this award certifying that

## BENJAMIN ROJAS

has satisfactorily completed a course in

### Basic Certification in Law Enforcement

AND BY THESE PRESENTS IS ENTITLED TO SUCH  
PROFESSIONAL STANDING AS A LICENSED LAW ENFORCEMENT OFFICER

AS PROVIDED BY THE LAWS OF THE STATE OF TEXAS.

*W.A.*

EXECUTIVE DIRECTOR  
PANHANDLE REGIONAL PLANNING COMMISSION

*Z. Cl. Walker*

DIRECTOR  
LAW ENFORCEMENT ACADEMY

March 10, 2022

DATE





# Kress High School

Kress

Texas

Benjamin Aaron Rojas

having completed in a satisfactory manner the regular Course of Study as prescribed for the High School Department is entitled to receive this

## Diploma

by order of The Board of Education

May 31, 2013  
Date of Award

Jesse Murney Jr.  
President

Mark Goyen  
Secretary

Dary Betty  
Superintendent

Leah Boyler  
Principal

BRYAN J. GUYMON  
Phone: 806.669.6851  
Fax Number: 806.669.0440  
www.uwlaw.com  
Bryan.Guymon@uwlaw.com

# UNDERWOOD

PHYSICAL ADDRESS:  
120 W. Kingsmill Ave., Suite 505  
Pampa, Texas 79065  
MAILING ADDRESS:  
P.O. Box 662  
Pampa, Texas 79066-0662

January 20, 2023

Honorable Ken Paxton  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

VIA CERTIFIED MAIL, RRR 7021 2720 0001 1118 3343

**RE: Public Information Decision Request Concerning Information Confidential Pursuant to Texas Government Code §§ 552.101, 552.117, and 552.130.**

Dear Mr. Paxton:

My name is Bryan J. Guymon with the Underwood Law Firm and we represent the City of Tulia. On behalf of the City of Tulia (the "City") and pursuant to the provisions of Chapter 552 of the Government Code, also known as the Public Information Act (the "Act"), the City is requesting a public information decision for a request the City received on January 6, 2023. The requestor has asked for "1. Any complaints against Benjamin Rojas filed by (a) private citizens and (b) other officers (c) Swisher County Sheriff department (d) Kress ISD in the time Benjamin Rojas worked with the Tulia Police Department; 2. the final determination of such complaints; 3. letters advising of any disciplinary action related thereto; and 4. any referrals to other law enforcement agencies to investigate these complaints; 5. information relating to disciplinary action that has been taken by the department against Benjamin Rojas, including but not limited to the dates of such disciplinary action; the punishment assessed; all factual details giving rise to the disciplinary action; and any written findings regarding the reasons for the action taken; 6. information relating to the reason that the department dismissed Benjamin Rojas. 7. Copies of the resignation letter if Benjamin Rojas Resigned. 8. Any documents or files that were provided by Kress ISD related to complaints or investigations.". A copy of the request is attached hereto as "Exhibit A".

The City has already released to the requestor information considered public and open but believes that some of the information may be protected from disclosure by the exceptions listed in the Act under §552.101, §552.117, §552.1175, §552.130,

**Section 552.101 – Exception: Confidential Information**

The City respectfully asserts that §552.101 of the Act applies to the requested information. Section 552.101 of the Act excepts from disclosure "[i]nformation considered to be confidential by law, either constitutional, statutory, or by judicial decision." For information to be protected from public disclosure under the common law right of privacy it can be withheld from the public when (1) it is highly intimate and embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities and (2) there is no legitimate public interest in its disclosure. The information believed to fall within this exception is attached as Exhibit "B".

As you can see from Exhibit "B", the documents include the following: birth dates, personal financial and medical information. All of these types of documents are considered confidential by law. Specifically, they are made confidential as follows:

1) Doctrine of common law privacy:

- a) Recently, Texas courts held that "public citizens have a privacy interest in their birth dates" and is "not of legitimate public concern" and thus should be considered "confidential by judicial decision" under § 552.101 of the Act. *Paxton v. City of Dallas*, No. 03-13-00546-CV, 2015 WL 3394061, at \*3 (Tex. App.—Austin May 22, 2015, pet. denied) (mem. op.). Therefore, the birthdate information should be redacted and excepted from disclosure.
- b) Section 552.101 of the Act also protects certain kinds of personal financial information. There is no legitimate public interest in obtaining this information and it does not represent any type of financial transaction between a governmental body and the individual. Historically, those factors are important when the Attorney General determines, on a case by case basis, whether personal financial matters should be released. *Please see* Tex. Att'y Gen. Op. OR2004-8986 (2004); Tex. Att'y Gen. Op. OR2004-5176 (2004).<sup>1</sup> In this instance, since it serves no legitimate public purpose to release this information and since it does not involve an expenditure between a governmental entity and an individual, this information should not be released.

2) § 552.101 of the Texas Government Code encompasses §1701.454 of the Tex. Occ. Code which provides as follows:

a) All information submitted to [TCOLE] under this subchapter is confidential and is not subject to disclosure under [the Act], unless the person resigned or was terminated due to substantiated incidents of excessive force or violations of the law other than traffic offenses.

b) Except as provided by this subchapter, a [TCOLE] member or other person may not release information submitted under this chapter.

3) Criminal history record information is considered confidential under federal and state statutes. Specifically, federal criminal history record information (information from "NCIC") or state criminal history record information (information from "TCIC") is confidential and may only be released pursuant to Title 28, part 20 of the Code of Federal Regulations and Tex. Gov't Code Chapter 411. Generally speaking, this type of information may only be released from one criminal justice agency to another. *See* Tex.

---

<sup>1</sup> Tex. Gov't Code §552.136. Confidentiality of Credit Card, Debit Card, Charge Card, and Access Device Numbers may also apply to this insurance policy number. This section includes account numbers as an "access device" that, when used "alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

While I do not have enough information to know whether a person can obtain anything of value with this information, if the policy numbers fall within this category the City must withhold releasing the information because it is considered confidential.

Gov't Code §411.083, §411.089 and §§ 411.090 – 411.127; also see Open Records Decision No. 565 (1990). As such, the information should not be released.

As such, this information should not be released.

**Section 552.117 – Exception: Confidentiality of Certain Addresses, Telephone Numbers, Social Security Numbers, and Personal Family Information**

The City respectfully asserts that §552.117 of the Act applies to the requested information. Specifically, §552.117(a)(2) of the Act excepts from disclosure “[i]nformation that relates to the person’s home address, home telephone number, emergency contact information, or social security number, or reveals whether person has family members [of] a peace officer as defined by Article 2.12, Code of Criminal Procedure....” The information requested concern the former municipal police officer of the City of Tulia and is considered a peace officer under Article 2.12 of the Code of Criminal Procedure. The information is excepted from disclosure and should not be released.

**Section 552.130 – Exception: Confidentiality of Certain Motor Vehicle Records**

The City respectfully asserts that §552.130 of the Act applies to the requested information. Specifically, §552.130(a) of the Act excepts from disclosure the following:

- 1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country; or
- 2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- 3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

§552.130(d) of the Act authorizes a governmental body to redact this type of information without the necessity of requesting a decision from the attorney general, out of an abundance of caution the City is submitting the information being redacted prior to release to the requestor in Exhibit “B”. The information redacted is excepted from disclosure and should not be released.

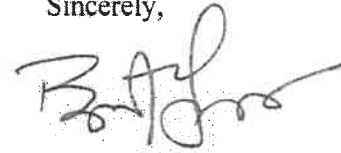
The individual is no longer an employee of the City of Tulia and is member of the public. As such, we assert this provision applies. The information listed in this exception is contained in the documents requested and is shown in “Exhibit B” attached and should not be released.

The information listed in this exception is contained in the documents requested and is shown in Exhibit “B” attached and should not be released.

Also, please find enclosed a copy of the letter given to the requestor as “Exhibit C”.

Thank you for your consideration of these matters. Please do not hesitate to contact me if you need further information with regard to this request for a decision.

Sincerely,



Bryan J. Guymon

Enclosures – Exhibits

cc: Paul Brown (via email)  
BJ Potts (via email)  
Slater Elza (of the firm)

*w/o enclosures*  
Mayor Johnny Taylor  
via [jmact1970@gmail.com](mailto:jmact1970@gmail.com)

**Educator Ethics**

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

*Education Code 21.041(b)(8); 19 TAC 247.1(b), (c)*

**Public Servants**

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII [See DBD and BBFA]*

**Electronic Communication Policy**

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes emails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or email address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

*Education Code 38.027*

**Public Information on Private Device**

A current or former board member or employee of a district who maintains public information on a privately owned device shall:

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

*Gov't Code 552.004(b) [See GB]*

**Loss of Retirement  
Annuity for  
Conviction of Certain  
Felonies**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);
2. Section 21.12 (improper relationship between educator and student); or
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

*Gov't Code 824.009*

**Transportation or  
Storage of Firearm in  
School Parking Area**

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law. [See GKA]

*Education Code 37.0815*

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

**Tobacco and  
E-Cigarettes**

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

*Education Code 38.006(b)* [See also FNCD and GKA]

**Drug and Alcohol  
Abuse Program**

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

Federal Drug-Free  
Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The district's policy of maintaining a drug-free workplace;
  - c. Available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
  - a. Abide by the terms of the statement; and
  - b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;



EMPLOYEE STANDARDS OF CONDUCT

DH  
(LEGAL)

6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

*41 U.S.C. 8103(a)(1)*

**Dietary Supplements**

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

*Education Code 38.011*

**Low-THC Cannabis**

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. The District holds all employees accountable to the Educators' Code of Ethics. [See DH(EXHIBIT)]

Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

**Violations of Standards of Conduct**

Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment. [See DCD and DF series]

**Weapons Prohibited**

The District prohibits the use, possession, or display of any firearm, location-restricted knife, club, or prohibited weapon, as defined at FNCG, on District property at all times.

**Exceptions**

No violation of this policy occurs when:

1. A District employee who holds a Texas handgun license stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area provided by the District, provided the handgun or other firearm is not in plain view; or
2. The use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities. [See FOD]

**Electronic Communication**

**Use with Students**

A certified employee, licensed employee, or any other employee designated in writing by the Superintendent or a campus principal may use electronic communication, as this term is defined by law, with currently enrolled students only about matters within the scope of the employee's professional responsibilities.

Unless an exception has been made in accordance with the employee handbook or other administrative regulations, an employee shall not use a personal electronic communication platform, application, or account to communicate with currently enrolled students.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

Unless authorized above, all other employees are prohibited from using electronic communication directly with students who are currently enrolled in the District. The employee handbook or other administrative regulations shall further detail:

1. Exceptions for family and social relationships;
2. The circumstances under which an employee may use text messaging to communicate with individual students or student groups;
3. Hours of the day during which electronic communication is discouraged or prohibited; and
4. Other matters deemed appropriate by the Superintendent or designee.

In accordance with ethical standards applicable to all District employees [see DH(EXHIBIT)], an employee shall be prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a District student; adversely affects the student's learning, mental health, or safety; includes threats of violence against the student; reveals confidential information about the student; or constitutes an inappropriate communication with a student, as described in the Educators' Code of Ethics.

An employee shall have no expectation of privacy in electronic communications with students. Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic communication. [See CPC]

Personal Use	All employees shall be held to the same professional standards in their public use of electronic communication as for any other public conduct. If an employee's use of electronic communication violates state or federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.
Reporting Improper Communication	In accordance with administrative regulations, an employee shall notify his or her supervisor when a student engages in improper electronic communication with the employee.
Disclosing Personal Information	An employee shall not be required to disclose his or her personal email address or personal phone number to a student.
Safety Requirements	Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

**Harassment or Abuse**

An employee shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect.]

While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

An employee shall report child abuse or neglect as required by law. [See FFG]

**Relationships with Students**

An employee shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

As required by law, the District shall notify the parent of a student with whom an educator is alleged to have engaged in certain misconduct. [See FFF]

**Tobacco and E-Cigarettes**

An employee shall not smoke or use tobacco products or e-cigarettes on District property, in District vehicles, or at school-related activities. [See also GKA]

**Alcohol and Drugs / Notice of Drug-Free Workplace**

As a condition of employment, an employee shall abide by the terms of the following drug-free workplace provisions. An employee shall notify the Superintendent in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace in accordance with Arrests, Indictments, Convictions, and Other Adjudications, below.

An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while on District property or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

4. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

Exceptions

It shall not be considered a violation of this policy if the employee:

1. Manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities;
2. Uses or possesses a controlled substance or drug authorized by a licensed physician prescribed for the employee's personal use; or
3. Possesses a controlled substance or drug that a licensed physician has prescribed for the employee's child or other individual for whom the employee is a legal guardian.

Sanctions

An employee who violates these drug-free workplace provisions shall be subject to disciplinary sanctions. Sanctions may include:

1. Referral to drug and alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Termination from employment with the District; and
4. Referral to appropriate law enforcement officials for prosecution.

Notice

Employees shall receive a copy of this policy.

**Arrests, Indictments,  
Convictions, and  
Other Adjudications**

An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:

1. Crimes involving school property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or
4. Crimes involving moral turpitude, which include:
  - Dishonesty; fraud; deceit; theft; misrepresentation;

EMPLOYEE STANDARDS OF CONDUCT

DH  
(LOCAL)

- Deliberate violence;
- Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
- Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
- Felony driving while intoxicated (DWI); or
- Acts constituting abuse or neglect under the Texas Family Code.

**Dress and Grooming**

An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.

## Texas Education Code

### **Sec. 21.0061**

## Notice to Parent or Guardian About Educator Misconduct

(a) The board of trustees or governing body of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have engaged in misconduct described by Section 21.006 (Requirement to Report Misconduct) (b)(2)(A) or (A-1) informing the parent or guardian:

(1) that the alleged misconduct occurred;

(2) whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and

(3) whether a report was submitted to the State Board for Educator Certification concerning the alleged misconduct.

(b) The policy required by this section must require that information specified by Subsection (a)(1) be provided as soon as feasible after the employing entity becomes aware that alleged misconduct may have occurred.

(c) In this section, "other charter entity" has the meaning assigned by Section 21.006 (Requirement to Report Misconduct). Added by Acts 2017, 85th Leg., R.S., Ch. 178 (S.B. 7), Sec. 6, eff. September 1, 2017. Amended by: Acts 2019, 86th Leg., R.S., Ch. 943 (H.B. 3), Sec. 2A.011, eff. September 1, 2019.

# Texas Family Code

## Sec. 261.001

### Definitions

In this chapter:

- (1) "Abuse" includes the following acts or omissions by a person:
  - (A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
  - (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;
  - (C) physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
  - (D) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
  - (E) sexual conduct harmful to a child's mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02 (Continuous Sexual Abuse of Young Child or Children), Penal Code, indecency with a child under Section 21.11 (Indecency With a Child), Penal Code, sexual assault under Section 22.011 (Sexual Assault), Penal Code, or aggravated sexual assault under Section 22.021 (Aggravated Sexual Assault), Penal Code;
  - (F) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
  - (G) compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01 (Definitions), Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02 (Trafficking of Persons)(a)(7) or (8), Penal Code, prostitution under Section 43.02



(Prostitution)(b), Penal Code, or compelling prostitution under Section 43.05 (Compelling Prostitution)(a)(2), Penal Code;

- (H) causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21 (Definitions), Penal Code, or pornographic;
  - (I) the current use by a person of a controlled substance as defined by Chapter 481 (Texas Controlled Substances Act), Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
  - (J) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481 (Texas Controlled Substances Act), Health and Safety Code;
  - (K) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25 (Sexual Performance by a Child), Penal Code;
  - (L) knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02 (Trafficking of Persons)(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections; or
  - (M) forcing or coercing a child to enter into a marriage.
- (2) "Department" means the Department of Family and Protective Services.
- (3) "Exploitation" means the illegal or improper use of a child or of the resources of a child for monetary or personal benefit, profit, or gain by an employee, volunteer, or other individual working under the auspices of a facility or program as further described by rule or policy.
- (4) "Neglect":
- (A) includes:
- (i) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and

the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;

(ii)

the following acts or omissions by a person:

(a)

placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;

(b)

failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;

(c)

the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;

(d)

placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or

(e)

placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child;

(iii)

the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away; or

(iv)

a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy; and

(B)

does not include the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the department if:

- (i) the child has a severe emotional disturbance;
  - (ii) the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and
  - (iii) the person has exhausted all reasonable means available to the person to obtain the mental health services described by Subparagraph (ii).
- (5) "Person responsible for a child's care, custody, or welfare" means a person who traditionally is responsible for a child's care, custody, or welfare, including:
- (A) a parent, guardian, managing or possessory conservator, or foster parent of the child;
  - (B) a member of the child's family or household as defined by Chapter 71 (Definitions);
  - (C) a person with whom the child's parent cohabits;
  - (D) school personnel or a volunteer at the child's school;
  - (E) personnel or a volunteer at a public or private child-care facility that provides services for the child or at a public or private residential institution or facility where the child resides; or
  - (F) an employee, volunteer, or other person working under the supervision of a licensed or unlicensed child-care facility, including a family home, residential child-care facility, employer-based day-care facility, or shelter day-care facility, as those terms are defined in Chapter 42 (Regulation of Certain Facilities, Homes, and Agencies That Provide Child-care Services), Human Resources Code.
- (6) "Report" means a report that alleged or suspected abuse or neglect of a child has occurred or may occur.
- (7) Repealed by Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 36(1), eff. September 1, 2017.
- (8) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 1.203(4), eff. April 2, 2015.
- (9) "Severe emotional disturbance" means a mental, behavioral, or emotional disorder of sufficient duration to result in functional impairment that substantially interferes with or

limits a person's role or ability to function in family, school, or community activities. Added by Acts 1995, 74th Leg., ch. 20, Sec. 1, eff. April 20, 1995. Amended by Acts 1995, 74th Leg., ch. 751, Sec. 86, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 575, Sec. 10, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1022, Sec. 63, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 62, Sec. 19.01(26), eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 59, Sec. 1, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. 268 (S.B. 6), Sec. 1.11, eff. September 1, 2005. Acts 2007, 80th Leg., R.S., Ch. 593 (H.B. 8), Sec. 3.32, eff. September 1, 2007. Acts 2011, 82nd Leg., R.S., Ch. 1 (S.B. 24), Sec. 4.03, eff. September 1, 2011. Acts 2013, 83rd Leg., R.S., Ch. 1142 (S.B. 44), Sec. 1, eff. September 1, 2013. Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.120, eff. April 2, 2015. Acts 2015, 84th Leg., R.S., Ch. 1 (S.B. 219), Sec. 1.203(4), eff. April 2, 2015. Acts 2015, 84th Leg., R.S., Ch. 432 (S.B. 1889), Sec. 1, eff. September 1, 2015. Acts 2015, 84th Leg., R.S., Ch. 1273 (S.B. 825), Sec. 4, eff. September 1, 2015. Acts 2017, 85th Leg., R.S., Ch. 316 (H.B. 5), Sec. 36(1), eff. September 1, 2017. Acts 2017, 85th Leg., R.S., Ch. 319 (S.B. 11), Sec. 7, eff. September 1, 2017. Acts 2017, 85th Leg., R.S., Ch. 1136 (H.B. 249), Sec. 2, eff. September 1, 2017.

# Texas Education Code - EDUC § 21.006.

## Requirement to Report Misconduct

(a) In this section:

(1) "Abuse" has the meaning assigned by Section 261.001, Family Code, and includes any sexual conduct involving an educator and a student or minor.

(2) "Other charter entity" means:

(A) a school district operating under a home-rule school district charter adopted under Subchapter B, Chapter 12;

(B) a campus or campus program operating under a charter granted under Subchapter C, Chapter 12; and

(C) an entity that contracts to partner with a school district under Section 11.174(a)(2) to operate a district campus under a charter granted to the entity by the district under Subchapter C, Chapter 12.

(b) In addition to the reporting requirement under Section 261.101, Family Code, and except as provided by Subsection (c-2), the superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall notify the State Board for Educator Certification if:

(1) an educator employed by or seeking employment by the school district, district of innovation, charter school, other charter entity, service center, or shared services arrangement has a criminal record and the school district, district of innovation, charter school, other charter entity, service center, or shared services arrangement obtained information about the educator's criminal record by a means other than the criminal history clearinghouse established under Section 411.0845, Government Code;

(2) an educator's employment at the school district, district of innovation, charter school, other charter entity, service center, or shared services arrangement was terminated and there is evidence that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor;

(A-1) was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;

(B) possessed, transferred, sold, or distributed a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.;

(C) illegally transferred, appropriated, or expended funds or other property of the school district, district of innovation, charter school, other charter entity, service center, or shared services arrangement;

(D) attempted by fraudulent or unauthorized means to obtain or alter a professional certificate or license for the purpose of promotion or additional compensation; or

(E) committed a criminal offense or any part of a criminal offense on school property or at a school-sponsored event;

(3) the educator resigned and there is evidence that the educator engaged in misconduct described by Subdivision (2); or

(4) the educator engaged in conduct that violated the assessment instrument security procedures established under Section 39.0301.

(b-1) A superintendent or director of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall complete an investigation of an educator that involves evidence that the educator may have engaged in misconduct described by Subsection (b)(2)(A) or (A-1), despite the educator's resignation from employment before completion of the investigation.

(b-2) The principal of a school district, district of innovation, open-enrollment charter school, or other charter entity campus must notify the superintendent or director of the school district, district of innovation, charter school, or other charter entity not later than the seventh business day after the date:

(1) of an educator's termination of employment or resignation following an alleged incident of misconduct described by Subsection (b); or

(2) the principal knew about an educator's criminal record under Subsection (b)(1).

(c) Except as provided by Subsection (c-2), the superintendent or director must notify the State Board for Educator Certification by filing a report with the board not later than the seventh business day after the date the superintendent or director receives a report from a principal under Subsection (b-2) or knew about an educator's termination of employment or resignation following an alleged incident of misconduct described by Subsection (b) or an employee's criminal record under Subsection (b)(1).

(c-1) The report under Subsection (c):

(1) must be:

(A) in writing; and

(B) in a form prescribed by the board; and

(2) may be filed through the Internet portal developed and maintained by the State Board for Educator Certification under Subsection (g-1).

(c-2) A superintendent or director of a school district, district of innovation, open-enrollment charter school, regional education service center, or shared services arrangement is not required to notify the State Board for Educator Certification or file a report with the board under Subsection (b) or (c) if the superintendent or director:

(1) completes an investigation into an educator's alleged incident of misconduct described by Subsection (b)(2)(A) or (A-1) before the educator's termination of employment or resignation; and

(2) determines the educator did not engage in the alleged incident of misconduct described by Subsection (b)(2)(A) or (A-1).

(d) The superintendent or director shall notify the board of trustees or governing body of the school district, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement and the educator of the filing of the report required by Subsection (c).

(e) A superintendent, director, or principal of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement who in good faith and while acting in an official capacity files a report with the State Board for Educator Certification under this section or communicates with another superintendent, director, or principal concerning an educator's criminal record or alleged incident of misconduct is immune from civil or criminal liability that might otherwise be incurred or imposed.

(f) The State Board for Educator Certification shall determine whether to impose sanctions, including an administrative penalty under Subsection (i), against a principal who fails to provide notification to a superintendent or director in violation of Subsection (b-2) or against a superintendent or director who fails to file a report in violation of Subsection (c).

(g) The State Board for Educator Certification shall propose rules as necessary to implement this section.

(g-1) The State Board for Educator Certification shall develop and maintain an Internet portal through which a report required under Subsection (c) may be confidentially and securely filed.

(h) The name of a student or minor who is the victim of abuse or unlawful conduct by an educator must be included in a report filed under this section, but the name of the student or minor is not public information under Chapter 552, Government Code.

(i) If an educator serving as a superintendent or director is required to file a report under Subsection (c) and fails to file the report by the date required by that subsection, or if an educator serving as a principal is required to notify a superintendent or director about an educator's criminal record or alleged incident of misconduct under Subsection (b-2) and fails to provide the notice by the date required by that subsection, the State Board for Educator Certification may impose on the educator an administrative penalty of not less than \$500 and not more than \$10,000. The State Board for Educator Certification may not renew the certification of an educator against whom an administrative penalty is imposed under this subsection until the penalty is paid.

(j) A superintendent or director required to file a report under Subsection (c) commits an offense if the superintendent or director fails to file the report by the date required by that subsection with intent to conceal an educator's criminal record or alleged incident of misconduct. A principal required to notify a superintendent or director about an educator's criminal record or alleged incident of misconduct under Subsection (b-2) commits an offense if the principal fails to provide the notice by the date required by that subsection with intent to conceal an educator's criminal record or alleged incident of misconduct. An offense under this subsection is a state jail felony.

(k) The commissioner may review the records of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement to ensure compliance with the requirement to report misconduct under this section.





GOVERNOR GREG ABBOTT

Dear Mr. Taylor,

Thank you for taking the time to contact the Office of the Governor. We understand that you are concerned.

I am asking Commissioner of Education, Mike Morath, for his staff's assistance in reviewing and responding both to you and this office on the information shared.

Please let us know whenever we may be of service in the future.

Sincerely,

A handwritten signature in cursive script that reads "Marie Dahlmann".

Marie Dahlmann  
Deputy Director  
Constituent Communication Division  
Office of the Governor

## Division of Compliance and Investigations General Complaint Form

For Special Education/Dyslexia Complaints, you must use a different form. [Please click here.](#)

### 1. Complainant Contact Information

Verifiable contact information is required for complaints regarding educator misconduct per [19 Texas Administrative Code Section 249.3\(12\)](#). Failure to provide will result in the closure of your case.

Full Name\*

Johnny Taylor

Phone Number\*

8066345304

Email\*

jmac1970@gmail.com

Address\*

Po box 75

Kress

Tx

79052

Additional Contact Information (optional)

Complainant's Role \*

Other\* (please provide below)

Name	Value
Briefly describe	Citizen/Mayor of Kress

\*If the complainant is not the parent of the student or an adult student filing on his/her own behalf, the complainant is referred to as a third party; and therefore, requires a [FERPA release](#) from the person standing in parental relation. Please attach the completed [FERPA release](#) to this complaint below.

Today's Date \*

01/14/2023

### 2. School Information

District/Charter School  
KRESS ISD (219-905)

Campus (If the allegation involves a specific campus)

Educator Preparation Program (if applicable)

### 3. Complaint Description

TEA requires complainants to provide certain information so that the complaint can be appropriately reviewed and assigned by the Division of Compliance and Investigations. Please fill out this form carefully and completely as possible. TEA will only investigate and/or review compliance with complaints that allege a violation of a federal or state education law or regulation over which the TEA has the jurisdiction, or authority, to regulate.

The violation that is alleged must have occurred not more than two years prior to the date the complaint is received by the TEA. TEA may require evidence of good-faith attempt at LEA resolution using the appropriate local process prior to review of your complaint.

#### Special Education Services

TEA has a separate process for complaint and dispute resolution for special education services complaints under Part B of IDEA. If you are filing a special education complaint, you must use the Special Education Dispute Resolution Process found at: <https://tea.texas.gov/academics/special-student-populations/special-education/dispute-resolution/special-education-dispute-resolution-processes>.

The link for the specific form you must use is at the top of this webpage.

For complaints that do not involve special education, please select all areas that apply. \*

Violation of Senate Bill 7 Pass the Trash Law

\*If you selected Educator Misconduct, please enter the full name of the educator who you believe has violated law(s). You may add more than one educator.

Lea Zeigler

1. Describe the alleged violation (describe the nature of the problem). Summarize the complaint within the space provided below. \*

There was an allegation of a substitute teacher that was also a police officer of a neighboring town that was texting students inappropriately. After reviewing both Legal and Local Policy of DH it has been determined that local policy has not been updated to new standards of Update 118 that were required 10/14/2021 since old DH policy of 01/22/2019. As required by Senate Bill 7 Pass the Trash law, it is required that Superintendent and Principal to report incident to TEA within 7 days. The School Board was not notified of this either.

2. Describe the facts in which the allegation is based. Please be specific. \*

I was contacted early month of December 2022 by a citizen that was at the school and learned that an upset parent went in to complain about the situation. It was alleged that Lea Zeigler made a comment to staff not to keep talking about the situation because she didn't want it to "get back to Johnny Taylor. Ben R... departed his position of the Tullia Police Department over this situation and was removed from the substitute teaching list. I have requested disciplinary records through Open Records. The chief of police Chief Brown, did state that he broke school policy and handled his disciplinary actions personally and he no longer worked at Tullia Police dept.

3. Include significant dates and events related to the allegation. Please be specific. \*

Dec 9th 2022 at 9:05 I contacted Lea Zeigler to inquire if Ben Rojas was still on the active substitute teacher list and was told he had been removed and would not be a substitute any longer. At that time she knew of the allegations. Around that same date I called Swisher County Sheriff Kyle Schmalzried and reported the allegation and asked if that has been reported to him yet and he stated no it has not and he would look into it. As of 1/12/2023 Sheriff stated that is it a pending investigation with the Texas Rangers and FBI.

4. Describe the documents that support the described facts. Please upload any relevant documentation to the Supporting Documentation #4 section below. \*

The school board never had a closed session to talk about employee issues. School board was not informed until I presented them with information on 01/12/2023. The the Sheriff gave a statement at some school board meeting. I have a video of that also if needed. There is SO much to this situation that I don't have enough room to share EVERYTHING. Our City is in the middle of a forensic audit. The ex-city secretary is on the school board and her husband is the person of allegations (Ben Rojas) that was also a prior police officer in Kress.

5. Describe your efforts to resolve the complaint. \*

2. I have contacted the teacher and/or principal via phone or email.

Date Grievance Filed:

4. Supporting Documentation

Upload your local grievance/complaint documentation and any other relevant documentation you wish the TEA to consider in the review of your complaint.

Click here:

- DH(LEGA...(1).pdf (0.2MB)
- DH(LOCA...(1).pdf (0.1MB)
- Texas E...061.pdf (1.3MB)
- Texas E...uct.pdf (1.9MB)

TEA complies with the Texas Public Information Act (TPIA) when releasing information in response to requests for information. Information can only be kept confidential to the extent allowed by law.

Additional Support

Questions regarding this form or the general education complaint process may be addressed to:

Texas Education Agency  
Complaints Management  
1701 N. Congress Ave.  
Austin, TX 78701-1494  
Telephone: (512) 463-3544  
[complaintsmanagement@tea.texas.gov](mailto:complaintsmanagement@tea.texas.gov)

Questions on general information relating to the TEA or public schools may be addressed to:

Texas Education Agency  
General Inquiry Office  
Telephone: (512) 463-9290  
[generalinquiry@tea.texas.gov](mailto:generalinquiry@tea.texas.gov)

**REQUEST TO CEASE AND DESIST  
ALL DEFAMATION, SLANDER AND/OR LIBEL  
OF CHARACTER AND REPUTATION**

Mr. Johnny Taylor Jr  
PO Box 75  
Kress, Texas 79052

01/18/2023

Mr. Michael Chad Goss  
7108 FM 928  
Tulia, Texas 79088

Dear Mr. Michael Chad Goss:

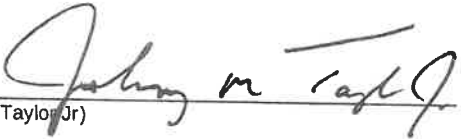
You are hereby notified to CEASE AND DESIST any and all further unlawful defamation, slander and/or libel relating to the incident or event which occurred on 01/12/2023 in which the following defamation, slander and/or libel occurred:

Michael Chad Goss made personal presentation to Kress ISD School Board. In that presentation Mr. Goss stated that the documents that he handed them were Johnny Taylor's Criminal records that contained criminal convictions. This is a blatant attempt of unlawful defamation.

You are hereby requested to immediately CEASE and DESIST the illegal defamation, slander and/or libel and within ten (10) business days and return the signed written assurance below affirming that you will refrain from any further acts of said defamation, slander and/or libel with regards to my character and/or reputation.

Failure to comply with this cease and desist request, and/or return the signed assurance within the stipulated time, will leave me no other alternative but to pursue any and all available legal and equitable remedies available to protect my character and/or reputation.

Sincerely,



( Mr. Johnny Taylor Jr)

cc: Recipient - Regular Mail  
Recipient - Certified Mail  
File Copy

**ASSURANCE TO CEASE AND DESIST FURTHER ACTS OF DEFAMATION, SLANDER AND/OR  
LIBEL**

In accordance with the above request and stipulation, I, Michael Chad Goss, do hereby agree to immediately cease and desist the defamation of Mr. Johnny Taylor Jr's character and/or reputation. And in turn, Mr. Johnny Taylor Jr will release me from all acts of defamation, slander and/or libel relating to this incident.

**HOWEVER**, should I act or behave in such a manner that would result in a breach of this agreement, Mr. Johnny Taylor Jr shall be entitled to filing fees, courts costs and attorney fees in any action which may be filed in an effort to enforce this agreement, in addition to any injunctive relief and/or monetary damages that Mr. Johnny Taylor Jr may have been entitled to had this assurance never been signed.

\_\_\_\_\_  
( Mr. Michael Chad Goss)

Date Signed: \_\_\_\_\_

*Notice: This agreement form is provided for general information purposes. Before you utilize and/or finalize any legal form, you should have it reviewed by a lawyer within your jurisdiction to ensure it meets your legal needs, and meets all legal statutes/regulations within the jurisdiction where you reside.*

Transcript for  
phone call with  
Chief Brown of  
Tulia Tx on  
January  
12, 2023

00:04

Speaker 1

how you doing? Mr Brown, Congratulations on your, your advancement, sir?

00:09

Speaker 2

Oh, thank you.

00:11

Speaker 1

Um I have a quick question. Um? I uh, I reported a situation to Sheriff's department with Ben and all I'm asking is there still an ongoing investigation with that situation?

00:28

Speaker 2

Okay. Are you asking me if there is an ongoing investigation or?

00:32

Speaker 1

Yes.

00:34

Speaker 2

So with with you reporting it to the Sheriff's office? I don't know because we don't? we don't link our cases together. Um I can tell you there's been no longer works with us.

00:47

Speaker 1

Yes, I knew that. And and I have confirmed that um the resignation has to do with the same thing I reported.

00:56

Speaker 2

So

00:57

Speaker 1

all I'm, I I just don't know if if, if you can confirm that, I know, I know there's a lot of school, I mean there's a lot of uh school district that's actually putting out there. Sure they're coming out of the woodwork. I'm just trying to figure out why this hasn't been reported to the public yet. So I'm, I'm trying to be cautious,

01:18

Speaker 2

there's no there's no criminal offense that occurred with that. Uh we passed it to the texas rangers. Uh we also pass that to? I say we we contacted them and? because



there was no state charge that we could think of or see. So we consulted with the Texas rangers. Uh there was no state charge? that they were aware of, or checked with the district attorney here in. Uh and so then we went to the F. B. I. And ran everything by them, and? there was no federal crime that has been committed either. So in short there was no criminal offense that had been committed

02:07

Speaker 1

other than just the poor decision

02:10

Speaker 2

correct. And you know, obviously violation of school policy and stuff like that, But as far as criminal law, no criminal law has been violated in that in that instance. Okay.

02:27

Speaker 1

Okay. Because at first only knew one individual, I guess there's two, I wasn't sure if both of them have been looked at or not. But? okay

02:35

Speaker 2

though? from from what I understand. And and the previous chief Franco handled that investigation, um and I I handled the disciplinary side of it but? um I was tied into it pretty well and there was no criminal offense that had occurred.

02:57

Speaker 1

Okay. Was he um? um? so did he resigned or was he terminated? I

03:09

Speaker 2

can just tell you that he no longer works here.

03:12

Speaker 1

Got you. Okay. So the next question is um is his uh record for open records? Yeah, it

03:21

Speaker 2

is. So? uh does protect some of those, but if you submit a open records request to us, I will submit that to our city attorney for review. And he says to release it to you? I have no problem releasing it to you.

03:38

Speaker 1

Okay? Because I mean everything I read, it's uh in? there's so many different ways to read it, but from what I understand it should be available, it's best I can

understand. But. Okay.

03:50

Speaker 2

Right. And and that's why I'm I'm very open with our, with our records. And I, I really believe in transparency. So? just by policy, I have to give everything to our city attorney and then they decide whether it's released or not released. And then of course, if it's, if they say no, then you can go to the attorney general for an opinion. But uh

04:14

Speaker 1

well, I think if they say no, they have to send it to the attorney general for an opinion,

04:18

Speaker 2

correct, correct? Yeah. Okay.

04:22

Speaker 1

Okey dokey. Well, I greatly greatly appreciate your help. And I uh uh I don't I don't know you that well, but I'm very excited that you're there. I will say that.

04:33

Speaker 2

I appreciate that. And if there's anything that we can do, let us know. I

04:38

Speaker 1

appreciate you. You have a blessed day.

04:40

Speaker 1

You too. Bye bye.

Documents  
Provided to  
School Board  
on January  
12, 2023

Johnny Lopez

## Legal Q&A

By Laura Mueller, TML Assistant General Counsel

### What are a mayor's duties in a general law city?

In a general law city, a mayor's duties and authority come first from the Local Government Code and other state law and then may be expanded by the city council. *See* TEX. LOC. GOV'T CODE §§ 22.037; 22.042; and 23.027. A mayor in a Type A city presides over the meetings of the governing body, but may not vote unless there is a tie. *Id.* § 22.037. A Type A mayor is also authorized to call special meetings on her "own motion or on the application of three aldermen." *Id.* § 22.038.

The majority of the mayor's duties are listed in Section 22.042 of the Local Government Code. The mayor: (1) is the "chief executive officer" of the city; (2) must "actively ensure that the laws and ordinances of the municipality are properly carried out"; (3) must "inspect the conduct of each subordinate municipal officer and shall cause any negligence, carelessness, or other violation of duty to be prosecuted and punished"; and (4) must give to the city council "any information, and shall recommend to the governing body any measure, that relates to improving the finances, police, health, security, cleanliness, comfort, ornament, or good government of the municipality."

The mayor also has emergency management authority including: (1) the authority to close public facilities in order to ensure the peace and good order of the city during a riot or unlawful assembly; and (2) the authority to summon a special police force when necessary for the enforcement of city laws, because of riot or outbreak, or because of the threat of serious danger. *Id.* §§ 22.042; 341.011. A Type A mayor also has the authority to appoint an individual to a vacancy in a municipal office, subject to confirmation by the city council. *Id.* § 22.010. However, the mayor's duties are not only determined by state law. The city council can also prescribe the duties and authority of the mayor, and the mayor must perform these duties as directed by the city council. *Id.* § 22.042. Additional emergency management powers of a mayor are discussed further below.

In a Type B city, the mayor is the president of the governing body of the city, but is not given more specific duties by statute. *Id.* § 23.027. A Type C mayor is given no guidance in Chapter 24 of the Local Government Code, which covers Type C cities. However, the Local Government Code provides what are commonly referred to as the "borrowing provisions." These provisions state that Type B and Type C cities have the same authority as a Type A city. TEX. LOC. GOV'T CODE §§ 51.035; 51.051. Section 51.035 states:

A Type B general-law municipality has the same authority, duties, and privileges as a Type A general-law municipality, unless the Type B general-law municipality in exercising the authority or privilege or performing the duty would be in conflict with another provision of this code or other state law that relates specifically to Type B general-law municipalities.

Section 51.051 states:

(a) The governing body of a Type C general-law municipality with 501 to 4,999 inhabitants has the same authority and is subject to the same duties as a Type A general-law municipality unless the authority or duties conflict with a provision of this code relating specifically to a Type C general-law municipality.

(b) The governing body of a Type C general-law municipality with 201 to 500 inhabitants has the same authority as a Type B general-law municipality unless the authority conflicts with a provision of this code relating specifically to a Type C general-law municipality.

Thus, a Type C city may have the same authority as a Type B or a Type A city, but because Type B cities have the same authority as a type A city, pursuant to Section 51.035, a type C city has the same authority as a type A city in cases where there is not a conflict. These “borrowing provisions” have been used to give mayors in Type B and Type C cities some of the same duties and authority as that held by a mayor in a Type A city. The mayor of any city also serves as the budget officer for the governing body, unless the city has the city manager form of government, which designates the city manager as the budget officer. *Id.* § 102.00.

Questions often arise as to the specific duties and authority of a mayor, and the city should consult with its city attorney on this issue.

(Note: In a home rule city, the mayor’s duties are determined by the charter.)

#### **Does a mayor have the authority to cancel a city council meeting?**

State law provides no procedure to cancel a city council meeting. In a general law city, the common practice is for the mayor to cancel a meeting when it becomes necessary to do so. If a mayor chooses to cancel a meeting, he should contact all councilmembers and inform them of the decision. Of course, as with other areas that are not governed by state law, a city council may wish to adopt written procedures to clarify the “who, when, and how” by which meetings are canceled.

(Note: A home rule city should consult its charter for any relevant provisions.)

#### **Does a mayor in a general law city have veto power over actions taken by the city council?**

No. However, the Local Government Code provides that the mayor in a *Type A general law city* has the authority to require “reconsideration” of an ordinance or resolution passed by the city council. *Id.* § 52.003. After an ordinance or resolution is passed by the city council, it must be placed in the secretary’s office for the mayor’s signature. The mayor may sign the ordinance or resolution, in which case it takes effect, or the mayor may return the ordinance or resolution to the council with objections. In the case of a “return” to the city council, the council must reconsider the vote by which the ordinance or resolution was adopted. *Id.* § 52.003. If the council passes the ordinance or resolution by a majority vote of the total number of members of the governing body, excluding the mayor, the ordinance takes effect. *Id.* § 52.003. If the mayor

neither signs the ordinance nor sends it back to the council, it automatically takes effect after the fourth day.

It is unclear whether a mayor in a Type B or Type C city has the right of reconsideration. Many Type A provisions apply to Type B and C cities through the "borrowing provisions" of the Local Government Code. See TEX. LOC. GOV'T CODE §§ 41.035; 51.051. However, attorney general opinion JM-527 (1987) suggests that a general law city that is not given reconsideration authority by statute may not have the right of reconsideration. See Tex. Atty. Gen. Op. No. JM-527 (1986). Each city should discuss this issue with its city attorney to determine whether the mayor has a right of reconsideration.

(Note: In a home rule city, the ability of a mayor to veto actions taken by the city council is determined by the city's charter. Only a small percentage of Texas home rule charters contain veto language.)

### **Can a mayor file a lawsuit on behalf of the city without the approval of the city council?**

No. A city may act only by and through its governing body, and acts of the mayor or individual councilmembers are ineffectual without express authorization from the governing body. *City of Bonham v. S.W. Sanitation, Inc.*, 871 S.W.2d 765, 765 (Tex. App.—Texarkana 1994, writ denied); *Alamo Carriage v. City of San Antonio*, 768 S.W.2d 937, 941 (Tex. App. — San Antonio 1989, no writ). The governing body may act officially only through resolution or ordinance. The statements of individual members of the governing body, including the mayor, do not bind the city. *City of Bonham*, 871 S.W.2d at 765; *Alamo Carriage*, 768 S.W.2d at 941-42.

The governing body of a city is authorized to delegate by resolution or ordinance the right to perform acts and duties necessary for the day-to-day operation of the city. *Stirman v. City of Tyler*, 443 S.W.2d 354, 354 (Tex. Civ. App.—Tyler 1969, writ ref'd n.r.e.); *Central Power & Light Co. v. City of San Juan*, 962 S.W.2d 602 (Tex. App.—Corpus Christi 1998, rev. disp'd w.o.j.). Therefore, the governing body could delegate the right to file a lawsuit on behalf of the city to the mayor, a city councilmember, or a city staff member. In the case of delegation of authority, any action taken beyond what has been authorized by the city council is void. *Foster v. City of Waco*, 255 S.W. 1104, 1106 (Tex. 1923).

### **Do mayors have emergency management powers and responsibilities?**

Yes. State law provides that the mayor (or the mayor's designee) is the emergency management director for a city. TEX. GOV'T CODE § 418.1015. In that role, the mayor has certain emergency management powers and duties. Generally, the mayor has the same powers, on a local level, as the governor under Chapter 418 of the Government Code (The Texas Disaster Act). *Id.* For example, the mayor has the authority to order evacuation and other restrictions on movement during an emergency. TEX. GOV'T CODE §§ 418.108(f); 418.1015(b); 418.018. The mayor is also the official responsible for declaring a local state of disaster or requesting that the governor declare a state of emergency. See *id.* §§ 418.108; 433.001.

If local disaster resources are exhausted, and assistance is needed outside a mutual aid agreement, the mayor is the official who must request that assistance from other political subdivisions or the state. 37 TEX. ADMIN. CODE §§ 7.23; 7.25. To request assistance from the state, the mayor must contact the local disaster district committee chairperson (the local Texas Highway Patrol commander). *Id.* § 7.24. For disaster district contact information, please see <http://www.puc.state.tx.us/emr/districtcontact.cfm>.

To assist her with her emergency management duties, the mayor may designate an emergency management coordinator to be her assistant for emergency management purposes. *Id.* § 418.1015. In many cities, the emergency management coordinator has responsibility for developing the emergency management plan and coordinating emergency management training. The mayor must notify the Texas Division of Emergency Management of her designee as emergency management coordinator (if any) and the city's plan for emergency management using a form provided by the division. 37 TEX. ADMIN. CODE § 7.3.

(Note: Sample documents for a disaster declaration, a request to the governor for declaration of an emergency, and an emergency powers ordinance are included at the end of the "Annex U - Legal" document of the model local emergency management plan, located at [ftp://ftp.txdps.state.tx.us/dem/plans/u anx\\_21\\_1007.rtf](ftp://ftp.txdps.state.tx.us/dem/plans/u anx_21_1007.rtf).)

#### **May a mayor administer an oath of office?**

Under Texas Local Government Code Section 22.042(d), the mayor of a Type A city may administer oaths to officers of the city. Otherwise, the office of mayor is not part of the enumerated list of public officials authorized to administer an oath of office under Texas Government Code Section 602.002.

#### **If a mayor is absent or incapacitated in a general law city, does the mayor pro tem automatically become mayor?**

No. In the event that the mayor of a general law city is absent or incapacitated, the mayor pro tem does not actually become mayor. Rather, the mayor pro tem assumes the duties of the mayor, including presiding at meetings of the governing body. TEX. LOC. GOV'T CODE § 22.037(b). When assuming the duties of mayor, the mayor pro tem does not lose the power to vote, even when presiding at the meetings. (In some cities, the presiding officer does not vote as a matter of custom.)

communicates with a chief administrative officer or other administrator of a private school concerning the criminal record of or an alleged incident of misconduct by a private school educator is immune from civil or criminal liability that might otherwise be incurred or imposed.

(h) The name of a student or minor who is the victim of abuse or unlawful conduct by a private school educator must be included in a report filed under this section, but the name of the student or minor is not public information under Chapter 552, Government Code.

(i) The State Board for Educator Certification shall propose rules as necessary to implement this section.

## Texas Education Code - EDUC § 21.007. Notice on Certification Record of Alleged Misconduct

(a) In this section, "board" means the State Board for Educator Certification.

(b) The board shall adopt a procedure for placing a notice of alleged misconduct on an educator's public certification records. The procedure adopted by the board must provide for immediate placement of a notice of alleged misconduct on an educator's public certification records if the alleged misconduct presents a risk to the health, safety, or welfare of a student or minor as determined by the board.

(c) The board must notify an educator in writing when placing a notice of an alleged incident of misconduct on the public certification records of the educator.

(d) The board must provide an opportunity for an educator to show cause why the notice should not be placed on the educator's public certification records. The board shall propose rules establishing the length of time that a notice may remain on the educator's public certification records before the board must:

(1) initiate a proceeding to impose a sanction on the educator on the basis of the alleged misconduct; or

(2) remove the notice from the educator's public certification records.

(e) If it is determined that the educator has not engaged in the alleged incident of misconduct, the board shall immediately remove the notice from the educator's public certification records.

(f) The board shall propose rules necessary to administer this section.



# Texas Education Code - EDUC § 21.0061. Notice to Parent or Guardian About Educator Misconduct

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(a) The board of trustees or governing body of a school district, district of innovation, open-enrollment charter school, other charter entity, regional education service center, or shared services arrangement shall adopt a policy under which notice is provided to the parent or guardian of a student with whom an educator is alleged to have engaged in misconduct described by [Section 21.006\(b\)\(2\)\(A\) or \(A-1\)](#) informing the parent or guardian:

(1) that the alleged misconduct occurred;

(2) whether the educator was terminated following an investigation of the alleged misconduct or resigned before completion of the investigation; and

(3) whether a report was submitted to the State Board for Educator Certification concerning the alleged misconduct.

(b) The policy required by this section must require that information specified by Subsection (a)(1) be provided as soon as feasible after the employing entity becomes aware that alleged misconduct may have occurred.

(c) In this section, "other charter entity" has the meaning assigned by [Section 21.006](#).

# Texas Education Code - EDUC § 21.0062. Requirement to Report Misconduct: Private Schools

(a) In this section:

(1) "Abuse" has the meaning assigned by [Section 261.001, Family Code](#), and includes any sexual conduct involving a student or minor and private school educator.

(2) "Private school educator" means a person employed by or seeking employment in a private school for a position in which the person would be required to hold a certificate issued under Subchapter B if the person were employed by a school district.

(b) In addition to the reporting requirement under Section 261.101, Family Code, the chief administrative officer of a private school shall notify the State Board for Educator Certification if a private school educator:

(1) has a criminal record and the private school obtained information about the educator's criminal record; or

(2) was terminated and there is evidence that the educator:

(A) abused or otherwise committed an unlawful act with a student or minor; or

(B) was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor.

(c) If there is evidence that a private school educator may have engaged in misconduct described by Subsection (b) and the educator resigns from employment before completion of the investigation, the chief administrative officer of the private school shall submit the evidence of misconduct collected to the State Board for Educator Certification.

(d) The chief administrative officer of the private school must notify the State Board for Educator Certification by filing a report with the board not later than the seventh business day after the date the chief administrative officer knew that a private school educator:

(1) has a criminal record under Subsection (b)(1); or

(2) was terminated following an alleged incident of misconduct described by Subsection (b)(2).

(e) The report filed under Subsection (d) must be:

(1) in writing; and

(2) in a form prescribed by the board.

(f) Any person who knows or has reason to believe that a private school educator engaged in the misconduct described by Subsection (b)(2) may file a report with the State Board for Educator Certification under this section.

(g) A chief administrative officer of a private school or any other person who in good faith files a report with the State Board for Educator Certification under this section or

**Kress Independent School District**  
***District Mission Statement***

The mission of Kress ISD in partnership with the community is to graduate all students with skills and values necessary to succeed as lifelong learners by providing excellence and equal opportunity in education through a coordinated program of instruction.

2021-22 Kress ISD District Improvement Plan

**Prioritized Strengths**

As the result of the Comprehensive Needs Assessment the staff and DEIC developed a District Improvement Plan (DIP) containing strategies that will be used to improve student achievement. The Kress staff is determined, with the help of the parents and community involved in the DEIC making process, to make each student successful. Our assessment led us to the following discoveries regarding our strengths and our areas of concern, and both of these, then became the major focus of the Kress District Improvement Plan, either in form of very specific objectives or actions under the objectives. Our strengths and areas of concern are expressed in the following:

**Identified Strengths**

Strengths	Data Source
Caring, committed teaching staff	Parent and student surveys; Teacher retention rates, Active participation on the SBDM teams
Growing involvement and commitment of Hispanic parents and community members to the school process and the school administration	Increased signature on sign-in sheets; Increased attendance at all school activities; Increased communication with KISD Hispanic parents
Tutorials	Student performance record, Student retention record
Teacher use of effective instructional practices and teacher commitment to learning	Staff Development records, Principal reports
Use of technology for administrative procedures & for instructional support as a learning tool	Student performance records, Teacher Feedback, Principal Reports,

Our efforts to build collaborative – seeking professional growth opportunities, quality, research-based materials to promote student learning and teacher effectiveness	Alignment of Math & Science to TEKS, Records of teachers training teachers, Student Performance Records, Horizontal & Vertical Planning
Commitment of staff, parent, & community members to effective district planning	Participation in planning sessions by all stakeholders

**Prioritized Areas of Concern**

Areas of Concern	Data Source	Funding Source
Close the achievement gap between student groups in all subject areas on the STAAR/EOC by determining whether the problem is a 1) lack of content knowledge 2) lack of reading fluency 3) lack of language mastery or 4) lack of vocabulary & background knowledge.	Student performance records, Longitudinal TAPR data	Title I, Part A Title II, Part A SCE IDEA SSI Local
Increase the vocabulary and the necessary academic background knowledge of ALL our students.	Student Performance Records Longitudinal TAPR Data	Title I, Part A Local
Identify students in need of assistance beyond the regular classroom and offer targeted support to our struggling students academically R W M S.	Student Performance Records Longitudinal TAPR Data	Title I, Part A SCE Local

2018-2019 Kress ISD District Improvement Plan

<p>Focus on the transition from grade 6, intermediate, to grade 7, middle school to minimize or eliminate gaps in learning.</p>	<p>TAPR Report STAAR Data SSI Report</p>	<p>Title I, Part A SCE Local</p>
<p>Identify and help struggling students (especially new students) early through universal screening (grade level, subject wide or district wide) and offer a variety of services in varying degrees of intensity to address the learning needs of our students.</p>	<p>Student Performance Records Longitudinal TAPR Data</p>	<p>Title I, Part A SCE IDEA Local</p>
<p>Continue support of teachers through specialized training in TEKS and state testing (STAAR/EOC) ; curriculum alignment, as well as other research-based sessions ensuring that the needs of all students are met and that progress continues toward 100% mastery of all State standards for all students.</p>	<p>TAPR data which indicates continuous improvement for all student populations reflected in longitudinal studies</p>	<p>Title I, Part A Title II, Part A Local</p>
<p>Development stronger community and parent partnerships by 1) communicating with parents on a regular basis and 2) ensuring that it is easy for parents to find out how</p>	<p>Report Cards Parent Conferences Parent Report Card Day Participation Informal feedback from</p>	<p>Title I, Part A Local</p>

## 2018-2019 Kress ISD District Improvement Plan

- Increase formal vocabulary usages in grades K-12 to address identified weaknesses on state assessments and enhance student achievement.
- 5. Technology**
  - Teachers and administrators continue to utilize on-line resources for instruction, intervention, benchmark testing, disaggregating data, etc.
  - Teachers and administrators will continue to strive toward the technology goals set forth by the states long range goal for technology.
  - Increase student internet safety awareness and address cyber bullying.
- 6. Safe and Healthy Environment**
  - Teachers and staff will continue to participate in the federal and state Emergency Operations Plan (EOP) under the leadership of the District's Emergency Management Coordinator to assure a safe school environment. District staff will participate in training, emergency drills, etc.
  - Teachers and staff will continue to implement the District Wellness Plan through the District's Health Advisory Council (SHAC) under the leadership for the superintendent and the food services supervisor. Activities and curriculum will be established that will increase student, school staff, parental and community awareness of nutrition and physical activities that will not only benefit students now but will help establish "wellness" habits that will benefit our students as they mature.
- 7. Parental/Community Involvement**
  - Consider ways to increase effective communication to parents/community of state and federal accountability standards, such as TAPR, etc.
  - Increase parent/community involvement in the continued development and implementation of the Emergency Operations Plan (EOP) and the District's Wellness Plan.
  - Update parent involvement policy/plan in District and Campus Improvement teams and Title I meetings.
  - Consider different means of effectively involving parents in the expectations and learning of their children, especially with Spanish-speaking parents who are not bilingual.
- 8. Staff Development**
  - Continue efforts to ensure that all staff is highly qualified by providing staff development determined by District and campus need as indicated on district technology and staff development surveys.
  - Continue staff development concerning requirements of TAPR, PBMAS, AMAO's and EOP.
  - Continue staff development concerning strategies to effectively accelerate the learning of ELL students, special education students, and low economic status students.
  - Continue staff development to increase skills in reading, writing, math, ELA, science and social studies.
  - Plan and implement a staff development program for continuous school wide improvement.
- 9. Character Education**
  - Decrease the pregnancy rate and thereby reducing the dropout rate through research, adopt and implement a "pregnancy prevention program" for grades 7-12.
  - Continue to integrate bullying awareness programs through campus strategies to encourage a safe, healthy school environment for all students.
  - Involve parents/community in educating our students through increase parent communication-newsletters, meetings, email, and teacher websites.

## 2021-2022 Kress I.S.D. District Improvement Plan

**School Wide Component**

CN=Comprehensive Needs Assessment  
 CI=Integration/Coordination of funds  
 RF-Reform Strategies  
 AHQ=Attract Highly Qualified Staff  
 PD=Prof. Development  
 PI=Parental Involvement  
 HQ=Qualified Teachers  
 TR= Transition Activities for Preschool Children  
 AA=Academic Assessments  
 MA=Mastering Assistance

**GOAL: Kress ISD will develop strategies to increase parental involvement**  
**OBJECTIVE: 50% or more parents will be involved in one or more school activities during the school year.**

SW Comp.	Action Implementation	Needs Assessment	Special Programs/ Population	Person(s) Responsible	Timeline Start/End	Human	Resources Materials	Budget Amount/ Source	Evaluation (Formative)	Reported Documented
PI HQ AA	Special populations, meetings to address programs and student needs	2	4,3,2,5,6	Principals, Teachers	Year around	Principals, Teachers	Meeting place, materials, meals	Local Title I	Schedule of meetings, sign in sheets, meeting minutes	On meeting date
PI AA	Parent – Volunteers Programs	1	1	Principals, Teachers, Committee Chairpersons, & Parents	On-going throughout the year	Principals, Parents	Meeting place, materials	Local	Meeting minutes, sign in sheets	Aug-May
PI AA	Parents will receive a school newsletter with report cards with information about school activities, parent involvement activities, and any relevant information concerning their children and their education.	1	1	Principals	On-going throughout the year	Principals, Teachers		Local	Increased parent attendance to school activities and events	Aug-May



## 2021-2022 Kress ISD District Improvement Plan

### A Comprehensive Needs Assessment For School Year 2021-22

#### Introduction

The District Improvement Planning was convened to develop the needs assessment and to consider district strategies and needs in seven areas. These areas included students, students' needs, staff, staff needs, parental involvement, community involvement and facilities. The committee reviewed the Texas Academic Performance Report (TAPR) for school years 2017-2018 as prepared by the Texas Educational Agency as well as other relevant information and data.

#### Demographics

Kress is a small rural farming community in the Texas Panhandle. The Texas Panhandle is a vast rural, sparsely populated area of 26,000 square miles. Kress Independent School District covers 265 sq. miles in Swisher County. The community is made up primarily of "blue collar" workers who are employed by Wal-Mart Distribution Center or who are dependent upon the local farm economy. The district's tax rate is \$1.17. Kress I.S.D. has a student population of 251 students in pre-kindergarten through twelfth grade. Kress is an ethnically diverse community with approximately 56 % of the student population being Hispanic, 36% White, 7 % African American, 2% Pacific Islander and 2% American Indian. Approximately 72 % of the students in the district are eligible for free or reduced price meals under the National School Lunch program. 60% are At-Risk, 8% are English Language Learners and 9% of students have a disability.

Kress Independent School District serves this community as a public education institution. The district is composed of two campuses including one elementary school and one junior/senior high school. The total enrollment for the district for school year 2017-2018 was 251; 2016-2017 was 260; and 2015-2016 was 241.

#### Staff Demographics

Like the students enrolled in the Kress Independent School District, the staff is also diverse. However, based on the data for the school year 2017-2018, the diversity of the staff is not representative of the student body. The largest disparity occurs between the Hispanic and White teachers when comparing them to the corresponding student percentages, e.g. White students make up 36 percent of the student body; however White teachers represent 82 percent of the total teachers, Hispanic students make up 56 percent of the student body; however, Hispanic teachers represent 19 percent of the total number of teachers. Although the disparity between minority students and minority teachers is significant, it should be noted that Kress Independent School District has actively sought minority teachers, coaches and administrators.

November 18, 2016

AUSTIN – Today, Lt. Gov. Dan Patrick issued this statement following the pre-filing of Senate Bill 7, the Inappropriate Student-Educator Relationship – “Pass the Trash”, by Senator Paul Bettencourt.

‘Pass the Trash,’ refers to schools that allow teachers who are accused of sexual misconduct, abuse, neglect and other misdeeds to resign without forwarding the required notification to the Texas Education Agency. This allows them to be re-hired for teaching jobs elsewhere, where they often re-offend.

Lt Governor Patrick said:

“I consider ‘Pass the Trash’ to be such a serious issue that I’ve made it a top priority for the upcoming legislative session. Parents should not have to worry about sexual predators in the classroom. Public school superintendents’ are already lawfully required to report teachers who are preying on the innocent. This legislation will assure that any superintendent or principal who does not do so is guilty of ‘passing the trash’ and should resign or be fired.

“I applaud Sen. Bettencourt for quickly filing Senate Bill 7 to end this unacceptable practice.”



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# Superintendent Reporting Requirements

Effective September 1, 2019, and in accordance with the new Texas Education Code (TEC) §22.093, superintendents or directors of school districts, districts of innovation, charter schools, regional education service centers, and shared services arrangements are required to report to the commissioner when **any non-certified employee** resigns or is terminated and there is evidence that the employee:

- Abused or otherwise committed an unlawful act with a student or minor; or
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor

Superintendents or directors are still required to **report certified educators** to the State Board of Educator Certification (SBEC) under TEC §21.006 and Texas Administrative Code (TAC) §249.14. The new TEC §21.0062 also requires a chief administrative officer of a private school to notify SBEC if a private school educator resigns or is terminated following an incident of misconduct.

All required reports must be submitted within seven business days after an individual has been terminated or resigned. To simplify the reporting process, superintendents, directors, and chief administrative officers should send all reports to the TEA Division of Educator Investigations.

## How to Submit a Report

As of March 12, 2020, schools may submit misconduct reports through the [Misconduct Reporting Portal](#) which is the most secure and expedient method to submit a report.

Schools may request access to the Portal through the TEAL application. For Misconduct Reporting Portal assistance, you may contact the Fingerprinting and Registry Support Team by submitting a **Help Desk ticket**. (<https://helpdesk.tea.texas.gov/hc/en-us/categories/115001620168-Fingerprinting-Do-Not-Hire-Registry>)

Misconduct reports must be submitted on official school letterhead to the attention of the **Director of Educator Investigations**.

Reports may also be submitted via **fax to 512-936-8404** or by **mail to 1701 N. Congress Ave., 5th Floor, Austin, TX, 78701**. Please do not email.

Your report must include the following information:

- A summary of the factual circumstances underlying the report;
- The name of the individual reported and any aliases;
- The reported individual's certificate number, if any, or social security number and date of birth;

- The reported individual's last known mailing address and home and daytime phone numbers;
- The names and any available contact information of any alleged victims;
- The names and any available contact information of any relevant witnesses to the circumstances requiring the report;
- The employment status of the individual, including any information about termination or notice of resignation;
- The name and contact information of the law enforcement or other agency involved in the review of allegations.

## **Frequently Asked Questions**

### **1. What kind of misconduct must be reported?**

The type of misconduct that must be reported will depend on certificate status and whether the individual is employed at a public school or private school.

**Certificate Holders** - If an individual holds an SBEC certificate and is employed by a public school, a superintendent or director must report the following allegations of misconduct:

- Abused or otherwise committed an unlawful act with a student or minor;
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
- Possessed, transferred, sold, or distributed a controlled substance;
- Illegally transferred, appropriated, or expended school funds or property;
- Attempted by fraudulent means to obtain or alter any certificate to gain employment or additional compensation;
- Committed a criminal offense on school property or at a school-sponsored event;
- The reported criminal history, when that information is obtained by a means other than through the DPS FACT Clearinghouse.

**Non-Certified Employees** - If an individual does not hold an SBEC certificate and is employed by a public school, a superintendent or director must report the following allegations of misconduct:

- Abused or otherwise committed an unlawful act with a student or minor;
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
- The reported criminal history, when that information is obtained by a means other than through the DPS FACT Clearinghouse.

**Private School Educators** - If an individual is a private school educator, a chief administrative officer must report the following allegations of misconduct:

- Abused or otherwise committed an unlawful act with a student or minor;
- Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor;
- A criminal record that the private school obtained.

### **2. How long does a superintendent, director, or chief administrative officer have to make a report?**

A superintendent, director, or chief administrative officer must make a report not later than seven business days after he or she first becomes aware of a reported criminal history or a termination or resignation and there is evidence of misconduct listed in FAQ #1.

Please be aware that a settlement with a departing employee does not alter the superintendent, director, or chief administrator's responsibility to report the information.

### **3. Is a superintendent, director, or chief administrative officer required to wait until an individual has resigned or been terminated to submit a report?**

**No.** A person who serves as the superintendent, director, or chief operating officer may report evidence of misconduct at any time if that the person believes in good faith that an individual may be subject to SBEC sanctions or placement on the Registry of Individuals Not Eligible for Employment, also referred to as the Do Not Hire Registry.

#### 4. What if the misconduct did not result in an arrest?

A superintendent, director, or chief administrative officer must report any allegation of misconduct listed under FAQ #1 upon an individual resigning or being terminated from employment.

#### 5. Is a superintendent or director required to complete an investigation if the educator resigns before the district or charter school completes its investigation?

Yes. A superintendent of a school district or director of charter school must complete an investigation that involves evidence that the educator may have abused a student or minor, or that the educator may have been involved in a romantic relationship or solicited or engaged in sexual contact with a student or minor. TEC §21.006(b-1) and TEC §22.093(d).

A chief administrative officer of a private school must submit any evidence of misconduct collected. TEC §21.0062(c)

#### 6. What are the consequences for failing to report this information?

The State Board for Educator Certification may sanction a certificate holder who fails to report the required information. Possible sanctions include reprimand, suspension, or revocation of certificate. In addition, the SBEC may impose an administrative penalty of not less than \$500 and not more than \$10,000. There are also criminal penalties if the superintendent or director had an intent to conceal the information.

#### 7. Define "Educator" for Private schools.

For Private schools, "educator" means a person employed by or seeking employment in a private school for a position in which the person would be required to hold a certificate issued under Subchapter B if the person were employed by a school district.

#### 8. Are school staff required to report suspected child abuse or neglect to the Texas Department of Family and Protective Services (DFPS)?

State law requires professionals, including teachers, school nurses, SBEC certificate holders, who suspect child abuse or neglect to report those suspicions to the Texas Department of Family and Protective Services (DFPS) or to a local law enforcement agency within 48 hours. Visit the Tx DFPS Guide for Professionals webpage (<http://www.dfps.state.tx.us/Training/Reporting/default.asp>) for information about these requirements and instructions on how to report. TEA has posted additional information for schools on Child abuse prevention, reporting and training. (<https://tea.texas.gov/texas-schools/health-safety-discipline/child-abuse-prevention/child-abuse-prevention-an-overview>)

#### 9. If a school district wants to report an educator for contract abandonment, what does it need to do?

Under 19 Texas Administrative Code §249.14(j), the school district board of trustees must **1**) render a finding that good cause did not exist under the TEC, §§21.105(c)(2), 21.160(c)(2), or 21.210(c)(2); **2**) submit a written complaint to the TEA staff by mail, fax to 512-463-7545, or email to [contractabandonment@tea.texas.gov](mailto:contractabandonment@tea.texas.gov) (mailto:contractabandonment@tea.texas.gov), within 30 calendar days after the first day that, without district permission, the educator fails to appear for work under the contract; and **3**) include with the written report:

- educator's resignation letter, if any;
- any agreement with the educator regarding the effective date of separation from employment;
- educator's contract; and
- school board meeting minutes indicating a finding of "no good cause." If the board does not meet within 30 calendar days of the educator's separation from employment, the minutes may be submitted within 10 calendar days after the next board meeting.

Unless the school district fulfills all of these requirements, TEA staff will not pursue sanctions against the educator for contract abandonment.

#### Contact Information



# Senate Passes Educator Misconduct Bill

MARCH 23, 2017 • Zach DiSchiano

The Texas Senate unanimously passed Senate Bill 7 (Bettencourt) on Wednesday, March 8, which addresses improper relationships between educators and students. The bill would create criminal liability for superintendents and principals who fail to report any instance of an educator who is terminated when there is evidence that misconduct with a student occurred.

Sen. Paul Bettencourt (R-Houston) said many teachers involved in these situations remain in schools because administrators “pass the trash.” The bill would allow administrators who fail to report to be charged with a Class A misdemeanor or a state jail felony if they intentionally do not report an incident.

The Senate approved an amendment by Sen. Van Taylor (R-Plano) that would revoke state pensions from educators who are found guilty of continuous sexual abuse of a child, an improper relationship between an educator and student, or sexual assault. The amendment does provide for returning pensions to educators who are found to be innocent or whose convictions are overturned. The bill now heads to the House for consideration in committee.

**TAGGED: *CRIMINAL HISTORY***



**HR Services**

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**Educator Ethics**

Educators shall comply with standard practices and ethical conduct toward students, professional colleagues, school officials, parents, and members of the community and shall safeguard academic freedom.

The State Board for Educator Certification (SBEC) shall provide for the adoption, amendment, and enforcement of an educator's code of ethics [see DH(EXHIBIT)]. SBEC is solely responsible for enforcing the ethics code for purposes related to certification disciplinary proceedings.

*Education Code 21.041(b)(8); 19 TAC 17.1(b), (c)*

**Public Servants**

All district employees are "public servants" and therefore subject to Title VIII of the Penal Code, regarding offenses against public administration, including restrictions on the acceptance of illegal gifts, honoraria and expenses, and abuse of office. *Penal Code 1.07(a)(41), Title VIII* [See DBD and BBFA]

**Electronic  
Communication  
Policy**

"Electronic communication" means any communication facilitated by the use of any electronic device, including a telephone, cellular telephone, computer, computer network, personal data assistant, or pager. The term includes emails, text messages, instant messages, and any communications made through a website, including a social media website or a social networking website.

A school district shall adopt a written policy concerning electronic communications between a school employee and a student enrolled in the district.

The policy adopted under this section must:

1. Include provisions designed to prevent improper electronic communications between a school employee and a student;
2. Allow a school employee to elect to not disclose to students the employee's personal telephone number or email address; and
3. Include provisions instructing a school employee about the proper method for notifying appropriate local administrators about an incident in which a student engages in improper communications with the school employee.

*Education Code 38.027*

**Public Information  
on Private Device**

A current or former board member or employee of a district who maintains public information on a privately owned device shall:



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1. Forward or transfer the public information to the district or a district server to be preserved as provided by Government Code 552.004(a); or
2. Preserve the public information in its original form in a backup or archive and on the privately owned device for the time described under 552.004(a).

*Gov't Code 552.004(b) [See GB]*

**Loss of Retirement Annuity for Conviction of Certain Felonies**

A person is not eligible to receive a service retirement annuity from the Teacher Retirement System (TRS) if the person is convicted of a qualifying felony and the victim is a student.

"Qualifying felony" means an offense that is punishable as a felony under the following sections of the Penal Code:

1. Section 21.02 (continuous sexual abuse of young child or disabled individual);
2. Section 21.12 (improper relationship between educator and student); or
3. Section 22.011 (sexual assault) or Section 22.021 (aggravated sexual assault).

The term includes any federal offense that contains elements that are substantially similar to the elements of a felony offense described above.

Not later than the 30th day after the date of a person's conviction for a qualifying felony, the school at which the person was employed shall provide written notice of the conviction to TRS. The notice must comply with rules adopted by TRS.

*Gov't Code 824.009*

**Transportation or Storage of Firearm in School Parking Area**

A district may not prohibit a school employee who holds a license to carry a handgun under Government Code, Chapter 411, Subchapter H, from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district and may not regulate the manner in which the handgun, firearm, or ammunition is stored in the vehicle, provided that the handgun, firearm, or ammunition is not in plain view.

This does not authorize a person to possess, transport, or store a handgun, a firearm, or ammunition in violation of Education Code 37.125, Penal Code 46.03, or other law. [See GKA]

*Education Code 37.0815*

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**Tobacco and  
E-Cigarettes**

A board shall prohibit smoking or using e-cigarettes or tobacco products at a school-related or school-sanctioned activity on or off school property.

Enforcement

A board shall ensure that district personnel enforce the policies on school property.

*Education Code 38.006(b)* [See also FNCD and GKA]

**Drug and Alcohol  
Abuse Program**

A board shall prohibit the use of alcoholic beverages at school-related or school-sanctioned activities on or off school property. *Education Code 38.007(a)*

Federal Drug-Free  
Workplace Act

A district that receives a direct federal grant must agree to provide a drug-free workplace by:

1. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the district's workplace and specifying the actions that will be taken against employees for violations of the prohibition;
2. Establishing a drug-free awareness program to inform employees about:
  - a. The dangers of drug abuse in the workplace;
  - b. The district's policy of maintaining a drug-free workplace;
  - c. Available drug counseling, rehabilitation, and employee assistance programs; and
  - d. The penalties that may be imposed on employees for drug abuse violations;
3. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the required statement;
4. Notifying the employee in the required statement that as a condition of employment in the grant the employee will:
  - a. Abide by the terms of the statement; and
  - b. Notify the district of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after the conviction;
5. Notifying the granting agency within 10 days after receiving notice from an employee or otherwise receiving actual notice of a conviction;

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6. Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is convicted, as required by 41 U.S.C. section 8104; and
7. Making a good faith effort to continue to maintain a drug-free workplace through implementation of the above requirements.

*41 U.S.C. 8103(a)(1)*

**Dietary Supplements**

Except as provided at Education Code 38.011(b), a district employee may not:

1. Knowingly sell, market, or distribute a dietary supplement that contains performance-enhancing compounds to a primary or secondary education student with whom the employee has contact as part of the employee's duties; or
2. Knowingly endorse or suggest the ingestion, intranasal application, or inhalation of a dietary supplement that contains performance-enhancing compounds by a primary or secondary student with whom the employee has contact as part of the employee's duties.

An employee who violates items 1 or 2, above, commits a Class C misdemeanor offense.

*Education Code 38.011*

**Low-THC Cannabis**

A district may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the possession of low-THC cannabis, as authorized by Health and Safety Code Chapter 487. *Health and Safety Code 487.201*

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Each District employee shall perform his or her duties in accordance with state and federal law, District policy, and ethical standards. The District holds all employees accountable to the Educators' Code of Ethics. [See DH(EXHIBIT)]

Each District employee shall recognize and respect the rights of students, parents, other employees, and members of the community and shall work cooperatively with others to serve the best interests of the District.

An employee wishing to express concern, complaints, or criticism shall do so through appropriate channels. [See DGBA]

**Violations of Standards of Conduct**

Each employee shall comply with the standards of conduct set out in this policy and with any other policies, regulations, and guidelines that impose duties, requirements, or standards attendant to his or her status as a District employee. Violation of any policies, regulations, or guidelines, including intentionally making a false claim, offering a false statement, or refusing to cooperate with a District investigation, may result in disciplinary action, including termination of employment. [See DCD and DF series]

**Weapons Prohibited**

The District prohibits the use, possession, or display of any firearm, location-restricted knife, club, or prohibited weapon, as defined at FNCG, on District property at all times.

**Exceptions**

No violation of this policy occurs when:

1. A District employee who holds a Texas handgun license stores a handgun or other firearm in a locked vehicle in a parking lot, parking garage, or other parking area provided by the District, provided the handgun or other firearm is not in plain view; or
2. The use, possession, or display of an otherwise prohibited weapon takes place as part of a District-approved activity supervised by proper authorities. [See FOD]

**Electronic Communication**

**Use with Students**

A certified employee, licensed employee, or any other employee designated in writing by the Superintendent or a campus principal may use electronic communication, as this term is defined by law, with currently enrolled students only about matters within the scope of the employee's professional responsibilities.

Unless an exception has been made in accordance with the employee handbook or other administrative regulations, an employee shall not use a personal electronic communication platform, application, or account to communicate with currently enrolled students.

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Unless authorized above, all other employees are prohibited from using electronic communication directly with students who are currently enrolled in the District. The employee handbook or other administrative regulations shall further detail:

1. Exceptions for family and social relationships;
2. The circumstances under which an employee may use text messaging to communicate with individual students or student groups;
3. Hours of the day during which electronic communication is discouraged or prohibited; and
4. Other matters deemed appropriate by the Superintendent or designee.

In accordance with ethical standards applicable to all District employees [see DH(EXHIBIT)], an employee shall be prohibited from using electronic communications in a manner that constitutes prohibited harassment or abuse of a District student; adversely affects the student's learning, mental health, or safety; includes threats of violence against the student; reveals confidential information about the student; or constitutes an inappropriate communication with a student, as described in the Educators' Code of Ethics.

An employee shall have no expectation of privacy in electronic communications with students. Each employee shall comply with the District's requirements for records retention and destruction to the extent those requirements apply to electronic communication. [See CPC]

**Personal Use**

All employees shall be held to the same professional standards in their public use of electronic communication as for any other public conduct. If an employee's use of electronic communication violates state or federal law or District policy, or interferes with the employee's ability to effectively perform his or her job duties, the employee is subject to disciplinary action, up to and including termination of employment.

**Reporting Improper Communication**

In accordance with administrative regulations, an employee shall notify his or her supervisor when a student engages in improper electronic communication with the employee.

**Disclosing Personal Information**

An employee shall not be required to disclose his or her personal email address or personal phone number to a student.

**Safety Requirements**

Each employee shall adhere to District safety rules and regulations and shall report unsafe conditions or practices to the appropriate supervisor.

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**Harassment or Abuse**

An employee shall not engage in prohibited harassment, including sexual harassment, of:

1. Other employees. [See DIA]
2. Students. [See FFH; see FFG regarding child abuse and neglect.]

While acting in the course of employment, an employee shall not engage in prohibited harassment, including sexual harassment, of other persons, including Board members, vendors, contractors, volunteers, or parents.

An employee shall report child abuse or neglect as required by law. [See FFG]

**Relationships with Students**

An employee shall not form romantic or other inappropriate social relationships with students. Any sexual relationship between a student and a District employee is always prohibited, even if consensual. [See FFH]

As required by law, the District shall notify the parent of a student with whom an educator is alleged to have engaged in certain misconduct. [See FFF]

**Tobacco and E-Cigarettes**

An employee shall not smoke or use tobacco products or e-cigarettes on District property, in District vehicles, or at school-related activities. [See also GKA]

**Alcohol and Drugs / Notice of Drug-Free Workplace**

As a condition of employment, an employee shall abide by the terms of the following drug-free workplace provisions. An employee shall notify the Superintendent in writing if the employee is convicted for a violation of a criminal drug statute occurring in the workplace in accordance with Arrests, Indictments, Convictions, and Other Adjudications, below.

An employee shall not manufacture, distribute, dispense, possess, use, or be under the influence of any of the following substances during working hours while on District property or at school-related activities during or outside of usual working hours:

1. Any controlled substance or dangerous drug as defined by law, including but not limited to marijuana, any narcotic drug, hallucinogen, stimulant, depressant, amphetamine, or barbiturate.
2. Alcohol or any alcoholic beverage.
3. Any abusable glue, aerosol paint, or any other chemical substance for inhalation.

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4. Any other intoxicant or mood-changing, mind-altering, or behavior-altering drug.

An employee need not be legally intoxicated to be considered "under the influence" of a controlled substance.

Exceptions

It shall not be considered a violation of this policy if the employee:

1. Manufactures, possesses, or dispenses a substance listed above as part of the employee's job responsibilities;
2. Uses or possesses a controlled substance or drug authorized by a licensed physician prescribed for the employee's personal use; or
3. Possesses a controlled substance or drug that a licensed physician has prescribed for the employee's child or other individual for whom the employee is legal guardian.

Sanctions

An employee who violates these drug-free workplace provisions shall be subject to disciplinary sanctions. Sanctions may include:

1. Referral to drug and alcohol counseling or rehabilitation programs;
2. Referral to employee assistance programs;
3. Termination from employment with the District; and
4. Referral to appropriate law enforcement officials for prosecution.

Notice

Employees shall receive a copy of this policy.

**Arrests, Indictments,  
Convictions, and  
Other Adjudications**

An employee shall notify his or her principal or immediate supervisor within three calendar days of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of the employee for any felony, any offense involving moral turpitude, and any of the other offenses as indicated below:

1. Crimes involving school property or funds;
2. Crimes involving attempt by fraudulent or unauthorized means to obtain or alter any certificate or permit that would entitle any person to hold or obtain a position as an educator;
3. Crimes that occur wholly or in part on school property or at a school-sponsored activity; or
4. Crimes involving moral turpitude, which include:
  - Dishonesty; fraud; deceit; theft; misrepresentation;

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- Deliberate violence;
- Base, vile, or depraved acts that are intended to arouse or gratify the sexual desire of the actor;
- Felony possession or conspiracy to possess, or any misdemeanor or felony transfer, sale, distribution, or conspiracy to transfer, sell, or distribute any controlled substance defined in Chapter 481 of the Health and Safety Code;
- Felony driving while intoxicated (DWI); or
- Acts constituting abuse or neglect under the Texas Family Code.

**Dress and Grooming** An employee's dress and grooming shall be clean, neat, in a manner appropriate for his or her assignment, and in accordance with any additional standards established by his or her supervisor and approved by the Superintendent.