

Joint Advisory Board
Of the
Texas Education Research Centers

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Most of the policies include references to the source legislation, administrative rule, or contract and as such, these policies cannot be changed without changing the underlying sources.

Policies for Education Research Centers (ERC)

1.1 Purpose of ERC

ERCs shall conduct research for the benefit of education in Texas, including research relating to:

- (a) The impact of state and federal education programs
- (b) The performance of educator preparation programs
- (c) Public school finance
- (d) Best practices in:
 - (1) classroom instruction
 - (2) bilingual education programs
 - (3) special language programs
 - (4) business practices

[TEC §1.005(e)]

Added by JAB, September 3, 2008.

1.2 Establishment of ERCs

The establishment of not more than three ERCs by the commissioner of education and the Texas Higher Education Coordinating Board (THECB) was authorized by the 79th Texas Legislature, Third Called Session, 2006, in the Texas Education Code (TEC) §1.005.

- (a) An ERC may be established as part of the Texas Education Agency (TEA), the THECB, or a public institution of higher education (IHE; i.e., public junior college, public senior college or university, or public state college, as those terms are defined in TEC §61.003) [TEC §1.005(c)].
- (b) An ERC may also be a consortium of IHEs listed in 1.2(a) and each IHE shall be physically located in the state of Texas [TAC §95.1001(b)(1)].
- (c) An IHE ERC may operate under a memorandum of understanding (MOU) between the commissioner of education, the THECB, and the governing board of an IHE, and the MOU shall provide for the direct, joint supervision of the ERC by the commissioner of education and the THECB, or their designees [TEC §1.005(d)].
- (d) ERC are authorized to operate through August 31, 2012, unless otherwise expressly extended in writing and signed by the governing board of their IHE, the TEA, and the THECB [ERC Contract, Section IV; ERC RFP, Section 6.1].
- (e) An IHE ERC shall operate under the direct, joint supervision and oversight of the commissioner of education and the THECB [TEC §1.005(d); TAC §95.1001(d)(3)]

through the Joint Advisory Board [hereafter, JAB; *ERC RFP, Section 5.4; USDE letter dated 4/15/08; FERPA, 34 CFR §§ 99.31(a)(3) & 99.35*].

(f) Status as an ERC may not be assigned, delegated, or transferred to any other entity [*TAC §95.1001(d)(1)*].

(g) An IHE ERC shall be lead by a managing director who is a professional employee of the sponsoring IHE and shall report directly to the chief operating officer of the sponsoring IHE, unless a different reporting structure is approved by the TEA and the THECB [*TAC §95.1001(d)(2)*].

(h) The THECB is responsible for general oversight, technical assistance, and state support of ERCs, except as provided herein [*TAC §95.1001(b)(2)*].

(i) An ERC's sponsoring IHE is responsible for all equipment, salaries, and other operating costs of an ERC, including staff and equipment at the TEA and the THECB necessary to prepare and maintain data for the ERC, as well as reasonable reimbursable expenses of the JAB. Costs will be limited to one full-time equivalent employee at each agency along with associated data storage costs as set by the Texas Department of Information Resources for the data center consolidation rates, unless otherwise agreed to by the TEA, the THECB, and the ERCs. [*TAC §95.1001(b)(3)*]

(j) An ERC shall submit plans for management of the ERC to the JAB for approval, including plans for allocation of research access capacity, compliance with security requirements, annual internal audit certification, annual budget, and fundraising [*TAC §95.1001(d)(5); ERC Contract, I(D)*]. An ERC may not access confidential information until all such procedures are approved by the JAB. [*TAC §95.1001(d)(5)*]

(k) An ERC's sponsoring IHE shall cooperate fully with all audit requests made by the TEA or the THECB. Each ERC shall annually request and undergo a security audit performed by the Texas DIR, or a contractor approved by that Department, which shall include a penetration test of computer equipment and access. [*TAC §95.1001(d)(8)*]

(l) An ERC may be terminated by joint action of the TEA and the THECB for failure to meet the requirements of state or federal law, of these policies, or of the terms of the contract establishing the ERC.

(1) Notice of termination shall be provided to the ERC's designated representative and shall contain information regarding the reasons for the termination.

(2) An ERC shall be entitled to an information review of a determination to terminate its status by a designee of the commissioners of education and higher education prior to the effective data of the termination.

(3) A termination made pursuant to this section shall become final and binding unless, within 30 days of its receipt of the notice of termination, the ERC invokes the administrative remedies contained in TAC Title 19, Chapter 1, Subchapter B.

(4) The commissioner of education and the THECB must concur for any termination of an ERC invoking such administrative remedies to become final.

[TAC §95.1001(e)]

(m) Annual status report

(1) An ERC shall submit to the JAB an annual ERC performance report (see attached form 3.4). The report is due by September 30 of each year, or on a date approved by the JAB, and should be sent to the THECB.

(2) The ERC performance report shall be submitted using the *Annual Performance Report* form and include the following information:

(A) Basic ERC information and period covered by the report;

(B) Current annual budget [ERC Contract, I(d)] and prior year's financial report, including amounts and sources of revenues, and expenditures;

(C) Summary of changes to key ERC management personnel, if any;

(D) annual certification of full compliance with all terms of the ERC contract [ERC Contract, V(B)(1)(b)], all state and federal laws, and with security requirements [TAC §§95.1001(d)(5)(D) & (d)(8)];

(E) Names, affiliations, data sources accessed, and project names for all persons accessing confidential data [FERPA, 34 CFR §99.32(b)];

(F) Copies of current signed confidentiality agreements for each person accessing confidential data [TAC §95.1001(d)(5)(D)].

Added by JAB, September 3, 2008.

1.3 ERC Funding and Funding Requirements

The General Appropriations Act of the 79th Texas Legislature, Third Called Session, 2006, allocated \$3,000,000 to establish three IHE ERCs. Funds were provided to each ERC for the first year of operations.

(a) After a center is established, the ERC must be funded by:

(1) gifts and grants accepted by the commissioner of education or the THECB to be used in operating one or more ERCs [TEC §§1.005(h)(1) & (k)]; and

(2) reasonable fees adopted by the commissioner of education and the THECB and imposed, as appropriate, for the use of an ERC's research, resources, or facilities [TEC §§1.005(h)(2) & (k)]. These fees must be set in an amount sufficient to provide for the continued operations of the ERC [TEC §1.005(k)].

(b) The commissioner of education and the THECB may require an ERC to conduct certain research projects considered of particular interest to the state, as determined by the commissioner and the THECB, and shall provide sufficient funds to finance the project [TEC §1.005(f)]. Notification of project requirement under

Section 1.3(b)(1) shall be given to the governor, Legislative Budget Board, and the governing body of the ERC's sponsoring IHE at least 45 days before the research project begins.

(c) An ERC may impose reasonable fees for programming and data access and manipulation and these fees shall be based on amounts allowable under the Texas Public Information Act and approved by the JAB [*ERC Contract, V(B)(1)(e)*]; and may impose reasonable fees for complying with the requirements of the Texas Public Information Act and these fees shall be based on guidelines developed by the Texas Attorney General's Office and approved by the JAB [*TAC §95.1001(d)(7)*].

(d) Annually, an ERC shall submit to the JAB an annual budget [*ERC Contract, I(D) & V(B)(1)(g)*].

(e) In addition to charges assessed to the ERCs outlined herein, ERCs will be assessed for annual maintenance costs of the THECB and the TEA, by September 30th of each year, as approved by the JAB [*TAC §95.1001(d)(9)*].

1.4 ERC Operating Partners and Research Access Capacity

(a) An ERC operating partner is an IHE, as defined in Section 1.2, that has a fully executed, "quadrilateral" interagency cooperation contract [*USDE letter, dated 4/15/08*].

(b) An ERC shall provide research access capacity to researchers not affiliated with an ERC. To this end, each ERC shall submit to the JAB procedures for and criteria by which research access capacity is allocated to these researchers. [*TAC §95.1001(d)(5)(F); ERC Contract, I(D) & V(B)(1)(h)*].

Added by JAB, September 3, 2008.

1.5 ERC Data

(a) Secure research environment

(1) An ERC shall comply with all requirements of FERPA in accessing confidential information to conduct research [*TAC §95.1001(f)(1)*].

(2) Failure to maintain a research environment that restricts unauthorized disclosure of confidential information provided to the ERC shall be grounds for immediate termination of the authorization to access such data [*TAC §95.1001(f)(1)*].

(3) Each ERC shall comply with rules adopted by the commissioner of education and the THECB to protect the confidentiality of student information, including rules establishing procedures to ensure that confidential information is not duplicated or removed from a center in an unauthorized manner [*TEC §1.005(g)(2)*].

(4) All student-level or otherwise confidential data must be maintained on a secure server. Secure off-site backups may occur in accordance with written procedures approved by the JAB. Data at a secure offsite back-up location may not be used or manipulated at that location. [TAC §95.1001(b)(1); ERC Contract, V(D)(4)].

(5) Upon determination that confidential information has been released or copied to another location, or that appropriate security measures are not in place to protect confidential information, the JAB may require an ERC to obtain appropriate services or equipment or to remove confidential information from such other location in order to remedy a security deficit. Such services or equipment shall be purchased by the ERC from vendors subject to approval of the JAB [TAC §95.1001(e)(1)].

(b) Confidential data

(1) Confidential data as applied to the ERC data warehouse include all student-level data, including any data cells small enough to allow identification of an individual student. All social security numbers, student names, student birthdates, and data cells containing between zero and four persons, inclusive, are confidential [TAC §95.1001(a)(2)].

(2) In order to maintain the confidentiality of student data, all data contained in the ERC data warehouse about an individual person are confidential [TAC §95.1001(a)(2)].

(3) Confidential information provided to an ERC by the TEA or the THECB shall be protected by procedures to ensure that any unique identifying number is not traceable to any individual. Such procedures must be maintained as confidential by the TEA and the THECB and may not be shared with an ERC or used for any other purpose [TAC §95.1001(d)(4)].

(4) Under no circumstances shall social security numbers, names, or dates of birth be accessed for the purpose of research at an ERC [TAC §95.1001(d)(4)].

(5) Under no circumstances shall confidential ERC data be matched with or in any way connected to supplemental confidential data from other sources except as specified in Section 1.5(d).

(6) The de-identification process involves removing names, social security numbers, birthdates, and PEIMS IDs, and replacing them with alternative IDs. The non-personal identifier itself will not be a scrambled social security number or student number, and cannot be linked to any individual student by anyone who does not have a linking key. The linking key that connects the non-personal identifier to student information of an education record subject to the privacy provisions of FERPA shall not be shared with the Research Center or used for any other purpose. [TAC §95.1001(d)(4); ERC Contract V(D)(1)]

(7) Each researcher or staff with access to student-level data at a ERC must annually sign a confidentiality agreement that includes an undertaking to comply with FERPA and an agreement not to copy or remove data [ERC Contract, V(D)(4) & (5)].

(8) Analyses, counts, or summaries of confidential data that result in data cells containing between one and four students inclusive are confidential. Information may not be disclosed where small data cells can be determined through subtraction or other simple mathematical manipulations or subsequent cross-tabulation of the same data with other variables [TAC §95.1001(a)(3)].

(9) Confidential data must be retained at an ERC, except for secure off-site backup [TAC §95.1001(b)(1)].

(10) Student-level data may not be provided to a researcher at a location other than an ERC, the THECB, or a public IHE located in Texas that is an acknowledged consortium member of the ERC [TAC §95.1001(b)(1)].

(11) All physical locations at which confidential information may be accessed at an ERC must be located within Texas, at a sponsoring IHE, and approved by both the TEA and the THECB [TAC §95.1001(f)(2)].

(12) Either the TEA or the THECB may suspend access to confidential information provided to an ERC based on a significant risk of unauthorized disclosure of confidential information [TAC §95.1001(f)(3)].

(c) Core data warehouse

(1) The ERC data warehouse contains a number of data sets that constitute the core data warehouse. Any individual-level data shall be de-identified by the TEA or the THECB. Data sets in the core data warehouse are available to all ERCs and will be updated periodically as newer data become available.

(2) The core data provided by the TEA include:

(A) Texas Assessment of Knowledge and Skills (TAKS) – all tests, all grades, Spanish and English versions, and starting with the 2003-04 school year; and

(B) Public Education Information Management System (PEIMS) – student, staff, financial, and organization information starting with the 2000-01 school year.

(3) The core data provided by the THECB include:

(A) Student admissions, enrollment, graduation, and continuing education information starting with Fall 2000;

(B) Texas Academic Skills Program information starting with Fall 2000;

(C) Texas Success Initiative information starting with Fall 2003; and

(D) Faculty information starting with 2000.

(d) Supplemental data

Additional project-specific data may be made available to researchers.

(1) Research projects that require access to data not then included in the ERC core data will be provided by the TEA or the THECB, if available [TAC §95.1001(d)(9)]. The appropriate agency's supplemental data request form should be used when submitting the request (see attached forms 3.2a-3.2c).

(2) An ERC may be charged the cost to process or manipulate any data not currently contained in the ERC core data warehouse and charges shall be accessed annually, by September 30th of each year, as approved by the JAB [TAC §95.1001(d)(9)].

(3) Supplemental data from an external source shall be sent directly to either the TEA or the THECB, whichever is appropriate, and shall not be sent to the ERC [ERC Contract, V(D)(8)(f)].

(4) Requests for supplemental data from Texas public schools must first be submitted to the TEA using the appropriate form (see form 3.2a) and receive approval from the TEA's Data and Information Review Committee (DIRC) before any data shall be requested from the schools [TEC §7.060].

(5) Any request for supplemental data from Texas public schools or IHEs must contain the following disclaimer:

Participation in ERC surveys and requests for information from school districts is completely voluntary. TEA is neither asking nor requiring school districts to participate in these requests. However, if a school district decides to participate in ERC research, TEA will facilitate the inclusion of these supplemental school district data, including the de-identification of student data, prior to their inclusion in the ERC data warehouse.

[ERC Contract, V(D)(8)(f)]

(6) Under no circumstances shall social security numbers, names, or dates of birth be accessed for the purposes of research at an ERC [TAC §95.1001(d)(4)].

Amended, October 14, 2008.

(e) Masking data for release outside of ERC

(1) All confidential data are FERPA protected and shall not be duplicated, copied, or released from an ERC. Only masked data may be released. The ERC alternate IDs should not be released.

(2) Acceptable procedures for masking data include:

(A) hiding the small cell and the next larger cell on the row and column so the size of the small cell cannot be determined; or

(B) hiding the small cell and displaying the total for both the row and column as a range of at least ten; or

(C) any methodology approved by the TEA and the THECB.

[TAC §§95.1001(a)(2) & (3)]

(f) Public Information Requests

(1) An ERC shall comply with the requirements of the Texas Public Information Act, including requirements relating to data manipulation [TAC §95.1001(d)(7)].

(2) Confidential data shall not be disclosed in response to public information requests (PIR). Any confidential information disclosed in response to a PIR must be masked in compliance with Section 1.5(e) [TEC §1.005(i)].

(3) An ERC shall process in a timely manner any PIR request referred by the TEA or the THECB [TAC §95.1001(d)(7)].

(g) Access to ERC data

(1) All physical locations at which confidential information may be accessed at an ERC must be:

- (A) located within Texas,
- (B) at a sponsoring institution of higher education, and
- (C) approved by both the TEA and the THECB.

(2) Each ERC may provide for secure off-site data backup of information for disaster recovery purposes in accordance with DIR processes and as approved by the JAB [ERC Contract, V(D)(4)]. No research can be performed at a back-up site.

[TAC §95.1001(f)(2); ERC Contract, Section VI(E)(2)]

(h) Data destruction

(1) All project-specific data shall have an associated destruction date [FERPA, 34 CFR §99.31(a)(6)(ii)(B)].

(2) Unless notification is received by the THECB 30 days prior to the destruction date, the data will be destroyed on the destruction date.

(3) Should researchers need access to supplemental data beyond the scheduled destruction date, the ERC shall submit a request in writing justifying the extension and indicating a desired new destruction date.

(A) Should the next JAB meeting be scheduled to occur within 30 days of the receipt of the extension letter, then the JAB will review and may approve the data destruction extension.

(B) Should the next JAB meeting be scheduled to occur more than 30 days after the receipt of the extension letter, then the TEA and the THECB will review and may jointly approve the data destruction extension for a period not to exceed the date of the next scheduled JAB meeting. At the next scheduled JAB meeting, the JAB will determine if an extension is warranted.

(4) Should an ERC contract expire or be terminated, all data in that ERC data warehouse shall be destroyed [FERPA, 34 CFR §99.31(a)(6)(ii)(B)] and the ERC shall provide a certificate of data destruction, signed by the sponsoring IHE, to the TEA and the THECB within five days of such event [ERC Contract, V(B)(1)(i)].

Added by JAB, September 3, 2008.

1.6 ERC Research

An ERC may conduct research involving confidential and non-confidential data.

(a) Research with confidential data

(1) Any researcher conducting research involving confidential data shall comply with rules adopted by the commissioner of education and the THECB to protect the confidentiality of student information, including rules establishing procedures to ensure that confidential information is not duplicated or removed from a center in an unauthorized manner [*TEC §1.005(g)(2)*].

(2) All research being conducted at an ERC or ERC operating partner and involving access to confidential information must be approved and under the joint oversight of the TEA and the THECB by the JAB. No research with confidential data shall occur without JAB approval, except research projects approved in the initial ERC contract [*TAC §95.1001(d)(3); ERC Contract, V(C)(3)*].

(3) Approved research projects involving ERC data shall be conducted only by researchers who have signed confidentiality agreements on file with the ERC. Confidentiality agreements must be signed annually by all persons having access to ERC data. No researchers shall access ERC data without a signed and approved confidentiality agreement [*ERC Contract, V(D)(5)*].

(b) Research with non-confidential data

(1) Research that does not involve access to confidential information may be conducted at the ERC without approval of the JAB upon 30 days notice to the TEA and THECB [*TAC §95.1001(d)(3)*].

(2) Notice in (1) shall be accompanied by certification that sufficient resources will be available to meet all demands for resources to conduct research or manipulate data under the direction of the JAB or on behalf of the TEA or the THECB [*TAC §95.1001(d)(3)*].

(3) Approved research projects involving ERC data shall be conducted only by researchers who have signed confidentiality agreements on file with the ERC. Confidentiality agreements must be signed annually by all persons having access to ERC data. No researchers shall access ERC data without a signed and approved confidentiality agreement [*ERC Contract, V(D)(5)*].

(c) Independent review of ERC research proposals

(1) Prior to submitting a research project proposal to the JAB for review, the research proposal must be approved by the ERC's research review committee [*TAC §95.1001(d)(5)(E); ERC Contract, I(B)*].

(2) After a research proposal is approved by the ERC's research review committee, any applicable requirements for research involving human subjects shall be met [*TAC §95.1001(d)(5)(E)*].

(3) Submission of a research project proposal to the JAB shall occur only after both (1) and (2) have occurred [*TAC §95.1001(d)*].

(d) JAB approval of research projects

(1) Proposals for conducting research involving confidential ERC data shall be reviewed and approved by the JAB prior to the research being conducted [TAC §95.1001(d)(3)].

(2) The JAB may create a JAB Research Proposal Review Committee, consisting of a minority of JAB members, whose function is to pre-review research proposals prior to all proposals being considered by the JAB. This committee is not required to comply with the Texas Open Meetings Act.

(3) The proposal submitted to the JAB should follow the format and standards outlined in the *Protocol for New Research Proposals* (see attached form 3.3) [ERC Contract, V(C)(4)] and shall be accompanied by a completed and signed *Research Proposal Pre-screening Certificate* (see form 3.6a).

(4) Research proposals shall be submitted at least 45 days prior to a JAB meeting to be considered at that meeting.

(5) A JAB member's decision and comments about a research proposal should be recorded using the *Research Proposals Decision Form* (see attached form 3.6b).

(6) The JAB may consider each research proposal for approval only at a JAB meeting in which a majority of members is present. The Board may either approve a proposal as presented, approved a proposal with modifications required, or reject a proposal.

(A) Revisions to proposals that were accepted with modifications required must be submitted to the TEA and the THECB.

(B) Proposals rejected once may be resubmitted to the JAB. Proposals rejected twice shall not be considered further by the JAB.

(7) The initial set of research projects contained in each ERC's contract shall be authorized until August 31, 2009, unless extended by the JAB.

(8) Each new research project shall be approved initially for a period of time not to exceed two years.

(9) Requests for extensions to ERC research projects may be submitted to the JAB after completion of 75% of the approved research period. Extension proposals shall be accompanied by a completed Research Project Performance Report (see attached form 3.5).

(10) Any substantive changes to an approved research project, including changes to research objectives; areas of focus; research plan, strategy, or methodology; or collaborating partner, shall be approved by the JAB.

Amended, October 14, 2008.

(e) Allocation of research access capacity

(1) Each ERC shall submit and receive JAB approval for their criteria and procedures for allocating ERC research access capacity to non-ERC

researchers [*TAC §95.1001(d)(5)(F); ERC Contract, V(B)(1)(h)*]. Changes to these criteria and procedures must be approved by the JAB before implementation.

(2) Non-ERC researchers who receive JAB approval for their research proposal may provide funding to the ERC, consistent with the ERC's JAB-approved fee schedule [*TEC §1.005(h)(1)*].

(f) Annual research performance report

(1) An ERC shall submit annually to the JAB a research performance report that summarizes work completed that year on each research project approved by the JAB. The report is due by September 30 of each year, or on a date approved by the JAB, and should be sent to the THECB. The report should be submitted with the ERC's Annual Performance Report.

The research performance report shall be submitted using the adopted Research Performance Report Forms (see attached form 3.5a & b). The reports require the following:

(A) Basic project information, including project number;

(B) Details about the ERC research project, including:

(i) Work completed to date

(ii) Data sources used/accessed, and

(iii) Work planned for the next year.

[*ERC Contract, V(C)(4)*]

(C) Updated certification of compliance with any applicable requirements for research involving human subjects [45 CFR 46.109(e)];

(D) Listings of publications generated by the research project;

(E) Listings of conference presentations or posters;

(F) Summary of changes to key project personnel, if any; and

(G) When a project is completed,

(i) Indicate whether research objectives were met;

(ii) Summarize key findings;

(iii) Challenges faced and steps taken to overcome them;

(iv) Details about research or analytic methods attempted but rejected, and a basic description of why; and

(v) Indicate whether this research could have been accomplished without access to the ERC data warehouse.

(f) Release of ERC research results or products

(1) Confidential data shall not be released, copied, or removed from an ERC [*TEC §1.005(g)(2)*].

(2) Before data are released from an ERC they must be masked. For approved procedures on masking data, see *Masking data for release outside of ERC* in Section 1.5(b).

(3) All research produced at an ERC shall:

(A) Be made available upon request to the TEA and the THECB at no cost;

(B) Be available for public distribution, copying, or reproduction;

(C) Be reviewed by an ERC employee not involved in the specific research project, before publication or other distribution of research results (e.g., presentations, conference proceedings), to ensure that confidential information is not disclosed and that the materials are in accordance with guidelines adopted under FERPA, the TEA, and the THECB.

(D) Contain the following disclaimer, unless jointly waived by both the TEA and the THECB in writing:

The conclusions of this research do not necessarily reflect the opinion or official position of the Texas Education Agency, the Texas Higher Education Coordinating Board, or the State of Texas

[TAC §95.1001(d)(6)]

(g) Research conducted for third party

(1) Should a third party contract with an ERC to conduct research involving ERC data, then the contract between the ERC and the third party must clearly indicate that the research is contingent upon JAB approval of the research project [*ERC Contract, V(C)(3)*].

(2) An ERC may conduct independent research projects that involve access to ERC confidential data as long as the independent research projects are subject to direct oversight and supervision of the TEA and the THECB, approved by the JAB [*ERC Contract, Section V(C)(3)*], and consistent with the purposes of the ERCs [*TEC §1.005(e)*].

(3) An ERC may conduct independent research projects that involve access to non-confidential ERC data as long as the provisions in Section 1.6(b) are met.

(h) Changing key research personnel on approved projects

(1) Should it be necessary to change key research personnel conducting an approved research project, the JAB should be notified as soon as feasible and within 30 days of the change.

Added by JAB, September 3, 2008.

Policies for the Joint Advisory Board (JAB)

2.1 Purpose of the JAB

The JAB was created to:

- (a) review and approve research proposals involving access to confidential information [TAC §95.1001(c)(1)];
- (b) adopt policies governing ERC operations [TAC §95.1001(c)(1)]; and
- (c) perform the direct, joint oversight of the ERCs required by the TEC and FERPA [TEC §1.005(d); 34 CFR §§ 99.31(a)(3) & 99.35].

Added by JAB, September 3, 2008.

2.2 JAB Duties

The JAB shall:

- (a) review and consider approval of research proposals involving access to confidential information [TAC §95.1001(c)(1)];
- (b) review and consider approval of written procedures for conducting ERC research involving confidential information, including procedures for:
 - (1) acquiring independent approval of research design by an accredited IHE, including any applicable requirements for research involving human subjects, prior to submission to the JAB [TAC §95.1001(d)(5)(E)];
 - (2) ensuring research is conducted in a secure environment with unauthorized removal or disclosure of confidential information prohibited [TAC §§95.1001(d)(5)(A) & (C)];
 - (3) ensuring research results and publications do not disclose confidential information and that small data cells or subgroups are masked [TAC §95.1001(d)(5)(B)];
 - (4) ensuring datasets created by researchers that include confidential information are not copied or removed from an ERC [TAC §95.1001(d)(5)(C)]; and
 - (5) ensuring independent review of all research products by a designated ERC staff person not involved in that specific project to ensure against unauthorized disclosure of confidential information [TAC §95.1001(d)(5)(B)].
- (c) adopt policies for governing ERC operations and review and consider approval of procedures submitted by ERCs for managing their operations [TAC §95.1001(c)(1)]. Policies and procedures shall address:
 - (1) annual certification of full compliance with state and federal law and with security requirements [ERC Contract, I(D)]. Note: if a data security deficit exists, then JAB may require ERC to obtain appropriate services or equipment to remedy the situation [TAC §95.1001(d)(5)(D)];

(2) allocation of research access capacity to non-ERC researchers [TAC §95.1001(d)(5)(F)];

(3) secure off-site backups [TAC §95.1001(b)(1)];

(4) ERC fundraising [ERC Contract, I(D)]; and

(5) annual ERC budgeting [ERC Contract, I(D)].

(d) approve ERC fee schedules for:

(1) the use of an ERC's services, resources, or facilities by approved researchers [TEC §1.005(h)(2)];

(2) programming and data manipulation for other research organizations and these fees shall be based on amounts allowable under the Texas Public Information Act and approved by the JAB [ERC Contract, V(B)(1)(e)]; and

(3) the processing of public information requests and these charges shall be based on guidelines developed by the Texas Attorney General's office [TAC §95.1001(d)(7)].

[see attached form 3.1, *Attorney General's Charge Schedule*]

(e) approve charges from the TEA and the THECB for costs associated with processing and manipulating data not included in the core ERC data warehouse and requested by an ERC [TAC §95.1001(d)(9)].

Added by JAB, September 3, 2008.

2.3 JAB Member Appointment and Reappointment

(a) The JAB will be co-chaired by the commissioner of education and the commissioner of higher education. Each commissioner may delegate to an agency employee the ability to act as co-chair and vote on matters coming before the JAB [TAC §95.1001(c)(1)].

(b) Up to 10 JAB members are appointed or reappointed annually and jointly by the commissioners. The JAB members serve at the pleasure of the commissioners. [TAC §§95.1001(c)(2) & (3)]

(c) JAB members may not be employed by or conducting research at an ERC or an ERC operating partner [Interagency Cooperative Agreement & ERC Contract, V(C)(3)].

(d) Should a JAB member develop a conflict of interest for a particular research project, then the JAB member shall recuse him/herself from any votes concerning that research project [see Section 2.4 JAB Member Ethics].

(e) Should a JAB member resign, then the commissioners may jointly appoint a new JAB member [cf., TAC §95.1001(c)(2)].

Added by JAB, September 3, 2008.

2.4 JAB Member Ethics

- (a) JAB members should act fairly and honestly and should avoid even the appearance of impropriety.
- (b) A JAB member should not:
 - (1) accept or solicit any gift, favor, or service that might reasonably tend to influence the JAB member in the discharge of official duties or that the JAB member knows or should know is being offered with the intent to influence the JAB member's official conduct;
 - (2) accept employment or engage in a business or professional activity that the JAB member might reasonably expect would require or induce the JAB member to disclose confidential information acquired by reason of the official position;
 - (3) accept employment or compensation that could reasonably be expected to impair the JAB member's independence of judgment in the performance of the JAB member's official duties;
 - (4) make personal investments that could reasonably be expected to create a substantial conflict between the JAB member's private interest and the public interest; or
 - (5) intentionally or knowingly solicit, accept, or agree to accept any benefit for having exercised the JAB member's official powers or performed the JAB member's official duties in favor of another.

[adapted from Texas Government Code, §572.051]

Added by JAB, September 3, 2008.

2.5 JAB Meetings

- (a) The JAB will post meeting agendas and conduct its meetings in compliance with the Texas Open Meetings Act [TAC §95.1001(c)(3)]. Committees consisting of a minority of JAB members may comply with the Texas Open Meetings Act.
- (b) JAB meetings shall meet at the call of the chairs at least quarterly [TEA-THECB contract IV(C)(3); cf., TAC §95.1001(c)(4)].
- (c) In matters of parliamentary procedures not covered herein, the provisions of the newest revision of Robert's Rules of Order shall prevail.
- (d) Official board minutes shall be kept in the office of the commissioner of higher education or the commissioner of higher education's designee.
- (e) A quorum of the JAB exists when a majority of its members is present.

Added by JAB, September 3, 2008. Amended, October 14, 2008.

2.6 Adoption, Amendment, and Repeal of Policies.

- (a) The JAB may adopt, amend, or repeal policies for governing the operations of the ERCs or the JAB and only when a quorum of the JAB is present.
- (b) Policies shall be adopted, amended, or repealed on an affirmative vote of a simple majority of JAB member present at the time of the vote.
- (c) All policies shall be consistent with the TEC §1.005; the TAC §95.1001; the Interagency Cooperative Agreements between the TEA and the THECB; the Interagency Cooperative Agreements between the TEA, the THECB, and the ERC's sponsoring IHE; and the Interagency Cooperative Agreements between the TEA, the THECB, the ERC's sponsoring IHE, and the ERC collaborative partner's IHE.

Added by JAB, September 3, 2008.

2.7 JAB Committees

- (a) Committees may be constituted from time to time as directed by the board or jointly by the chairs to perform such duties as the board or the chairs may assign.
- (b) No action taken by a committee shall be final or binding upon the board unless otherwise directed by the board.

Added by JAB, September 3, 2008.

2.8 JAB Expenses

- (a) Members of the JAB receive no salary but are reimbursed for all allowable expenses incurred when attending official JAB meetings.
- (b) All reimbursement of expenses shall be in accordance with TEC §7.105(b); Texas Government Code, Chapter 660; the general appropriations act; and these policies.
- (c) Only expenses of board members may be reimbursed, including expenses for transportation, car rental, lodging, and meals.
- (d) Expenses incurred by the JAB or JAB members will be paid or reimbursed by the THECB [*TAC §95.1001(b)(2)*]. All JAB-related expenses incurred by the TEA or the THECB may be apportioned annually and equally to the three ERCs for reimbursement to the appropriate agency by the ERCs [*TAC §95.1001(b)(3)*].

Added by JAB, September 3, 2008.