

SAFETY PROGRAM/RISK MANAGEMENT  
SECURITY PERSONNEL

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(LEGAL)

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**SECTION I: SCHOOL DISTRICT PEACE OFFICERS AND SECURITY PERSONNEL**

A board may employ security personnel and commission peace officers to carry out the provisions of Education Code Chapter 37, Subchapter C, relating to law and order.

JURISDICTION

A board shall determine the jurisdiction of a peace officer or security personnel, which may include all territory in the boundaries of the district and all property outside the boundaries of the district that is owned, leased, or rented by or otherwise under the control of the district.

COMMISSIONED  
PEACE OFFICERS

If a board authorizes security personnel to carry weapons, they must be commissioned peace officers. Any peace officer commissioned by the board must meet all minimum standards for peace officers established by the Texas Commission on Law Enforcement (TCOLE).

*Education Code 37.081(a), (h)*

POWERS AND  
DUTIES

Officers commissioned by the board are subject to the general duties of officers set out in Chapter 2 of the Code of Criminal Procedure. *Code of Criminal Procedure 2.12(8)*

CODE OF  
CRIMINAL  
PROCEDURE

A peace officer has the duty to preserve the peace within the officer's jurisdiction by using all lawful means.

A peace officer shall:

1. In every case authorized by the Code of Criminal Procedure, interfere without warrant to prevent or suppress crime;
2. Execute all lawful process issued to the officer by any magistrate or court;
3. Give notice to some magistrate of all offenses committed within the officer's jurisdiction, where the officer has good reason to believe there has been a violation of the penal law; and
4. Arrest offenders without warrant in every case where the officer is authorized by law, in order that they may be taken before the proper magistrate or court and be tried.

It is the duty of every officer to take possession of a missing child under Code of Criminal Procedure 63.009(g).

*Code of Criminal Procedure 2.13*

AS DETERMINED  
BY THE BOARD

A district peace officer shall also perform law enforcement duties as determined by the board, which shall include protecting the

safety and welfare of any person in the officer's jurisdiction and protecting property of the district. *Education Code 37.081(d)*

Within the officer's jurisdiction, a peace officer commissioned by the board:

1. Has the powers, privileges, and immunities of peace officers;
2. May enforce all laws, including municipal ordinances, county ordinances, and state laws;
3. May take a child into custody in accordance with Chapter 52 of the Family Code [see GRA] or Article 45.058 of the Code of Criminal Procedure; and
4. May dispose of cases in accordance with Family Code 52.03 or 52.031.

*Education Code 37.081(b); Family Code 52.01(a)*

A board shall determine the scope of the on-duty and off-duty law enforcement activities of its peace officers, and a district must authorize in writing any off-duty law enforcement activities performed by a district peace officer. *Education Code 37.081(e)*

A district peace officer may provide assistance to another law enforcement agency, and a district may contract with a political subdivision for the jurisdiction of district peace officers to include all territory in the jurisdiction of the political subdivision. *Education Code 37.081(c)*

CHIEF OF POLICE

A district police department's chief of police is accountable to the superintendent and shall report to the superintendent. District police officers shall be licensed by TCOLE and be supervised by the district chief of police or the chief's designee. *Education Code 37.081(f)*

MEMORANDUM OF UNDERSTANDING

A district police department and the law enforcement agencies with which it has overlapping jurisdiction shall enter into a memorandum of understanding that outlines reasonable communication and coordination efforts among the department and the agencies. *Education Code 37.081(g)*

TRAINING

A district with an enrollment of 30,000 or more students that commissions a school district peace officer shall adopt a policy requiring the officer to complete the education and training program developed by TCOLE as required by Occupations Code 1701.263 before or within 120 days of the officer's commission by or placement in the district or a campus of the district. *Education Code 37.0812; Occupations Code 1701.262, .263*

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BODY-WORN  
CAMERAS

A law enforcement agency that operates a body-worn camera program shall adopt a policy for the use of body-worn cameras that must ensure that a body-worn camera is activated only for a law enforcement purpose and must include guidelines and provisions required by Occupations Code 1701.655(b).

A policy may not require a peace officer to keep a body-worn camera activated for the entire period of the officer's shift.

A policy must be consistent with the Federal Rules of Evidence and Texas Rules of Evidence.

Before a law enforcement agency may operate a body-worn camera program, the agency must provide training to peace officers who will wear the body-worn cameras and any other personnel who will come into contact with video and audio data obtained from the use of body-worn cameras.

Peace officers equipped with a body-worn camera must act consistent with policy and Occupations Code Chapter 1701, Subchapter N.

*Occupations Code 1701.655, .656, .657*

MOTOR VEHICLE  
STOPS  
REPORTS  
REQUIRED

A peace officer who stops a motor vehicle for an alleged violation of a law or ordinance shall report to the law enforcement agency that employs the officer information relating to the stop, including:

1. A physical description of any person operating the motor vehicle who is detained as a result of the stop, including:
  - a. The person's gender; and
  - b. The person's race or ethnicity, as stated by the person or, if the person does not state his or her race or ethnicity, as determined by the officer to the best of the officer's ability;
2. The initial reason for the stop;
3. Whether the officer conducted a search as a result of the stop and, if so, whether the person detained consented to the search;
4. Whether any contraband or other evidence was discovered in the course of the search and a description of the contraband or evidence;
5. The reason for the search, including whether:
  - a. Any contraband or other evidence was in plain view;

- b. Any probable cause or reasonable suspicion existed to perform the search; or
  - c. The search was performed as a result of the towing of the motor vehicle or the arrest of any person in the motor vehicle;
6. Whether the officer made an arrest as a result of the stop or the search, including a statement of whether the arrest was based on a violation of the Penal Code, a violation of a traffic law or ordinance, or an outstanding warrant and a statement of the offense charged;
  7. The street address or approximate location of the stop; and
  8. Whether the officer issued a written warning or a citation as a result of the stop.

*Code of Criminal Procedure 2.133*

A district police department shall compile and analyze the incident-based data contained in each report received by the department. Not later than March 1 of each year, each district police department shall submit a report containing the information compiled during the previous calendar year, in accordance with Code of Criminal Procedure 2.134, to TCOLE and to the governing body of each county or municipality served by the department. *Code of Criminal Procedure 2.134*

CIVIL PENALTY

If a district's chief of police intentionally fails to submit the incident-based data as required by Code of Criminal Procedure 2.134, the agency is liable to the state for a civil penalty in the amount of \$1,000 for each violation. *Code of Criminal Procedure 2.1385(a)*

EXEMPTION

A peace officer and district's chief of police are exempt from the reporting requirements described above if:

1. During the calendar year preceding the date that the department's report is required to be submitted:
  - a. Each law enforcement motor vehicle regularly used by an officer employed by the department to make motor vehicle stops is equipped with video camera and transmitter-activated equipment and each law enforcement motorcycle regularly used to make motor vehicle stops is equipped with transmitter-activated equipment; and
  - b. Each motor vehicle stop made by an officer employed by the agency that is capable of being recorded by video

and audio or audio equipment, as appropriate, is recorded by using the equipment; or

2. The governing body of the county or municipality served by the department, in conjunction with the department, certifies to the Texas Department of Public Safety (TDPS), not later than the date specified by rule by TDPS, that the department needs funds or video and audio equipment for the purpose of installing video and audio equipment and the department does not receive from the state funds or video and audio equipment sufficient, as determined by TDPS, for the department to accomplish that purpose.

Except as otherwise provided by this subsection, a district police department that is exempt from the reporting requirements shall retain the video and audio or audio documentation of each motor vehicle stop for at least 90 days after the date of the stop. If a complaint is filed with the department alleging that a district peace officer has engaged in racial profiling with respect to a motor vehicle stop, the department shall retain the video and audio or audio record of the stop until final disposition of the complaint.

*Code of Criminal Procedure 2.135*

RACIAL PROFILING  
PROHIBITION

A peace officer may not engage in racial profiling. *Code of Criminal Procedure 2.131*

DEPARTMENTAL  
POLICY REQUIRED

Each district police department that employs peace officers who make traffic stops in the routine performance of the officer's official duties shall adopt a detailed written policy on racial profiling. The policy must:

1. Clearly define acts constituting racial profiling;
2. Strictly prohibit peace officers employed by the department from engaging in racial profiling;
3. Implement a process by which an individual may file a complaint with the department if the individual believes that a peace officer employed by the department has engaged in racial profiling with respect to the individual;
4. Provide public education relating to the department's complaint process;
5. Require appropriate corrective action to be taken against a peace officer employed by the department who, after an investigation, is shown to have engaged in racial profiling in violation of the department's policy adopted under this article;

6. Require collection of information relating to motor vehicle stops in which a citation is issued and to arrests made as a result of those stops, including information relating to:
  - a. The race or ethnicity of the individual detained;
  - b. Whether a search was conducted and, if so, whether the individual detained consented to the search; and
  - c. Whether the peace officer knew the race or ethnicity of the individual detained before detaining that individual; and
7. Require the district's chief of police to submit an annual report of the information collected under item 6 to:
  - a. TCOLE; and
  - b. The governing body of each county or municipality served by the agency.

On adoption of a racial profiling policy, the department shall examine the feasibility of installing video camera and transmitter-activated equipment in each department law enforcement motor vehicle regularly used to make motor vehicle stops and transmitter-activated equipment in each department law enforcement motorcycle regularly used to make motor vehicle stops. If the department installs video or audio equipment as provided by this subsection, the policy adopted by the department must include standards for reviewing video and audio documentation.

A report required under item 7 above may not include identifying information about a peace officer who makes a motor vehicle stop or about an individual who is stopped or arrested by a peace officer.

*Code of Criminal Procedure 2.132*

OFFICER-INVOLVED  
INJURY OR DEATH

"Officer-involved injury or death" means an incident during which a peace officer discharges a firearm causing injury or death to another.

Not later than the 30th day after the date of an officer-involved injury or death, the law enforcement agency employing an officer involved in the incident must complete and submit a written or electronic report to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information required by Code of Criminal Procedure 2.139(b).

*Code of Criminal Procedure 2.139*

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Not later than the 30th day after the date of the occurrence of an incident in which, while a peace officer is performing an official duty, a person who is not a peace officer discharges a firearm and causes injury or death to the officer, the law enforcement agency employing the injured or deceased officer at the time of the incident must complete and submit a written or electronic report to the office of the attorney general and, if the agency maintains an Internet website, post a copy of the report on the agency's website. The report must include all information required by Code of Criminal Procedure 2.1395(a). *Code of Criminal Procedure 2.1395(b)*

BONDING

A commissioned and assigned peace officer shall take and file the oath required of peace officers and execute and file the required \$1,000 bond, payable to the board, conditioned on the officer's performance of his or her duties. *Education Code 37.081(h)*

CONTINUING  
EDUCATION

If a district employs peace officers, it shall provide each officer with a continuing education program as required by Occupations Code Title 10, Chapter 1701, Subchapter H. *Occupations Code 1701, Subch. H*

COMPLAINTS AGAINST  
PEACE OFFICERS

In order for a complaint against a district peace officer to be considered by the head of the district's police department, the complaint must be in writing and signed by the person making the complaint. A copy of the complaint shall be given to the officer within a reasonable time after it is filed and no disciplinary action shall be taken against the officer as a result of the complaint unless a copy is given to the officer. The officer may not be indefinitely suspended or terminated based on the subject matter of the complaint unless the complaint is investigated and there is evidence to prove the allegation of misconduct. *Gov't Code Ch. 614, Subch. B; Atty. Gen. Op. GA-251 (2004)*

On the commencement of an investigation by a district police department of a complaint that alleges that a peace officer employed by the department has engaged in racial profiling with respect to an individual and in which a video or audio recording of the occurrence on which the complaint is based was made, the department shall promptly provide a copy of the recording to the peace officer who is the subject of the complaint on written request by the officer. *Code of Criminal Procedure 2.132(f)*

[See DGBA, FNG, and GF for appeals]

LEGAL  
REPRESENTATION

A district shall provide a district employee who is a peace officer with legal counsel without cost to the employee to defend the employee against a suit for damages by a party other than a governmental entity if legal counsel is requested by the employee,

and the suit involves an official act of the employee within the scope of the employee's authority.

To defend the employee against the suit, the district may provide counsel already employed by it or may employ private counsel.

An employee may recover from a district that fails to provide counsel as required the reasonable attorney's fees incurred in defending the suit if the trier of fact finds that the fees were incurred in defending a suit and the employee is without fault or that the employee acted with a reasonable good faith belief that the employee's actions were proper.

*Local Gov't Code 180.002(b)-(d)*

NOTICE OF  
EXPOSURE TO  
COMMUNICABLE  
DISEASE

A district that employs emergency medical service employees, paramedics, firefighters, law enforcement officers or correctional officers must post the required notice in the form specified by administrative rule, in its workplace to inform employees about Health and Safety Code requirements which may affect qualifying for workers' compensation benefits following a work-related exposure to a reportable communicable disease. *28 TAC 110.108*

**SECTION II: SCHOOL MARSHALS**

A school marshal is a person employed and appointed by the board under Article 2.127, Code of Criminal Procedure, and in accordance with and having the rights provided by Education Code 37.0811. *Occupations Code 1701.001(8)*

ELIGIBILITY

A board may appoint a person as a school marshal if the person is an employee of the district and certified by TCOLE as eligible for appointment. TCOLE shall license an eligible person who:

1. Completes required training; and
2. Is psychologically fit to carry out the duties of a school marshal as indicated by the results of a required psychological examination.

The TCOLE training program is open to any employee of a school district who holds a license to carry a handgun issued under Government Code Chapter 411, Subchapter H.

A person may not serve as a school marshal unless the person is licensed by TCOLE and appointed by the board.

*Education Code 37.0811(b); Occupations Code 1701.260, .301; Code of Criminal Procedure 2.127(d)*

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LIMITATION ON NUMBER	A board may appoint not more than one school marshal per 400 students in average daily attendance per campus. <i>Education Code 37.0811(a)</i>
POWERS AND DUTIES	<p>A school marshal may make arrests and exercise all authority given to peace officers under the Code of Criminal Procedure, subject to written regulations adopted by the board.</p> <p>A school marshal may only act as necessary to prevent or abate the commission of an offense that threatens serious bodily injury or death of students, faculty, or visitors on school premises.</p> <p>A school marshal may not issue a traffic citation for a violation of the Transportation Code.</p> <p><i>Code of Criminal Procedure 2.127</i></p>
POSSESSION OF HANDGUN	<p>A school marshal may carry or possess a handgun on the physical premises of a school, but only:</p> <ol style="list-style-type: none"><li>1. In the manner provided by written regulations adopted by the board; and</li><li>2. At a specific school as specified by the board.</li></ol> <p><i>Education Code 37.0811(c)</i></p>
ACCESSING HANDGUN	A school marshal may access a handgun only under circumstances that would justify the use of deadly force under Penal Code 9.32 or 9.33. <i>Education Code 37.0811(e)</i>
BOARD REGULATIONS LOCKED GUN SAFE	A board's written regulations must provide that if the primary duty of the school marshal involves regular, direct contact with students, the marshal may not carry a concealed handgun but may possess a handgun on the physical premises of a school in a locked and secured safe within the marshal's immediate reach when conducting the marshal's primary duty.
FRANGIBLE AMMUNITION	<p>The written regulations must also require that a handgun carried by or within access of a school marshal may be loaded only with frangible ammunition designed to disintegrate on impact for maximum safety and minimal danger to others.</p> <p><i>Education Code 37.0811(d)</i></p>
INACTIVE STATUS	<p>A school district employee's status as a school marshal becomes inactive on:</p> <ol style="list-style-type: none"><li>1. Expiration of the employee's school marshal license under Occupations Code 1701.260;</li><li>2. Suspension or revocation of the employee's handgun license;</li></ol>

3. Termination of the employee's employment with the district; or
4. Notice from the board that the employee's services as school marshal are no longer required.

*Education Code 37.0811(f)*

IDENTITY  
CONFIDENTIAL

The identity of a school marshal is confidential and is not subject to a request under the Public Information Act, except that the person's name, date of birth, and handgun license number, and the address of the person's place of employment must be provided by TCOLE to:

1. The director of the Department of Public Safety;
2. The district;
3. The chief law enforcement officer of the local municipal law enforcement agency if the person is employed at a campus of a district located within a municipality;
4. The sheriff of the county if the person is employed at a campus of a district that is not located within a municipality; and
5. The chief administrator of any school district-commissioned peace officer, if the person is employed at a district that has commissioned peace officers.

If a parent or guardian of a student enrolled at a school inquires in writing, the district shall provide the parent or guardian written notice indicating whether any employee of the school is currently appointed as a school marshal. The notice may not disclose information that is confidential.

*Education Code 37.0811(g), (h); Occupations Code 1701.260(j)*

REIMBURSEMENT FOR  
TRAINING

The board may, but shall not be required to, reimburse the amount paid by the applicant to participate in the required TCOLE training program. *Education Code 37.0811(b)*

NO STATE BENEFITS

A school marshal is not entitled to state benefits normally provided by the state to a peace officer. *Code of Criminal Procedure 2.127(c)*

**SECTION III: HANDGUN LICENSEES**

WRITTEN PERMISSION

By written regulations or written authorization, a district may permit a person to possess a firearm on the physical premises of a school, any grounds or building on which a school-sponsored activity is being conducted, or a passenger transportation vehicle of a school. *Penal Code 46.03(a)(1); Education Code 11.151(b)*

The holder of a handgun license does not commit a criminal offense under Penal Code 46.035 by carrying a handgun in a building where a high school sporting event or interscholastic event is taking place or at any meeting of the board when the person is lawfully carrying a handgun pursuant to a board's written regulations and authorization.

A board may appoint a school marshal and authorize another person to serve under the district's regulations and authorization under Penal Code 46.03(a)(1).

*Att'y Gen. Op. GA-1051 (2014)*

**SECTION IV: SCHOOL RESOURCE OFFICERS**

DEFINITION

A school resource officer is a peace officer who is assigned by the officer's employing political subdivision to provide:

1. A police presence at a public school;
2. Safety or drug education to students of a public school; or
3. Other similar services.

*Occupations Code 1701.601*

LICENSE REQUIRED

A peace officer who is a visiting school resource officer in a public school must be licensed as provided by Occupations Code Chapter 1701. *Occupations Code 1701.602*

FIREARMS ACCIDENT  
PREVENTION  
PROGRAM

A peace officer who is a visiting school resource officer in a public elementary school shall at least once each school year offer to provide instruction to students in a firearms accident prevention program, as determined by the district.

A firearms accident prevention program must include the safety message, "Stop! Don't Touch. Leave the Area. Tell an Adult.", and may include instructional materials from the National Rifle Association Eddie Eagle GunSafe Program, including animated videos and activity books.

*Occupations Code 1701.603*

TRAINING

A district with an enrollment of 30,000 or more students at which a school resource officer provides law enforcement shall require the officer to complete the education and training program developed by TCOLE. [See SECTION I, TRAINING above] *Education Code 37.0812; Occupations Code 1701.262, .263*