ATTACHMENT I

Statutory Citations Relating to Amendment to 19 TAC Chapter 129, Student Attendance, Subchapter AA, Commissioner's Rules, §129.1025, Adoption By Reference: Student Attendance Accounting Handbook

Texas Education Code, Chapter 42, Foundation School Program, Subchapter A, General Provisions, §42.004, Administration of the Program.

The commissioner, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with this chapter as may be necessary to implement and administer the Foundation School Program.

19 Texas Administrative Code Chapter 129, Student Attendance, Subchapter B, Student Attendance Accounting, §129.21, Requirements for Student Attendance Accounting for State Funding Purposes.

(a) All public schools in Texas must maintain records to reflect the average daily attendance (ADA) for the allocation of Foundation School Program (FSP) funds and other funds allocated by the Texas Education Agency (TEA). Superintendents, principals, and teachers are responsible to their school boards and to the state to maintain accurate, current attendance records.

(b) The commissioner of education is responsible for providing guidelines for attendance accounting in accordance with state law.

(c) The commissioner of education is responsible for providing all the necessary records and procedures required of school districts in preparation of a daily attendance register.

(d) Districts must maintain records and make reports concerning student attendance and participation in special programs as required by the commissioner of education. Effective January 1, 2001, before a district or charter school may count a student in attendance under this section or in attendance when the student was allowed to leave campus during any part of the school day, the district or charter must adopt a policy addressing parental consent for a student to leave campus and distribute the policy to staff and to all parents of students in the district or charter school.

(e) If a school district chooses to use a locally developed record or automated system, the record or automated system must contain the minimum information required by the commissioner of education.

(f) The commissioner of education must provide for special circumstances regarding attendance accounting in accord with the provisions of law.

(g) When classroom instruction is organized on a departmentalized basis, a central attendance accounting system must be used.

(h) A student must be enrolled for at least two hours of instruction to be considered in membership for one half day, and for at least four hours of instruction to be considered in membership for one full day.

(i) Attendance for all grades must be determined by the absences recorded in the second or fifth period of the day, unless permission has been obtained from the TEA for an alternate period to record absences, unless the local school board adopts a district policy for recording absences in an alternate period or hour, or unless the students for which attendance is being taken are enrolled in and participating in an alternative attendance accounting program approved by the commissioner of education.

(1) Students enrolled on a half-day basis may earn only one half day of attendance each school day. Attendance is determined for these pupils by recording absences in a period during the half day that they are scheduled to be present. Students enrolled on a full-day basis may earn one full day of attendance each school day.

(2) Students who are enrolled in and participating in an alternative attendance accounting program approved by the commissioner of education will earn attendance according to the statutory and rule provisions applicable to that program.

(3) The established period in which absences are recorded may not be changed during the school year.

(4) Students absent at the time the attendance roll is taken, during the daily period selected, are counted absent for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner of education. Students present at the time the attendance roll is taken, during the daily period selected, are counted present for the entire day, unless the students are enrolled in and participating in an alternative attendance accounting program approved by the commissioner of education.

(j) A student who is not actually in school at the time attendance is taken must not be counted in attendance for FSP funding purposes, unless the student is participating in an activity that meets the conditions set out in subsection (k) of this section, or unless the student is enrolled in and participating in an alternative attendance accounting program approved by the commissioner of education.

(k) A student not actually on campus at the time attendance is taken may be considered in attendance for FSP funding purposes under the following conditions.

(1) The student is participating in an activity that is approved by the local board of school trustees and is under the direction of a member of the professional staff of the school district, or an adjunct staff member who:

(A) has a minimum of a bachelor's degree; and

(B) is eligible for participation in the Teacher Retirement System of Texas.

(2) The student is participating in a mentorship approved by district personnel to serve as one or more of the advanced measures needed to complete the Distinguished Achievement Program outlined in Chapter 74 of this title (relating to Curriculum Requirements).

(3) The student is a Medicaid-eligible child participating in the Early and Periodic Screening, Diagnosis, and Treatment Program implemented by the Texas Health and Human Services Commission. Such students may be excused for up to one day at any time without loss of ADA.

(4) The student is observing holy days as provided in the Texas Education Code (TEC), §25.087. A student who is observing holy days is allowed up to one day of excused travel for traveling to the site where the student will observe the holy days and up to one day of excused travel for traveling from that site.

(5) The student is attending a required court appearance as provided in the TEC, §25.087. A student who is attending a required court appearance is allowed up to one day of excused travel for traveling to the site where the student will attend the required court appearance and up to one day of excused travel for traveling from that site.

(6) The student is serving as an election clerk as provided in the TEC, §25.087. A student who is serving as an election clerk is allowed up to one day of excused travel for traveling to the site where the student will serve as an election clerk and up to one day of excused travel for traveling from that site.

(7) The student is appearing at a governmental office to complete paperwork required in connection with the student's application for United States citizenship as provided in the TEC, §25.087. A student who is appearing at a governmental office to complete such paperwork is allowed up to one day of excused travel for traveling to the site where the student will complete the paperwork and up to one day of excused travel for traveling from that site.

(8) The student is taking part in a United States naturalization oath ceremony as provided in the TEC, §25.087. A student who is taking part in such a ceremony is allowed up to one day of excused travel for traveling to the site where the student will take part in the ceremony and up to one day of excused travel for traveling from that site.

(9) The student is visiting an institution of higher education accredited by a generally recognized accrediting organization during the student's junior or senior year of high school for the purpose of determining the student's interest in attending the institution as provided in the TEC, §25.087, provided that the school district in which the student attends school has adopted a policy to determine when an absence will be excused for this purpose and has adopted a procedure to verify a student's visit at the institution of higher education. A district may not excuse for this purpose more than two days during a student's junior year and two days during a student's senior year.

(10) The student is in any of Grades 6-12 and is sounding "Taps" at a military honors funeral held in Texas for a deceased veteran as provided in the TEC, §25.087.

(11) The student has a documented appointment with a health care professional during regular school hours, if the student begins classes or returns to school on the same day of the appointment, as provided in the TEC, §25.087. The appointment should be supported by a document such as a note from the health care professional. An appointment with a health care professional includes an appointment of a student diagnosed with autism spectrum disorder with a health care practitioner, as described by the Texas Insurance Code, §1355.015(b), to receive a generally recognized service for persons with that disorder, including applied behavioral analysis, speech therapy, and occupational therapy.

(l) In accordance with the TEC, §25.087, students may be excused for medical, dental, and psychological appointments; for special education assessment procedures; and for special education related services.

(m) The superintendent of schools is responsible for the safekeeping of all attendance records and reports. The superintendent of schools may determine whether the properly certified attendance records or reports for the school year are to be filed in the central office or properly stored on the respective school campuses of the district. Regardless of where such records are filed or stored, they must be readily available for audit by the TEA division responsible for performing audits.