



**Texas Association of School Boards**

Legal Services

P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • [legal.tasb.org](http://legal.tasb.org) • [legal@tasb.org](mailto:legal@tasb.org)

*Serving Texas Schools Since 1949*

## **Publication of Equal Employment Opportunity Statements**

*Published online in [TASB School Law eSource](#)*

Districts often inquire about the legal requirements for publishing an equal employment opportunity (EEO) statement. Specifically, districts ask whether they are required to purchase advertising from certain private publications. As set forth below, few, if any, Texas districts are legally required to publish their EEO statements beyond their local community.

### **1. Are districts required to provide notice of equal employment opportunity?**

Yes. Districts are required to provide notice of equal employment opportunity through several different means, including work-site posters, vacancy notices and applications, and, in specific cases, through the local newspaper.

Posters: As employers, districts with the threshold number of employees must post notices in the workplace under Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Genetic Information Nondiscrimination Act, among others. In addition, districts must post notices under legal requirements applicable to recipients of federal funding and to educational institutions. A summary of these laws and their posting requirements is available in the TASB HR Library document, [Work-Site Posting Requirements](#). [Posters](#) are available through TASB HR Services.

Job applications and vacancy notices: Districts should include EEO statements on job applications and vacancy notices in order to ensure that their EEO policy is effectively communicated to applicants. For example, Title IX, which prohibits discrimination on the basis of sex in education programs or activities, requires districts receiving federal financial assistance to include a notice of nondiscrimination on each vacancy notice used for employee recruitment. 34 C.F.R. § 106.8(a)-(b). The [sample forms](#) in the TASB HR Library include these EEO statements.

CTE programs: Special rules apply to districts with career and technical programs (CTE). A district that provides CTE programs must comply with the [Vocational Education Programs Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex, and Handicap](#). 34 C.F.R. Pt. 100, App. B. The TEA includes more details on this requirement through their website's [Methods of Administration](#) page. Before the beginning of each school year, the district is required to advise students, parents, employees, and the general public that all career and technical education opportunities will be offered without regard to race, color national origin, sex, or disability. The district *must* use local

newspapers or other media that reach the general public in the district's local community to disseminate the required notification. The TEA provides sample notices, in both English and Spanish, on their website's [Methods of Administration Guidance and Resources](#) page.

## 2. Are districts required to adopt affirmative action programs?

Likely not. Texas law does not require school districts to establish affirmative action programs. The primary source of affirmative action requirements is a group of federal laws applicable to federal contractors. Several federal laws require federal contractors to take affirmative action to ensure that applicants are employed without regard to their race, color, religion, sex, national origin, disability, or Vietnam era veterans' status. 29 U.S.C. § 793; 38 U.S.C. § 4212; 42 U.S.C. § 2000e. These laws are actively enforced by the Office of Federal Contract Compliance Programs (OFCCP).

Few, if any, Texas districts are considered to be federal contractors under these laws. The test for whether an entity is a *federal contractor* subject to OFCCP jurisdiction is as follows:

- (1) The entity holds one or more Federal contracts or subcontracts for supplies or services;
- (2) The value of the contracts or subcontracts exceeds \$50,000; and
- (3) The contractor has 50 or more employees.<sup>1</sup>

See 41 C.F.R. § 60-1.3, 60-2.1 (outlining which organizations are required to adopt affirmative action programs).

Most Texas districts receive federal funding and/or federal grants, either directly or through TEA. However, few districts, if any, have contracts to provide goods or services to the federal government.

## 3. Are districts required to engage in "good faith efforts"?

Again, likely not. *Good faith efforts* refers to a federal contractor's efforts to make all aspects of its affirmative action plan work. Good faith efforts are a component of mandatory affirmative action programs. If a district is not required to have a mandatory affirmative action program, the district is not required to engage in good faith efforts as defined by OFCCP.

---

<sup>1</sup> Two other groups of contractors are also subject to OFCCP jurisdiction: (1) contractors who provide construction services to the federal government; and (2) contractors who hold Government bills of lading, serve as depositories of Federal funds, or are issuing and paying agents for U.S. savings bonds and notes in any amount. Districts are not likely to fall into either of these categories.

Good business practices may include voluntary efforts to recruit applicants from underrepresented groups, such as through outreach to educator preparation programs with a high percentage of minority participants. But, these practices are not mandatory for entities that are not federal contractors.

Few, if any, Texas school districts are legally required to externally publish their EEO statements, unless the publication is associated with a job advertisement or in compliance with a CTE program. A district with questions regarding the specific application of EEO laws should contact its school attorney. The district may also contact TASB Legal Services at 800.580.5345 for general assistance.

This document is continually updated at [tasb.org/services/legal-services/tasb-school-law-essource/personnel/documents/publication-of-equal-employment-opportunity-statements.pdf](https://tasb.org/services/legal-services/tasb-school-law-essource/personnel/documents/publication-of-equal-employment-opportunity-statements.pdf). For more information on school law topics, visit TASB School Law eSource at [schoollawesource.tasb.org](https://schoollawesource.tasb.org).

*This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.*

*Updated April 2021*