

PERSONNEL POSITIONS

DP
(LEGAL)

Principal

Qualifications

A board, by local policy, shall adopt qualifications for principals. *Education Code 11.202(c)*

Certification

State Board for Educator Certification (SBEC) rules establish the requirements for receiving a principal certificate and for first-time principals in Texas. *19 TAC Ch. 241*

Duties

The principal shall be the instructional leader of the school and shall be provided with adequate training and personnel assistance to assume that role. *Education Code 11.202(a)*

A principal shall:

1. Approve all teacher and staff appointments for the campus. [See DK]
2. Set specific education objectives for the campus, through the planning process.
3. Develop budgets for the campus.
4. Assume administrative responsibility and instructional leadership, under the supervision of the superintendent, for discipline at the campus.
5. Assign, evaluate, and promote all personnel assigned to the campus.
6. Recommend to the superintendent the termination, suspension, or nonrenewal of an employee assigned to the campus.
7. Perform any other duties assigned by the superintendent pursuant to board policy.
8. Regularly consult with the campus-level committee in the planning, operation, supervision, and evaluation of the campus educational program. [See BQ series]
9. Each school year, with the assistance of the campus-level committee, develop, review, and revise the campus improvement plan. [See BQ]
10. For high school principals, serve, or appoint someone to serve, as deputy voter registrar for the county in which the school is located. *Election Code 13.046; 1 TAC 81.7*

Education Code 11.202(b), .253(c), (h) [See also DMA]

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Principal's Report to Superintendent	A principal must notify the superintendent not later than the seventh business day after the date:
<i>Educators</i>	<ol style="list-style-type: none">1. Of an educator's termination of employment or resignation following an alleged incident of misconduct under Education Code 21.006(b); or2. The principal knew about an educator's criminal record under Education Code 21.006(b)(1). <p><i>Education Code 21.006(b-2); 19 TAC 249.14(e)</i> [See Required Reports at DHB(LEGAL)]</p>
<i>Noncertified Employees</i>	A principal must notify the superintendent not later than the seventh business day after the date of a noncertified employee's termination or resignation following allegations that the employee: <ol style="list-style-type: none">1. Abused or otherwise committed an unlawful act with a student or minor; or2. Was involved in a romantic relationship with or solicited or engaged in sexual contact with a student or minor. <p><i>Education Code 22.093(e)</i> [See Principal Notification at DHC(LEGAL)]</p>
<i>Sanctions and Administrative Penalty</i>	SBEC determines whether to impose sanctions, including an administrative penalty, against a principal who fails to provide notification to a superintendent. <i>Education Code 21.006(f), 22.093(i); 19 TAC 249.14(e), (h)</i> If a principal is required to notify a superintendent about an educator's criminal record or alleged incident of misconduct and fails to provide the notice by the required date, SBEC may impose an administrative penalty of not less than \$500 and not more than \$10,000. SBEC may not renew the certification of an educator against whom an administrative penalty is imposed until the penalty is paid. <i>Education Code 21.006 (i)</i>
<i>Criminal Offense</i>	A principal required to notify a superintendent about an employee's criminal record or alleged incident of misconduct commits a state jail felony if the principal fails to provide the notice by the required date with intent to conceal an educator's criminal record or alleged incident of misconduct. <i>Education Code 21.006(j), 22.093(k)</i>
School Nurse Minimum Salary Schedule	For purposes of the minimum salary schedule, a school nurse is an educator employed to provide full-time nursing and health-care services and who meets all the requirements to practice as a registered nurse (RN) pursuant to the Nursing Practice Act and the rules and regulations relating to professional nurse education, licensure,

and practice and has been issued a license to practice professional nursing in Texas. *19 TAC 153.1022(a)(1)(D)*

Licensed Vocational Nurse

The practice of vocational nursing must be performed under the supervision of an RN, physician, physician assistant, podiatrist, or dentist. *Occupations Code 301.353*

Supervision is the process of directing, guiding, and influencing the outcome of an individual's performance of an activity. *22 TAC 217.11(2)*

Nursing Peer Review Committee

"Nursing peer review committee" includes a committee established under the authority of the governing body of a political subdivision for the purpose of conducting peer review.

A person shall establish a nursing peer review committee to conduct nursing peer review under Occupations Code Chapter 303 and Chapter 301:

1. For vocational nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses; and
2. For professional nurses, if the person regularly employs, hires, or contracts for the services of eight or more nurses, at least four of whom are RNs.

A person required to establish a nursing peer review committee under this section may contract with another entity to conduct peer review for the person.

Occupations Code 303.001(4), .0015

Note: Education Code 33.002 regarding certified school counselors applies only to school districts that apply for, receive, and allocate funds under Education Code 33.002(a).

Certified School Counselor

A district with 500 or more students enrolled in elementary school grades shall employ a certified school counselor for each elementary school and at least one school counselor for each 500 elementary school students [see DBA].

A district with fewer than 500 students enrolled in elementary school grades shall provide guidance and counseling services to elementary school students by any of the following methods:

1. Employing a part-time certified school counselor.
2. Employing a part-time teacher who is also certified as a school counselor.

3. Entering into a shared services agreement with one or more other districts to share a certified school counselor.

Education Code 33.002

Note: Education Code 33.006 applies to all districts that employ school counselors.

School Counselor
Duties

The primary responsibility of a school counselor is to counsel students to fully develop each student's academic, career, personal, and social abilities. In addition, a school counselor shall:

1. Participate in planning, implementing, and evaluating a comprehensive developmental guidance program to serve all students and to address the special needs of students who are:
 - a. At risk of dropping out of school, becoming substance abusers, participating in gang activity, or committing suicide;
 - b. In need of modified instructional strategies; or
 - c. Gifted and talented, with emphasis on identifying and serving gifted and talented students who are educationally disadvantaged;
2. Consult with students' parents or guardians and make referrals as appropriate in consultation with parents or guardians;
3. Consult with school staff, parents, and other community members to help them increase the effectiveness of students' education and promote student success;
4. Coordinate people and resources in the school, home, and community;
5. With the assistance of school staff, interpret standardized test results and other assessment data that help a student make educational and career plans;
6. Deliver classroom guidance activities or serve as a consultant to teachers conducting lessons based on the school's guidance curriculum; and
7. Serve as an impartial, non-reporting resource for interpersonal conflicts and discord involving two or more students, including accusations of bullying under Education Code 37.0832.

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Nothing in item 7, above, exempts a school counselor from any mandatory reporting requirements imposed by other provisions of law.

School Counselor
Policy

A board shall adopt a policy that requires a school counselor to spend at least 80 percent of the school counselor's total work time on duties that are components of the district's comprehensive school counseling program under Education Code 33.005. [See FFEA] Time spent in administering assessment instruments or providing other assistance in connection with assessment instruments, except time spent in interpreting data from assessment instruments, is not considered time spent on counseling.

Each school in the district shall implement the policy. A copy of the policy shall be maintained in the office of each school in the district and made available on request during regular school hours to district employees, parents of district students, and the public.

Exception

If a board determines that, because of staffing needs in the district or at a school in the district, a school counselor must spend less than 80 percent of the school counselor's total work time on duties that are components of the district's comprehensive school counseling program, the policy shall:

1. Include the reasons why the counselor needs to spend less than 80 percent of the counselor's work time on duties that are components of the counseling program;
2. List the duties the counselor is expected to perform that are not components of the counseling program; and
3. Set the percentage of work time that the counselor is required to spend on components of the counseling program.

*Counselor
Contracts*

A district may not include a provision in an employment contract with a school counselor under Education Code Chapter 21 that conflicts with the policy or, except as provided below, has the effect of authorizing a school principal or school district superintendent to require a school counselor to generally perform duties that are not primarily related to a counseling function.

A district that complies with the exception above may not include a provision in an employment contract under Education Code Chapter 21 with an affected school counselor that has the effect of requiring the counselor to generally perform a duty that is not primarily related to a counseling function unless the duty is specified in the district's policy as required above.

*Annual
Assessment*

A district shall annually assess its compliance with its school counselor policy and, on request by the commissioner, provide a written

copy of the assessment to the Texas Education Agency (TEA) on or before the date specified by the commissioner.

Education Code 33.006

Nonphysician Mental Health Professional

A school district may employ or contract with one or more nonphysician mental health professionals.

In this section, "nonphysician mental health professional" means:

1. A psychologist licensed to practice in this state and designated as a health-service provider;
2. An RN with a master's or doctoral degree in psychiatric nursing;
3. A licensed clinical social worker;
4. A professional counselor licensed to practice in this state; or
5. A marriage and family therapist licensed to practice in this state.

Education Code 38.0101

Note: For information about mental health treatment, including counseling, see FFEA.

School Psychological Services

The Texas Behavioral Health Executive Council (TBHEC) has authority over the delivery of school psychological services in public schools. Recognizing the purview of the State Board of Education (SBOE) and TEA in safeguarding the rights of school children in Texas, the TBHEC adopts and enforces rules that reflect the occupational distinctions between the delivery of school psychological services in public schools and psychological services in the private sector. *22 TAC 465.38(a)*

Licensed Specialist in School Psychology (LSSP)

Licensed specialist in school psychology (LSSP) means a person who holds a license to engage in the practice of psychology under Occupations Code 501.260. *Occupations Code 501.002(2)*

School psychological services may be provided in Texas public schools only by an LSSP or other individual authorized by TBHEC in accordance with TBHEC rules. *22 TAC 465.38(e)*

Scope of Practice

An LSSP is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions that attempt to improve the learning, adjustment and behavior of students. These activities include, but are not limited to:

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1. Addressing special education eligibility;
2. Conducting manifestation determinations;
3. Assisting with the development and implementation of individual educational programs (IEPs);
4. Conducting behavioral assessments; and
5. Designing and implementing behavioral interventions and supports.

The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

An LSSP may not provide psychological services in any context or capacity outside of a public or private school.

22 TAC 465.38(b), (c)

Standards

The delivery of school psychological services in Texas public schools shall be consistent with nationally recognized standards for the practice of school psychology.

Occupations Code 501.260(c); 22 TAC 465.38(b)(3)

Notice of
Assignment or
Subcontract

An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP shall be responsible for ensuring the school psychological services delivered comply with TBHEC standards. *22 TAC 465.38 (e)(3)*

Compliance with
Applicable
Education Laws

LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

1. Texas Education Code;
2. Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. 1232g;
3. Individuals with Disabilities Education Act (IDEA), 20 U.S.C. 1400 et seq.;
4. Texas Public Information Act, Texas Government Code, Chapter 552;
5. Section 504 of the Rehabilitation Act of 1973; and
6. Americans with Disabilities Act (ADA) 42 U.S.C. 12101.

22 TAC 465.38 (f)