1. An improved, efficient Consultation Policy will:
   • Improve student achievement and well-being;
   • Increase operational efficiency and cost savings for taxpayers;
   • Reduce staff turnover by increasing employee input and engagement;
   • Bring the experience and insights of thousands of HISD employees who have been excluded under the current policy.

**RESPONSE:**

Administration supports the positive attributes of an engaging and productive consultation process. The administration further agrees that revisions to the current policy can improve the process. However, the proposed revisions do not increase employee input. Rather, it is designed to limit the breadth of input at the consultation table to a single employee organization. HISD administration does not support this model.

The administration would like to see all current employee organizations participate as a part of the consultation process in the development of a stronger consultation policy.

2. What is Consultation?

Consultation is a process that provides HISD employees with an opportunity to offer feedback and to collaborate with administration about district policies and decisions.

The turnaround of dozens of IR schools, the growth in community schools and the recent decrease in teacher turnover in Achieve 180 schools show the power of collaboration between teachers, support personnel and administration. This track record of success must continue.

Our students benefit when HISD and its employees work together.
3. What can be discussed in Consultation?

Any policy that affects HISD employee pay, benefits, and teaching and learning conditions should be subject to the Consultation process. Here are examples of some policies for Consultation discussion:

- Teacher and employee compensation;
- Student and employee health and safety;
- Classroom curriculum;
- Budget savings and efficiency;
- Health insurance benefits;
- Professional development;
- Appraisal/Evaluation;
- School bus safety;
- School cleaning procedures and standards; and
- Student nutrition program effectiveness and quality.

What employee groups are represented under the current, proportional consultation policy?

HISD employee groups with no consultation representation under current policy include:

- Educational office personnel;
- Construction and facilities;
- Warehouse, textbook, print shop;
- Service, financial, and administrative support staff;
- Paraprofessionals and classified non-supervisory personnel; and
- Food service.

Employee groups with a consultation representative(s) under current policy include:

- Teachers (HFT and Houston Congress);
- Aides (HFT); and
• Transportation personnel (HESP and People’s Choice Association).

RESPONSE:

Consultation is a collaborative process between employee organization/union representatives of individual employee subgroups and Administration that is meant to keep employees abreast of issues involving wages, hours and conditions of employment, and to afford them an opportunity to have input in how those issues are addressed. The proposed policy will undermine the consultation process as follows:

• Moving to a single employee organization representing all instructional employees, and a single employee organization representing non-instructional employees, eliminates the voices of other employee organizations, and therefore the voices of hundreds of employees. It has the potential to preclude participation in consultation by employee organizations that may choose to organize in the future, as well. Changing the policy to eliminate participation by multiple organizations at the consultation table is inconsistent with providing Administration and the Board with a broad spectrum of opinion from District employees regarding consultation matters.

• The current policy allows a single employee organization to represent one or more of three instructional employee subgroups (Teachers, Teacher Aides and Educational Office Personnel), or one or more of five non-instructional subgroups (Construction and Facilities Services; Food Service Personnel; Warehouse, Textbook and Print Shop Personnel; Financial, Technical and Administrative Support Staff; and Transportation Personnel), which are identified in DGB(LOCAL). It also allows for each of these subgroups to have an organization to represent them in consultation. The administration benefits from hearing multiple perspectives on important issues.

• The proposed policy eliminates the eight employee subgroups currently eligible for representation in consultation and combines them into one of two broad employee groups: instructional and non-instructional

• The proposed policy would thereby eliminate “niche” representation of the specific employee subgroups. The upshot is that individual employee subgroups will no longer have the opportunity for specialized unions representing them in consultation. For example, will an employee organization primarily representing bus drivers be able to effectively advocate for food services workers?
• One employee organization representing different employee groups results in reduced input from diverse employee interest groups and fewer points of view represented in consultation.

4. Why is a new Consultation policy needed?

• True collaboration and dialogue with the teachers and staff will lead to the best educational outcomes for our students. When teachers and frontline staff are not involved in policy changes and implementation, student achievement suffers, and the district operates less efficiently. While public debate and protest are essential to our democracy and often needed at school board meetings, we owe it to HISD students to make every effort to sit face-to-face and work together.

RESPONSE:

Administration supports employee engagement and input through the consultation process, but the proposed policy revision limits the opportunity for employees in niche employee groups to voice their unique interests and perspectives. The democratic process will not function at its best when there is an opportunity for only one union, with little or no experience representing the interests of some of the individual employee subgroups, representing all employee subgroups globally. This is true for both instructional and non-instructional consultation. While it may be appropriate and effective to combine some subgroups for purposes of consultation, to combine all subgroups under one organization for instructional and one organization for non-instructional consultation is not optimal. Collaboration and dialogue will be reduced in this model.

• Right now, the consultation policy separates employee groups artificially, missing out on opportunities for employees across job classifications to collaborate with each other and the administration. The proposed policy allows for two consultation tables: 1) instructional and 2) non-instructional employees. The consultation policy for administrative/supervisory staff remains unchanged.

• Under the current policy, six employee classifications have no official representation at the consultation table. This proposed policy ensures that employees with similar duties and supervisors can freely elect a credible, legitimate organization so they can collaborate better with HISD.

• Employees deserve the right to have a democratic election process to choose the employee organization they wish to represent them in Consultation. A democratic election of one organization will provide for a better consultation process, since the administration will know which organization has been chosen by the employees to speak for them.
• Police, firefighters and EMS personnel in large Texas cities, including Houston, all have the right to elect—by majority vote—a single employee organization to meet and confer with their employer. Houston city workers besides police, fire, and EMS also have the right to elect a single employee organization to meet and confer. Education professionals educate and help raise our children and should have that same right as almost all other local government employees in the city. Houston education professionals are unique among local public employees in the city in that they do not get a democratic choice in the determination of a single organization to represent them with their employer.

• With an organization elected by employees, HISD administration can know confidently that the employee organization in consultation is the chosen voice of employees and has the legitimacy to be a credible partner to improve the district. The proposed policy requires employee organizations to seek input and represent the interests of all employees in consultation.

• With increased budget pressures, HISD needs to create and implement new policies more efficiently. A few years ago, the district wasted years of time and hundreds of thousands of dollars in court defending EVAAS. Imagine if administration had sat down with teachers and worked with us to craft an evaluation system that accurately measured teacher effectiveness? Teachers and frontline staff see how policies impact student firsthand.

RESPONSE:

Under the current policy, employees included within the eight employee subgroup classifications have the opportunity to have official representation that is familiar with each employee subgroup’s specific concerns and will represent them effectively at the consultation table. While currently there are some unrepresented employee subgroups, the smaller subgroups will never be able to qualify for representation at instructional consultation under the proposed policy. The 10% prerequisite for ballot eligibility restricts these subgroups from ever organizing a union and having their own representatives at consultation. For example, the fact that there are substantially fewer support staff than teachers makes it almost impossible for a support staff organization to have sole consultation representation under the proposed policy, which promotes a one-size-fits-all consultation structure.

Moreover, there is no enforcement mechanism in the proposed policy that will ensure that a union representing disparate employee groups in instructional or noninstructional consultation will seek input and represent the interests of those employees. Overall, under the proposed policy, employees with vastly different duties and responsibilities will be
severely limited in the representation choices available to them in a consultation election.

5. Will the new policy interfere with the elected school board or the superintendent’s right to manage HISD?

The policy clearly states that the school board and the administration retain the legal right to take action they deem necessary to operate the district.

Getting feedback from frontline teachers and staff can only improve policy creation and implementation, not harm it. Consultation ensures the most efficient process of gathering employee input to help the superintendent and school board make the best decisions to improve student achievement and outcomes.

6. What if an employee wants to be represented by another organization?

Any employee organization that can prove it meets a minimum threshold of membership qualifies to be on the ballot in odd numbered years to claim elected representative status or to challenge an incumbent elected employee group’s representative status. In addition, the policy does not interfere with an employee’s right to select a representative in grievance hearings or discipline meetings, and the policy does not limit an employee’s ability to use paycheck deduction to pay dues to a professional organization of their choice.

In addition, the proposed policy continues to allow for HISD to hold ad-hoc meetings with employee organizations, but these meetings cannot replace or undermine the consultation process.

RESPONSE:

Both the current and proposed consultation policies provide that elections are held during odd-numbered years. But the proposed policy makes a major change in determining the eligibility of a union to participate in an instructional or non-instructional consultation election; the proposed policy requires a union to prove that as of September 1 of an election year, it has membership consisting of at least 10% of HISD employees categorized as instructional, or 5% categorized as non-instructional. There is no explanation of the rationale for why these proposed eligibility requirements to participate in an instructional and noninstructional consultation are set at 10% and 5% respectively.

In comparison to the consultation election eligibility requirements in the current policy, the proposed requirements to get on a ballot seem draconian. These percentages appear to be completely arbitrary and will
severely limit the number of unions that can participate in a consultation election.

Effectively, only a handful, maybe as few as two or three employee organizations, will meet either the instructional or non-instructional consultation election eligibility requirements in the proposed policy, which could mean no real choices for HISD employees going into the future. Pursuant to the proposed policy, only one union will represent instructional employees, and one union will represent non-instructional employees. Under the current policy, there are no such limitations on the number of employee organizations representing District instructional and non-instructional employees.

The revised policy does not specify the type of evidence that the employee organization is required to produce to prove its employee membership percentages, as does the current policy, which looks to the number of members who have their dues deducted from their HISD paychecks. This is an obvious, problematic issue that the proposed policy completely ignores, especially given that a single union will purportedly represent individuals in employee subgroups who are not members of their union.

7. How will the validity, credibility of the election process be upheld?

The policy states that HISD shall hire a neutral, independent third party to run the election. HISD Administration has already run employee elections in the past and has experience working with a neutral election administrator. Experienced election administrators (AAA, for example) implement industry standard practices to track ballots cast when there is an in-person and mail ballot voting option.

Allowing for an in-person vote and a mail ballot vote will further support opportunities for all employees, including those employees who are forced to move often due to their economic circumstances, to have a voice in the process.

RESPONSE:

Since 2009, HISD and a local independent accounting firm have worked together to run noninstructional consultation elections that have been called by various employee organizations to represent employee subgroups, including Transportation, Construction and Facilities Services and Food Service Personnel.

8. How long have changes in the consultation policy been discussed?

A core mission of HISD is to attract and retain great teachers and staff, and to improve employee engagement.
Teachers, staff, and their employee organizations have been discussing improvements to the policy since 2014. In the last two years, employee organizations have had in-person meetings with Superintendent Carranza, Interim Superintendent Lathan, staff from Human Resources and the HISD General Counsel to discuss needed changes and improvements. The current draft incorporates many of their recommended changes.

**RESPONSE:**

The current HISD Administration was presented with this proposed Board Policy DGB(LOCAL) at the August Board meeting, which is an insufficient amount of time to respond to such an extensively revised policy. The previous conversations with the General Counsel referenced by Mr. Capo were approximately a year and half ago, and were about broad topics, including using binding arbitration to decide disagreements between the Superintendent and the union. This specific proposed policy was not brought forward at that time. The General Counsel specifically told Mr. Capo that his ideas should be presented at consultation so that the other organizations could weigh on the issues, and that the changes were too sweeping to negotiate outside of consultation. The proposed policy was not brought to consultation prior to appearing on the August Board Agenda.

Human Resources staff and Interim Superintendent Lathan also had never been presented with the policy included on the August Board Agenda. There is no evidence that other individuals referenced by Mr. Capo, including former Superintendent Carranza, received the proposed policy or took steps to move it forward to a broader group of Administration or employee groups. Apparently, given Mr. Capo’s representations, Mr. Carranza did not act on the referenced conversations and did not share the information. Therefore, current staff is not aware of these conversations.

9. Is choosing a sole, elected employee representative legal or common in Texas? (Yes)

- Policies in the Austin ISD and San Antonio ISD provide for a similar consultation policy with one elected, sole employee consultation organization for each employee group.

- There are several A.G. opinions stating that consultation does not violate Texas law prohibiting collective bargaining with public sector unions (Tex. Gov’t Code Section 617.002)

- Texas has some meet and confer provisions for municipal employees. They can be found in the Texas Local Gov’t Code: Chapter 142.051 et seq. (police officers in municipalities of more than 50,000 or that have adopted Chapter 143, the municipal civil service protections); Chapter 142.102 et seq. (same for fire
fighters); Chapter 142.151 et seq. (EMS in municipalities of more than 460,000); Chapter 147 (fire and police in municipalities of more than one million).

- The meet and confer provisions for employees in municipalities with a population of 1.5 million or more (i.e., Houston) are found in Chapter 146.
- All the statutory meet and confer provisions are substantially similar, with such provisions as 1) a petition and voluntary recognition provision, or alternative options for city to order an election to determine if it may meet or confer or to order a certification election to determine if association represents a majority of covered employees; 2) if a city chooses to meet and confer it will recognize an association as the exclusive bargaining agent; 3) an agreement must be ratified by a majority vote of the governing body and by a secret ballot election of majority of covered employees.
- This is no state law prohibiting a school district from adopting a policy providing for exclusive consultation with a single employee organization.

RESPONSE:

HISD administration understands that current law prohibits the right to strike by school district employees and prohibits “collective bargaining.” While the proposed policy does not constitute collective bargaining, it does move the district closer to a position of forcing employees to work through a single union organization in order to be heard.