

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE D. EDUCATORS AND SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS

CHAPTER 22. SCHOOL DISTRICT EMPLOYEES AND VOLUNTEERS

SUBCHAPTER A. RIGHTS, DUTIES, AND BENEFITS

Sec. 22.001. SALARY DEDUCTIONS FOR PROFESSIONAL DUES. (a) A school district employee is entitled to have an amount deducted from the employee's salary for membership fees or dues to a professional organization. The employee must:

(1) file with the district a signed written request identifying the organization and specifying the number of pay periods per year the deductions are to be made; and

(2) inform the district of the total amount of the fees and dues for each year or have the organization notify the district of the amount.

(b) The district shall deduct the total amount of the fees or dues for a year in equal amounts per pay period for the number of periods specified by the employee. The deductions shall be made until the employee requests in writing that the deductions be discontinued.

(c) The school district may charge an administrative fee for making the deduction. A fee imposed for making a salary deduction under this section may not exceed either the actual administrative cost of making the deduction or the lowest fee the district charges for similar salary deductions, whichever is less.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.002. ASSIGNMENT, TRANSFER, OR PLEDGE OF COMPENSATION. (a) In this section, "school employee" means any person employed by a school district in an executive, administrative, or clerical capacity or as a superintendent, principal, teacher, or instructor.

(b) Any school employee's assignment, pledge, or transfer, as security for indebtedness, of any interest in or part of the employee's salary or wages then due or that may become due under an

existing contract of employment is enforceable only:

(1) if, before or at the time of execution, delivery, or acceptance of an assignment, pledge, or transfer, written approval is obtained in accordance with the policy of the employing school district; and

(2) to the extent that the indebtedness it secures is a valid and enforceable obligation.

(c) A school district shall honor an assignment, pledge, or transfer fulfilling the conditions of Subsection (b) without incurring any liability to the school employee executing the assignment, pledge, or transfer. Payment to any assignee, pledgee, or transferee in accordance with the terms of the instrument constitutes payment to or for the account of the assignor, pledgor, or transferor. An assignment, pledge, or transfer is enforceable only to the extent of salary due or that may become due during continuation of the assignor's employment as a school employee.

(d) Venue for any suit against the employer of a school employee to enforce an assignment, pledge, or transfer of salary is in the county where the employing school is located.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.003. MINIMUM PERSONAL LEAVE PROGRAM. (a) A state minimum personal leave program consisting of five days per year personal leave with no limit on accumulation and transferable among districts shall be provided for school district employees. School districts may provide additional personal leave beyond this minimum. The board of trustees of a school district may adopt a policy governing an employee's use of personal leave granted under this subsection, except that the policy may not restrict:

(1) the purposes for which the leave may be used; or

(2) the order in which an employee may use the state minimum personal leave and any additional personal leave provided by the school district.

(b) In addition to all other days of leave provided by this section or by the school district, an employee of a school district who is physically assaulted during the performance of the employee's regular duties is entitled to the number of days of leave

necessary to recuperate from all physical injuries sustained as a result of the assault. At the request of an employee, the school district must immediately assign an employee to assault leave and, on investigation of the claim, may change the assault leave status and charge the leave against the employee's accrued personal leave or against an employee's pay if insufficient accrued personal leave is available. Days of leave taken under this subsection may not be deducted from accrued personal leave. The period provided by this subsection may not extend more than two years beyond the date of the assault. Notwithstanding any other law, assault leave policy benefits due to an employee shall be coordinated with temporary income benefits due from workers' compensation so that the employee's total compensation from temporary income benefits and assault leave policy benefits equals 100 percent of the employee's weekly rate of pay.

(c) For purposes of Subsection (b), an employee of a school district is physically assaulted if the person engaging in the conduct causing injury to the employee:

(1) could be prosecuted for assault; or

(2) could not be prosecuted for assault only because the person's age or mental capacity makes the person a nonresponsible person for purposes of criminal liability.

(c-1) Any informational handbook a school district provides to employees in an electronic or paper form or makes available by posting on the district website must include notification of an employee's rights under Subsection (b) in the relevant section of the handbook. Any form used by a school district through which an employee may request leave under this section must include assault leave under Subsection (b) as an option.

(d) A school district employee with available personal leave under this section is entitled to use the leave for compensation during a term of active military service. This subsection applies to any personal or sick leave available under former law or provided by local policy of a school district, including a home-rule school district.

(e) A school district, including a home-rule school district, may adopt a policy providing for the paid leave of absence

of employees taking leave for active military service as part of the consideration of employment by the district.

(f) A public school employee who retains any sick leave accumulated under former Section 13.904(a), as that section existed on January 1, 1995, is entitled to use the sick leave provided under that section or the personal leave provided under Subsection (a) in any order to the extent that the leave the employee uses is appropriate to the purpose of the leave.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 936, Sec. 1, eff. June 18, 1997; Acts 2001, 77th Leg., ch. 1015, Sec. 1, eff. June 15, 2001; Acts 2003, 78th Leg., ch. 971, Sec. 2, eff. June 20, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 19 (S.B. 522), Sec. 1, eff. May 12, 2009.

Acts 2009, 81st Leg., R.S., Ch. 379 (H.B. 1470), Sec. 1, eff. June 19, 2009.

Sec. 22.004. GROUP HEALTH BENEFITS FOR SCHOOL EMPLOYEES.

(a) A district shall participate in the uniform group coverage program established under Chapter 1579, Insurance Code, as provided by Subchapter D of that chapter.

(b) A district that does not participate in the program described by Subsection (a) shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or under a policy of insurance or group contract issued by an insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization under Chapter 843, Insurance Code. The coverage must meet the substantive coverage requirements of Chapter 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. In this subsection, "major medical treatment" means a medical, surgical, or diagnostic procedure for illness or injury. The coverage may include managed care or preventive care

and must be comparable to the basic health coverage provided under Chapter 1551, Insurance Code. The board of trustees of the Teacher Retirement System of Texas shall adopt rules to determine whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. The rules must provide for consideration of the following factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection:

(1) the deductible amount for service provided inside and outside of the network;

(2) the coinsurance percentages for service provided inside and outside of the network;

(3) the maximum amount of coinsurance payments a covered person is required to pay;

(4) the amount of the copayment for an office visit;

(5) the schedule of benefits and the scope of coverage;

(6) the lifetime maximum benefit amount; and

(7) verification that the coverage is issued by a provider licensed to do business in this state by the Texas Department of Insurance or is provided by a risk pool authorized under Chapter 172, Local Government Code, or that a district is capable of covering the assumed liabilities in the case of coverage provided through district self-insurance.

(c) The cost of the coverage provided under the program described by Subsection (a) shall be paid by the state, the district, and the employees in the manner provided by Subchapter F, Chapter 1579, Insurance Code. The cost of coverage provided under a plan adopted under Subsection (b) shall be shared by the employees and the district using the contributions by the state described by Subchapter F, Chapter 1579, Insurance Code, or Subchapter D.

(d) Each district shall report the district's compliance with this section to the executive director of the Teacher Retirement System of Texas not later than March 1 of each even-numbered year in the manner required by the board of trustees of the Teacher Retirement System of Texas. For a district that

does not participate in the program described by Subsection (a), the report must be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the district and be posted on the district's Internet website if the district maintains a website, must be based on the district group health coverage plan in effect during the current plan year, and must include:

(1) appropriate documentation of:

(A) the district's contract for group health coverage with a provider licensed to do business in this state by the Texas Department of Insurance or a risk pool authorized under Chapter 172, Local Government Code; or

(B) a resolution of the board of trustees of the district authorizing a self-insurance plan for district employees and of the district's review of district ability to cover the liability assumed;

(2) the schedule of benefits;

(3) the premium rate sheet, including the amount paid by the district and employee;

(4) the number of employees covered by the health coverage plan offered by the district;

(5) information concerning the ease of completing the report, as required by the executive director of the Teacher Retirement System of Texas; and

(6) any other information considered appropriate by the executive director of the Teacher Retirement System of Texas.

(e) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 1312, Sec. 99(1), eff. September 1, 2013.

(f) A school district that does not participate in the program described by Subsection (a) may not contract with an insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization to issue a policy or contract under this section, or with any person to assist the school district in obtaining or managing the policy or contract unless, before the contract is entered into, the insurer, company, organization, or person provides the district with an audited financial statement showing the financial condition of the insurer, company,

organization, or person.

(g) An insurer, a company subject to Chapter 842, Insurance Code, or a health maintenance organization that issues a policy or contract under this section and any person that assists the school district in obtaining or managing the policy or contract for compensation shall provide an annual audited financial statement to the school district showing the financial condition of the insurer, company, organization, or person.

(h) An audited financial statement provided under this section must be made in accordance with rules adopted by the commissioner of insurance or with generally accepted accounting principles, as applicable.

(i) Notwithstanding any other provision of this section, a district participating in the uniform group coverage program established under Chapter 1579, Insurance Code, may not make group health coverage available to its employees under this section after the date on which the program of coverages provided under Chapter 1579, Insurance Code, is implemented.

(j) This section does not preclude a district that is participating in the uniform group coverage program established under Chapter 1579, Insurance Code, from entering into contracts to provide optional insurance coverages for the employees of the district.

(k) Notwithstanding any other law, an employee of a district participating in the uniform group coverage program under Subsection (a) or providing group health coverage under Subsection (b) whose resignation is effective after the last day of an instructional year is entitled to participate or be enrolled in the uniform group coverage plan or the group health coverage through the earlier of:

(1) the first anniversary of the date participation in or coverage under the uniform group coverage plan or the group health coverage was first made available to district employees for the last instructional year in which the employee was employed by the district; or

(2) the last calendar day before the first day of the instructional year immediately following the last instructional

year in which the employee was employed by the district.

(1) If an employee's resignation is effective after the last day of an instructional year, the district may not diminish or eliminate the amount of a contribution available to the employee under Chapter 1581, Insurance Code, before the last date on which the employee is entitled to participation or enrollment under Subsection (k).

(m) Notwithstanding any other law, group health benefit coverage provided by or offered through a district to district employees under any law is subject to the requirements of Sections 1501.102-1501.105, Insurance Code. This section applies to all group health benefit coverage provided by or offered through a district to district employees, including:

(1) a standard health benefit plan issued under Chapter 1507, Insurance Code; and

(2) health and accident coverage provided through a risk pool established under Chapter 172, Local Government Code.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 37, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 28, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1187, Sec. 3.18, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 785, Sec. 56, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.511, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 386 (S.B. 1448), Sec. 1, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 728 (H.B. 2018), Sec. 11.108, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.01, eff. September 1, 2005.

Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 4, eff. September 1, 2005.

Acts 2007, 80th Leg., R.S., Ch. 108 (H.B. 973), Sec. 1, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1230 (H.B. 2427), Sec. 14, eff. September 1, 2007.

Acts 2009, 81st Leg., R.S., Ch. 103 (H.B. 1364), Sec. 1, eff.



September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 370 (S.B. 155), Sec. 1, eff. September 1, 2011.

Acts 2013, 83rd Leg., R.S., Ch. 1312 (S.B. 59), Sec. 99(1), eff. September 1, 2013.

Sec. 22.005. HEALTH CARE PLAN AND FUND. (a) The board of trustees of a school district may establish a health care plan for employees of the district and dependents of employees.

(b) In implementing the health care plan, the board shall establish a fund to pay, as authorized under the plan, all or part of the actual costs for hospital, surgical, medical, dental, or related health care incurred by employees of the district or any dependent whose participation in the program is being supported by deductions from the salary of an employee. Under the plan, the fund also may be used to pay the costs of administering the fund. The fund consists of money contributed by the school district and money deducted from salaries of employees for dependent or employee coverage. Money for the fund may not be deducted from the salary of a school district employee unless the employee authorizes the deduction in writing. The plan shall attempt to protect the school district against unanticipated catastrophic individual loss, or unexpectedly large aggregate loss, by securing individual stop-loss coverage, or aggregate stop-loss coverage, or both, from a commercial insurer.

(c) The board may amend or cancel the district's health care plan at any regular or special meeting of the board. If the plan is canceled, any valid claim against the fund for payment of health care costs resulting from illness or injury occurring during the time the plan was in effect shall be paid out of the fund. If the fund is insufficient to pay the claim, the costs shall be paid out of other available school district funds.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.006. DISCRIMINATION BASED ON JURY SERVICE PROHIBITED. (a) A school district may not discharge, discipline, reduce the salary of, or otherwise penalize or discriminate against

a school district employee because of the employee's compliance with a summons to appear as a juror.

(b) For each regularly scheduled workday on which a nonsalaried employee serves in any phase of jury service, a school district shall pay the employee the employee's normal daily compensation.

(c) An employee's accumulated personal leave may not be reduced because of the employee's service in compliance with a summons to appear as a juror.

Added by Acts 1999, 76th Leg., ch. 656, Sec. 1, eff. Aug. 30, 1999.

Sec. 22.007. INCENTIVES FOR EARLY RETIREMENT. A district may not offer or provide a financial or other incentive to an employee of the district to encourage the employee to retire from the Teacher Retirement System of Texas.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 5, eff. September 1, 2005.

Sec. 22.011. REQUIRING OR COERCING EMPLOYEES TO MAKE CHARITABLE CONTRIBUTIONS. (a) A school district board of trustees or school district employee may not directly or indirectly require or coerce any school district employee to:

(1) make a contribution to a charitable organization or in response to a fund-raiser; or

(2) attend a meeting called for the purpose of soliciting charitable contributions.

(b) A school district board of trustees or school district employee may not directly or indirectly require or coerce any school district employee to refrain from:

(1) making a contribution to a charitable organization or in response to a fund-raiser; or

(2) attending a meeting called for the purpose of soliciting charitable contributions.

Added by Acts 2011, 82nd Leg., R.S., Ch. 284 (H.B. 1682), Sec. 1, eff. June 17, 2011.

#### SUBCHAPTER B. CIVIL IMMUNITY

Sec. 22.051. DEFINITION; OTHER IMMUNITY. (a) In this subchapter, "professional employee of a school district" includes:

(1) a superintendent, principal, teacher, including a substitute teacher, supervisor, social worker, school counselor, nurse, and teacher's aide employed by a school district;

(2) a teacher employed by a company that contracts with a school district to provide the teacher's services to the district;

(3) a student in an education preparation program participating in a field experience or internship;

(4) a school bus driver certified in accordance with standards and qualifications adopted by the Department of Public Safety of the State of Texas;

(5) a member of the board of trustees of an independent school district; and

(6) any other person employed by a school district whose employment requires certification and the exercise of discretion.

(b) The statutory immunity provided by this subchapter is in addition to and does not preempt the common law doctrine of official and governmental immunity.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 443 (S.B. 715), Sec. 17, eff. June 14, 2013.

Sec. 22.0511. IMMUNITY FROM LIABILITY. (a) A professional employee of a school district is not personally liable for any act that is incident to or within the scope of the duties of the employee's position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students.

(b) This section does not apply to the operation, use, or

maintenance of any motor vehicle.

(c) In addition to the immunity provided under this section and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended. Nothing in this subsection shall be construed to limit or abridge any immunity or protection afforded an individual under state law. For purposes of this subsection, "individual" includes a person who provides services to private schools, to the extent provided by federal law.

(d) A school district may not by policy, contract, or administrative directive:

(1) require a district employee to waive immunity from liability for an act for which the employee is immune from liability under this section; or

(2) require a district employee who acts in good faith to pay for or replace property belonging to a student or other person that is or was in the possession of the employee because of an act that is incident to or within the scope of the duties of the employee's position of employment.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Renumbered from Sec. 22.051 and amended by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 116 (S.B. 370), Sec. 1, eff. May 17, 2007.

Sec. 22.0512. IMMUNITY FROM DISCIPLINARY PROCEEDINGS FOR PROFESSIONAL EMPLOYEES. (a) A professional employee of a school district may not be subject to disciplinary proceedings for the employee's use of physical force against a student to the extent justified under Section 9.62, Penal Code.

(b) In this section, "disciplinary proceeding" means:

(1) an action brought by the school district employing a professional employee of a school district to discharge or suspend the employee or terminate or not renew the employee's term

contract; or

(2) an action brought by the State Board for Educator Certification to enforce the educator's code of ethics adopted under Section 21.041(b)(8).

(c) This section does not prohibit a school district from:

(1) enforcing a policy relating to corporal punishment; or

(2) notwithstanding Subsection (a), bringing a disciplinary proceeding against a professional employee of the district who violates the district policy relating to corporal punishment.

Added by Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.0513. NOTICE OF CLAIM. (a) Not later than the 90th day before the date a person files a suit against a professional employee of a school district, the person must give written notice to the employee of the claim, reasonably describing the incident from which the claim arose.

(b) A professional employee of a school district against whom a suit is pending who does not receive written notice, as required by Subsection (a), may file a plea in abatement not later than the 30th day after the date the person files an original answer in the court in which the suit is pending.

(c) The court shall abate the suit if the court, after a hearing, finds that the person is entitled to an abatement because notice was not provided as required by this section.

(d) An abatement under Subsection (c) continues until the 90th day after the date that written notice is given to the professional employee of a school district as provided by Subsection (a).

Added by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.0514. EXHAUSTION OF REMEDIES. A person may not file suit against a professional employee of a school district unless the person has exhausted the remedies provided by the school district for resolving the complaint.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.0515. LIMITATION ON DAMAGES. The liability of a professional employee of a school district or of an individual that is entitled to any immunity and other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended, for an act incident to or within the scope of duties of the employee's position of employment may not exceed \$100,000. The limitation on liability provided by this subsection does not apply to any attorney's fees or court costs that may be awarded against the professional employee under Section [22.0517](#).

Added by Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.0516. ALTERNATIVE DISPUTE RESOLUTION. A court in which a judicial proceeding is being brought against a professional employee of a school district may refer the case to an alternative dispute resolution procedure as described by Chapter [154](#), Civil Practice and Remedies Code.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.0517. RECOVERY OF ATTORNEY'S FEES IN ACTION AGAINST PROFESSIONAL EMPLOYEE. In an action against a professional employee of a school district involving an act that is incidental to or within the scope of duties of the employee's position of employment and brought against the employee in the employee's individual capacity, the employee is entitled to recover attorney's fees and court costs from the plaintiff if the employee is found immune from liability under this subchapter.

Added by Acts 2003, 78th Leg., ch. 204, Sec. 15.01, eff. Sept. 1, 2003; Acts 2003, 78th Leg. ch. 1197, Sec. 1, eff. Sept. 1, 2003.

Sec. 22.052. ADMINISTRATION OF MEDICATION BY SCHOOL DISTRICT EMPLOYEES OR VOLUNTEER PROFESSIONALS; IMMUNITY FROM LIABILITY. (a) On the adoption of policies concerning the

administration of medication to students by school district employees, the school district, its board of trustees, and its employees are immune from civil liability from damages or injuries resulting from the administration of medication to a student if:

(1) the school district has received a written request to administer the medication from the parent, legal guardian, or other person having legal control of the student; and

(2) when administering prescription medication, the medication is administered either:

(A) from a container that appears to be:

(i) the original container; and

(ii) properly labeled; or

(B) from a properly labeled unit dosage container filled by a registered nurse or another qualified district employee, as determined by district policy, from a container described by Paragraph (A).

(b) The board of trustees may allow a licensed physician or registered nurse who provides volunteer services to the school district and for whom the district provides liability insurance to administer to a student:

(1) nonprescription medication; or

(2) medication currently prescribed for the student by the student's personal physician.

(c) This section may not be construed as granting immunity from civil liability for injuries resulting from gross negligence. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995. Amended by Acts 2003, 78th Leg., ch. 1197, Sec. 2, eff. Sept. 1, 2003.

Sec. 22.053. SCHOOL DISTRICT VOLUNTEERS. (a) A volunteer who is serving as a direct service volunteer of a school district is immune from civil liability to the same extent as a professional employee of a school district under Section [22.0511](#).

(b) In this section, "volunteer" means a person providing services for or on behalf of a school district, on the premises of the district or at a school-sponsored or school-related activity on or off school property, who does not receive compensation in excess

of reimbursement for expenses.

(c) This section does not limit the liability of a person for intentional misconduct or gross negligence.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2003, 78th Leg., ch. 204, Sec. 15.02, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1197, Sec. 3, eff. Sept. 1, 2003.

Sec. 22.054. LIABILITY OF CERTAIN INSTITUTIONS OF HIGHER EDUCATION. (a) A private or independent institution of higher education is not liable for damages arising from an act or omission of a person associated with the institution, including an employee or student, arising in the course and scope of that person's activities as a volunteer in a primary or secondary school.

(b) A school district may agree to provide or pay for attorney services for the defense of a private or independent institution of higher education if:

(1) the institution is assisting in the provision of volunteer services to primary or secondary schools in the district;

(2) a claim for damages is brought against the institution in relation to those services; and

(3) the board of trustees of the school district reasonably believes that the institution is not liable for the claim under Subsection (a).

(c) In this section:

(1) "Private or independent institution of higher education" has the meaning assigned by Section [61.003](#).

(2) "Volunteer" means a person rendering services for or on behalf of a public school who does not receive compensation from the district in excess of reimbursement for expenses. The person may receive compensation from a person other than the district.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.055. FRIVOLOUS SUIT AGAINST EMPLOYEE. A court may award costs and reasonable attorney's fees to a school district employee acting under color of employment to the same extent that a court may award costs and attorney's fees to a school district or



school district officer under Section 11.161.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

#### SUBCHAPTER C. CRIMINAL HISTORY RECORDS

Sec. 22.081. DEFINITIONS. In this subchapter:

(1) "Department" means the Department of Public Safety.

(2) "National criminal history record information" means criminal history record information obtained from the department under Subchapter F, Chapter 411, Government Code, and from the Federal Bureau of Investigation under Section 411.087, Government Code.

(3) "Private school" means a school that:

(A) offers a course of instruction for students in one or more grades from prekindergarten through grade 12; and

(B) is not operated by a governmental entity.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 6, eff. June 15, 2007.

Sec. 22.082. ACCESS TO CRIMINAL HISTORY RECORDS BY STATE BOARD FOR EDUCATOR CERTIFICATION. The State Board for Educator Certification shall subscribe to the criminal history clearinghouse as provided by Section 411.0845, Government Code, and may obtain from any law enforcement or criminal justice agency all criminal history record information and all records contained in any closed criminal investigation file that relate to a specific applicant for or holder of a certificate issued under Subchapter B, Chapter 21.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 6, eff. June 15, 2007.

Sec. 22.083. ACCESS TO CRIMINAL HISTORY RECORDS OF

EMPLOYEES BY LOCAL AND REGIONAL EDUCATION AUTHORITIES. (a) A school district, open-enrollment charter school, or shared services arrangement shall obtain criminal history record information that relates to a person who is not subject to a national criminal history record information review under this subchapter and who is an employee of:

(1) the district or school; or

(2) a shared services arrangement, if the employee's duties are performed on school property or at another location where students are regularly present.

(a-1) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information from:

(1) the department;

(2) a law enforcement or criminal justice agency; or

(3) a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.).

(a-2) A shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who is not subject to Subsection (a) and whom the shared services arrangement intends to employ in any capacity.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person whom the school or service center intends to employ in any capacity; or

(2) an employee of or applicant for employment by a person that contracts with the school or service center to provide services, if:

(A) the employee or applicant has or will have continuing duties related to the contracted services; and

(B) the employee or applicant has or will have direct contact with students.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1372, Sec. 27, eff. June 15, 2007.

(d) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1372, Sec. 27, eff. June 15, 2007.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 20, eff. Sept. 1, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 7, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 8, eff. June 15, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 27, eff. June 15, 2007.

Sec. 22.0831. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTIFIED EDUCATORS. (a) In this section, "board" means the State Board for Educator Certification.

(b) This section applies to a person who is an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who is employed by or is an applicant for employment by a school district, open-enrollment charter school, or shared services arrangement.

(c) The board shall review the national criminal history record information of a person who has not previously submitted fingerprints to the department or been subject to a national criminal history record information review.

(d) The board shall place an educator's certificate on inactive status for failure to comply with a deadline for submitting information required under this section.

(e) The board may allow a person who is applying for a certificate under Subchapter B, Chapter 21, and who currently resides in another state to submit the person's fingerprints and other required information in a manner that does not impose an undue hardship on the person.

(f) The board may propose rules to implement this section, including rules establishing:

(1) deadlines for a person to submit fingerprints and photographs in compliance with this section; and

(2) sanctions for a person's failure to comply with the requirements of this section, including suspension or revocation of a certificate or refusal to issue a certificate.

(g) Expired.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.0832. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN OPEN-ENROLLMENT CHARTER SCHOOL EMPLOYEES. (a) The agency shall review the national criminal history record information of an employee of an open-enrollment charter school to whom Section 12.1059 applies in the same manner as the State Board for Educator Certification reviews certified educators under Section 22.0831. If the agency determines that, based on information contained in an employee's criminal history record information, the employee would not be eligible for educator certification under Subchapter B, Chapter 21, the agency shall notify the open-enrollment charter school in writing that the person may not be employed by the school or serve in a capacity described by Section 12.1059.

(b) An open-enrollment charter school must provide the agency with any information requested by the agency to enable the agency to complete a review under Subsection (a). Failure of an open-enrollment charter school to provide information under this subsection is a material violation of the school's charter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.0833. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF NONCERTIFIED EMPLOYEES. (a) This section applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by:

(1) a school district or open-enrollment charter school; or

(2) a shared services arrangement, if the employee's or applicant's duties are or will be performed on school property or

at another location where students are regularly present.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by Subsection (a).

(c) Before or immediately after employing or securing the services of a person to whom this section applies, a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section [411.0845](#), Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section [411.0845](#), Government Code, and shall subscribe to the criminal history record information of the person.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section [411.0845](#), Government Code. The agency shall examine the criminal history record information of the person and notify the district, school, or shared services arrangement if the person may not be hired or must be discharged as provided by Section [22.085](#).

(h) The agency, the State Board for Educator Certification, school districts, open-enrollment charter schools, and shared

services arrangements may coordinate as necessary to ensure that criminal history reviews authorized or required under this subchapter are not unnecessarily duplicated.

(i) The department in coordination with the commissioner may adopt rules necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.0834. CRIMINAL HISTORY RECORD INFORMATION REVIEW OF CERTAIN CONTRACT EMPLOYEES. (a) This subsection applies to a person who is not an applicant for or holder of a certificate under Subchapter B, Chapter 21, and who on or after January 1, 2008, is offered employment by an entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services, if:

(1) the employee or applicant has or will have continuing duties related to the contracted services; and

(2) the employee or applicant has or will have direct contact with students.

(b) A person to whom Subsection (a) applies must submit to a national criminal history record information review under this section before being employed or serving in a capacity described by that subsection.

(c) Before or immediately after employing or securing the services of a person to whom Subsection (a) applies, the entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall send or ensure that the person sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs. The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(d) An entity contracting with a school district, open-enrollment charter school, or shared services arrangement shall obtain all criminal history record information that relates

to a person to whom Subsection (a) applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The entity shall certify to the school district that the entity has received all criminal history record information relating to a person to whom Subsection (a) applies.

(e) A school district, open-enrollment charter school, or shared services arrangement may obtain the criminal history record information of a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) In the event of an emergency, a school district may allow a person to whom Subsection (a) or (g) applies to enter school district property if the person is accompanied by a district employee. A school district may adopt rules regarding an emergency situation under this subsection.

(g) An entity that contracts with a school district, open-enrollment charter school, or shared services arrangement to provide services shall obtain from any law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to an employee of the entity who is employed before January 1, 2008, and who is not subject to a national criminal history record information review under Subsection (b) if:

(1) the employee has continuing duties related to the contracted services; and

(2) the employee has direct contact with students.

(h) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (g) applies.

(i) An entity shall certify to a school district that it has received all criminal history record information required by Subsection (g).

(j) The commissioner may adopt rules as necessary to implement this section.

(k) The requirements of this section apply to an entity that

contracts directly with a school district, open-enrollment charter school, or shared services arrangement and any subcontractor of the entity.

(l) A contracting entity shall require that a subcontracting entity obtain all criminal history record information that relates to an employee to whom Subsection (a) applies. If a contracting or subcontracting entity determines that Subsection (a) does not apply to an employee, the contracting or subcontracting entity shall make a reasonable effort to ensure that the conditions or precautions that resulted in the determination that Subsection (a) did not apply to the employee continue to exist throughout the time that the contracted services are provided.

(m) A contracting entity complies with the requirements of this section if the contracting entity obtains a written statement from each subcontracting entity certifying that the subcontracting entity has obtained the required criminal history record information for employees of the subcontracting entity and the subcontracting entity has obtained certification from each of the subcontracting entity's subcontractors.

(n) A subcontracting entity must certify to the school district, open-enrollment charter school, or shared services arrangement and the contracting entity that the subcontracting entity has obtained all criminal history record information that relates to an employee to whom Subsection (a) applies and has obtained similar written certifications from the subcontracting entity's subcontractors.

(o) A contracting or subcontracting entity may not permit an employee to whom Subsection (a) applies to provide services at a school if the employee has been convicted of a felony or misdemeanor offense that would prevent a person from being employed under Section 22.085(a).

(p) In this section:

(1) "Contracting entity" means an entity that contracts directly with a school district, open-enrollment charter school, or shared services arrangement to provide services to the school district, open-enrollment charter school, or shared



services arrangement.

(2) "Subcontracting entity" means an entity that contracts with another entity that is not a school district, open-enrollment charter school, or shared services arrangement to provide services to a school district, open-enrollment charter school, or shared services arrangement.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 6.11, eff. September 1, 2009.

Acts 2011, 82nd Leg., R.S., Ch. 649 (S.B. 1042), Sec. 1, eff. June 17, 2011.

Acts 2011, 82nd Leg., R.S., Ch. 696 (H.B. 398), Sec. 1, eff. June 17, 2011.

Sec. 22.0835. ACCESS TO CRIMINAL HISTORY RECORDS OF STUDENT TEACHERS AND VOLUNTEERS BY LOCAL AND REGIONAL EDUCATION AUTHORITIES. (a) A school district, open-enrollment charter school, or shared services arrangement shall obtain from the department and may obtain from any other law enforcement or criminal justice agency or a private entity that is a consumer reporting agency governed by the Fair Credit Reporting Act (15 U.S.C. Section 1681 et seq.), all criminal history record information that relates to:

(1) a person participating in an internship consisting of student teaching to receive a teaching certificate; or

(2) a volunteer or person who has indicated, in writing, an intention to serve as a volunteer with the district, school, or shared services arrangement.

(b) A private school or regional education service center may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person who volunteers or has indicated, in writing, an intention to serve as a volunteer with the school or service center.

(c) A person to whom Subsection (a) or (b) applies must provide to the school district, open-enrollment charter school,

private school, regional education service center, or shared services arrangement a driver's license or another form of identification containing the person's photograph issued by an entity of the United States government.

(d) A person to whom Subsection (a) applies may not perform any student teaching or volunteer duties until all requirements under Subsections (a) and (c) have been satisfied.

(e) Subsections (a) and (c) do not apply to a person who volunteers or is applying to volunteer with a school district, open-enrollment charter school, or shared services arrangement if the person:

(1) is the parent, guardian, or grandparent of a child who is enrolled in the district or school for which the person volunteers or is applying to volunteer;

(2) will be accompanied by a school district employee while on a school campus; or

(3) is volunteering for a single event on the school campus.

(f) A school district, open-enrollment charter school, or shared services arrangement may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to a person to whom Subsection (e) applies.

(g) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may require a student teacher, volunteer, or volunteer applicant to pay any costs related to obtaining criminal history record information under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.0836. NATIONAL CRIMINAL HISTORY RECORD INFORMATION REVIEW OF SUBSTITUTE TEACHERS. (a) This section applies to a person who is a substitute teacher for a school district, open-enrollment charter school, or shared services arrangement.

(b) A person to whom this section applies must submit to a national criminal history record information review under this section.

(c) A school district, open-enrollment charter school, or shared services arrangement shall send or ensure that a person to whom this section applies sends to the department information that is required by the department for obtaining national criminal history record information, which may include fingerprints and photographs.

(d) The department shall obtain the person's national criminal history record information and report the results through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(e) Each school district, open-enrollment charter school, and shared services arrangement shall obtain all criminal history record information that relates to a person to whom this section applies through the criminal history clearinghouse as provided by Section 411.0845, Government Code.

(f) The school district, open-enrollment charter school, or shared services arrangement may require a person to pay any fees related to obtaining criminal history record information under this section.

(g) A school district, open-enrollment charter school, or shared services arrangement shall provide the agency with the name of a person to whom this section applies. The agency shall obtain all criminal history record information of the person through the criminal history clearinghouse as provided by Section 411.0845, Government Code. The agency shall examine the criminal history record information and certification records of the person and notify the district, school, or shared services arrangement if the person:

(1) may not be hired or must be discharged as provided by Section 22.085; or

(2) may not be employed as a substitute teacher because the person's educator certification has been revoked or is suspended.

(h) The commissioner may adopt rules to implement this section, including rules establishing deadlines for a school district, open-enrollment charter school, or shared services arrangement to require a person to whom this section applies to

submit fingerprints and photographs in compliance with this section and the circumstances under which a person may not continue to be employed as a substitute teacher.

(i) Expired.

(j) The department in coordination with the commissioner may adopt rules necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.0837. FEE FOR NATIONAL CRIMINAL HISTORY RECORD INFORMATION. The agency by rule shall require a person submitting to a national criminal history record information review under Section 22.0832, 22.0833, or 22.0836 to pay a fee for the review in an amount not to exceed the amount of any fee imposed on an applicant for certification under Subchapter B, Chapter 21, for a national criminal history record information review under Section 22.0831. The agency or the department may require an entity authorized to collect information for a national criminal history record information review to collect the fee required under this section and to remit the funds collected to the agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 9, eff. June 15, 2007.

Sec. 22.08391. CONFIDENTIALITY OF INFORMATION. (a) Information collected about a person to comply with this subchapter, including the person's name, address, phone number, social security number, driver's license number, other identification number, and fingerprint records:

(1) may not be released except:

(A) to comply with this subchapter;

(B) by court order; or

(C) with the consent of the person who is the subject of the information;

(2) is not subject to disclosure as provided by Chapter 552, Government Code; and

(3) shall be destroyed by the requestor or any subsequent holder of the information not later than the first

anniversary of the date the information is received.

(b) Any criminal history record information received by the State Board for Educator Certification as provided by this subchapter is subject to Section 411.090(b), Government Code.

(c) Any criminal history record information received by the agency as provided by this subchapter is subject to Section 411.0901(b), Government Code.

(d) Any criminal history record information received by a school district, charter school, private school, regional education service center, commercial transportation company, or education shared services arrangement or an entity that contracts to provide services to a school district, charter school, or shared services arrangement as provided by this subchapter is subject to Section 411.097(d), Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1146 (H.B. 2730), Sec. 9A.05, eff. September 1, 2009.

Sec. 22.084. ACCESS TO CRIMINAL HISTORY RECORDS OF SCHOOL BUS DRIVERS, BUS MONITORS, AND BUS AIDES. (a) Except as provided by Subsections (c) and (d), a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement that contracts with a person for transportation services shall obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person employed by the person as a bus driver;  
or

(2) a person the person intends to employ as a bus driver.

(b) Except as provided by Subsections (c) and (d), a person that contracts with a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to provide transportation services shall submit to the district, school, service center, or shared services arrangement the name and other identification data required to obtain criminal history record information of each person described by Subsection (a). If the district, school,

service center, or shared services arrangement obtains information that a person described by Subsection (a) has been convicted of a felony or a misdemeanor involving moral turpitude, the district, school, service center, or shared services arrangement shall inform the chief personnel officer of the person with whom the district, school, service center, or shared services arrangement has contracted, and the person may not employ that person to drive a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement.

(c) A commercial transportation company that contracts with a school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement to provide transportation services may obtain from any law enforcement or criminal justice agency all criminal history record information that relates to:

(1) a person employed by the commercial transportation company as a bus driver, bus monitor, or bus aide; or

(2) a person the commercial transportation company intends to employ as a bus driver, bus monitor, or bus aide.

(d) If the commercial transportation company obtains information that a person employed or to be employed by the company has been convicted of a felony or a misdemeanor involving moral turpitude, the company may not employ that person to drive or to serve as a bus monitor or bus aide on a bus on which students are transported without the permission of the board of trustees of the district or service center, the governing body of the open-enrollment charter school, or the chief executive officer of the private school or shared services arrangement. Subsections (a) and (b) do not apply if information is obtained as provided by Subsection (c).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.  
Amended by Acts 1997, 75th Leg., ch. 1438, Sec. 1, eff. Sept. 1, 1997.

Sec. 22.085. EMPLOYEES AND APPLICANTS CONVICTED OF CERTAIN

OFFENSES. (a) A school district, open-enrollment charter school, or shared services arrangement shall discharge or refuse to hire an employee or applicant for employment if the district, school, or shared services arrangement obtains information through a criminal history record information review that:

(1) the employee or applicant has been convicted of:

(A) a felony offense under Title 5, Penal Code;

(B) an offense on conviction of which a defendant is required to register as a sex offender under Chapter 62, Code of Criminal Procedure; or

(C) an offense under the laws of another state or federal law that is equivalent to an offense under Paragraph (A) or (B); and

(2) at the time the offense occurred, the victim of the offense described by Subdivision (1) was under 18 years of age or was enrolled in a public school.

(b) Subsection (a) does not apply if the employee or applicant for employment committed an offense under Title 5, Penal Code and:

(1) the date of the offense is more than 30 years before:

(A) the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007, in the case of a person employed by a school district, open-enrollment charter school, or shared services arrangement as of that date; or

(B) the date the person's employment will begin, in the case of a person applying for employment with a school district, open-enrollment charter school, or shared services arrangement after the effective date of S.B. No. 9, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the employee or applicant for employment satisfied all terms of the court order entered on conviction.

(c) A school district, open-enrollment charter school, or shared services arrangement may not allow a person who is an employee of or applicant for employment by an entity that contracts with the district, school, or shared services arrangement to serve at the district or school or for the shared services arrangement if

the district, school, or shared services arrangement obtains information described by Subsection (a) through a criminal history record information review concerning the employee or applicant. A school district, open-enrollment charter school, or shared services arrangement must ensure that an entity that the district, school, or shared services arrangement contracts with for services has obtained all criminal history record information as required by Section 22.0834.

(d) A school district, open-enrollment charter school, private school, regional education service center, or shared services arrangement may discharge an employee if the district or school obtains information of the employee's conviction of a felony or of a misdemeanor involving moral turpitude that the employee did not disclose to the State Board for Educator Certification or the district, school, service center, or shared services arrangement. An employee discharged under this section is considered to have been discharged for misconduct for purposes of Section 207.044, Labor Code.

(e) The State Board for Educator Certification may impose a sanction on an educator who does not discharge an employee or refuse to hire an applicant if the educator knows or should have known, through a criminal history record information review, that the employee or applicant has been convicted of an offense described by Subsection (a).

(f) Each school year, the superintendent of a school district or chief operating officer of an open-enrollment charter school shall certify to the commissioner that the district or school has complied with this section.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 10, eff. June 15, 2007.

Sec. 22.086. LIABILITY FOR REPORTING OFFENSES. The State Board for Educator Certification, a school district, an open-enrollment charter school, a private school, a regional education service center, a shared services arrangement, or an



employee of the board, district, school, service center, or shared services arrangement is not civilly or criminally liable for making a report required under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.087. NOTIFICATION TO STATE BOARD FOR EDUCATOR CERTIFICATION. The superintendent of a school district or the director of an open-enrollment charter school, private school, regional education service center, or shared services arrangement shall promptly notify the State Board for Educator Certification in writing if:

(1) the person obtains or has knowledge of information showing that an applicant for or holder of a certificate issued under Subchapter B, Chapter 21, has a reported criminal history; and

(2) the person obtained the information by a means other than the criminal history clearinghouse established under Section 411.0845, Government Code.

Added by Acts 2007, 80th Leg., R.S., Ch. 1372 (S.B. 9), Sec. 11, eff. June 15, 2007.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 1043 (H.B. 1783), Sec. 3, eff. September 1, 2015.

#### SUBCHAPTER D. HEALTH CARE SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. In this subchapter:

(1) "Cafeteria plan" means a plan as defined and authorized by Section 125, Internal Revenue Code of 1986.

(2) "Employee" means an active, contributing member of the Teacher Retirement System of Texas who:

(A) is employed by a district, other educational district whose employees are members of the Teacher Retirement System of Texas, participating charter school, or regional education service center;

(B) is not a retiree eligible for coverage under the program established under Chapter 1575, Insurance Code;

(C) is not eligible for coverage by a group insurance program under Chapter 1551 or 1601, Insurance Code; and

(D) is not an individual performing personal services for a district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, or regional education service center as an independent contractor.

(3) "Participating charter school" means an open-enrollment charter school established under Subchapter D, Chapter 12, that participates in the program established under Chapter 1579, Insurance Code.

(4) "Regional education service center" means a regional education service center established under Chapter 8.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY. (a) The agency may adopt rules to implement this subchapter.

(b) The agency may enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.103. DESIGNATION OF COMPENSATION AS HEALTH CARE SUPPLEMENTATION. (a) An employee of a school district, other educational district that is a member of the Teacher Retirement System of Texas, participating charter school, or regional education service center may elect to designate a portion of the

employee's compensation to be used as health care supplementation under this subchapter.

(b) The amount designated under this section may not exceed the amount permitted under applicable federal law.

(c) This section does not apply to an employee who is not covered by a cafeteria plan or who is not eligible to pay health care premiums through a premium conversion plan.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.104. FUNDS HELD IN TRUST. All funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.105. WRITTEN ELECTION REQUIRED. Each school year, an active employee must elect in writing whether to designate a portion of the employee's compensation to be used as health care supplementation under this subchapter. An election under this section must be made at the same time at which the employee elects to participate in a cafeteria plan, if applicable.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B.

1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.106. USE OF DESIGNATED COMPENSATION. An employee may use compensation designated for health care supplementation under this subchapter for any employee benefit, including depositing the designated amount into a cafeteria plan in which the employee is enrolled or using the designated amount for health care premiums through a premium conversion plan.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

Sec. 22.107. WAGE INCREASE FOR SUPPORT STAFF. (a) A school district shall pay each full-time district employee, other than an administrator or an employee subject to the minimum salary schedule under Section 21.402, an amount at least equal to \$500.

(b) A school district shall pay each part-time district employee, other than an administrator, an amount at least equal to \$250.

(c) A school district employee entitled to a wage increase under this section may elect to receive a portion of the person's annual wages as health care supplementation as provided by this subchapter.

(d) A payment under this section is in addition to wages the district would otherwise pay the employee during the school year.

Added by Acts 2005, 79th Leg., Ch. 899 (S.B. 1863), Sec. 18.02, eff. September 1, 2005.

Added by Acts 2005, 79th Leg., Ch. 1359 (S.B. 1691), Sec. 6, eff. September 1, 2005.

Reenacted and amended by Acts 2006, 79th Leg., 3rd C.S., Ch. 5 (H.B. 1), Sec. 4.09, eff. May 31, 2006.

#### SUBCHAPTER Z. MISCELLANEOUS PROVISIONS

Sec. 22.901. UNLAWFUL INQUIRY INTO RELIGIOUS AFFILIATION.

(a) A person employed or maintained to obtain or aid in obtaining positions for public school employees may not directly or indirectly ask about, orally or in writing, the religion or religious affiliation of anyone applying for employment in the public schools of this state.

(b) A person who violates Subsection (a) is subject to a civil penalty of not less than \$100 nor more than \$500. The aggrieved applicant or the applicant's assignee may bring suit for imposition of the civil penalty in the county of plaintiff's or defendant's residence.

(c) A person who violates Subsection (a) commits an offense. An offense under this subsection is a Class B misdemeanor.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 22.902. INSTRUCTION RELATED TO CARDIOPULMONARY RESUSCITATION AND USE OF AUTOMATED EXTERNAL DEFIBRILLATOR. (a) A school district shall annually make available to district employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator, as defined by Section [779.001](#), Health and Safety Code.

(b) The instruction provided in the use of an automated external defibrillator must meet guidelines for automated external defibrillator training approved under Section [779.002](#), Health and Safety Code.

(c) Each school nurse, assistant school nurse, athletic coach or sponsor, physical education instructor, marching band director, cheerleading coach, and any other school employee specified by the commissioner and each student who serves as an athletic trainer must participate in the instruction in the use of an automated external defibrillator. A person described by this subsection must receive and maintain certification in the use of an automated external defibrillator from the American Heart Association, the American Red Cross, or a similar nationally recognized association.

(d) The commissioner shall adopt rules as necessary to

implement this section.

(e) This subsection applies only to a private school that receives an automated external defibrillator from the agency or receives funding from the agency to purchase or lease an automated external defibrillator. A private school shall adopt a policy under which the school makes available to school employees and volunteers instruction in the principles and techniques of cardiopulmonary resuscitation and the use of an automated external defibrillator. The policy must comply with the requirements prescribed by this section and commissioner rules adopted under this section, including the requirements prescribed by Subsection (c).

Added by Acts 2007, 80th Leg., R.S., Ch. 1371 (S.B. 7), Sec. 3, eff. June 15, 2007.